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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0951; Directorate Identifier 2015–CE–007–AD; Amendment 39–18190; AD 2015–13–03]

RIN 2120–AA64

Airworthiness Directives; Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'' Sailplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'' Model SZD–50–3 ''Puchacz'' sailplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as detachment of the rudder cable fitting block from the fuselage. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective August 3, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of August 3, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0951; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Allstar PZL Glider, Sp. z o. o., ul. Cieszynska 325, 43–300 Bielsko-Biala, Poland; telephone: +48 33 812 50 26; fax: +48 33 812 37 39; email: *techsupport@szd.com.pl*; Internet: *http://szd.com.pl/en/products/szd-50-3-puchacz.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0951.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to all Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'' Model SZD–50–3 ''Puchacz'' sailplanes. The NPRM was published in the **Federal Register** on April 17, 2015 (80 FR 21191). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> An occurrence was reported involving a SZD–50–3 ''Puchacz'' sailplane, where a rudder cable fitting block, located in the forward part of the fuselage, detached after application of a high load on the steering pedal during spin recovery operation. Subsequent investigations determined that the failure was either caused by a manufacturing deficiency or originated by a crack.
>
> This condition, if not detected and corrected, could lead to further cases of rudder cable fitting block detachment, resulting in reduced control of the sailplane.
>
> To address this unsafe condition, Allstar PZL issued Service Bulletin (SB) No. BE–063/SZD–50–3/2014, to provide inspection and reinforcement instructions.
>
> For the reasons described above, this AD requires accomplishment of a one-time inspection of both (right hand (RH) and left hand (LH)) rudder cable fitting blocks to verify proper attachment to the fuselage shell and, depending on finding(s), a repair. This AD also requires reinforcement of the affected structural area.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0951-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 21191, April 17, 2015) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 21191, April 17, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 21191, April 17, 2015).

Related Service Information Under 1 CFR Part 51

We reviewed Allstar PZL Glider Service Bulletin BE–063/SZD–50–3/2014 ''Puchacz'', dated December 14, 2014. The service bulletin describes procedures for inspecting the area around the left-hand and right-hand rudder cable fitting blocks for cracks and detachment and making all necessary repairs. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Costs of Compliance

We estimate that this AD will affect 5 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the inspection requirement of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the inspection requirement of this AD on U.S. operators to be $425, or $85 per product.

In addition, we estimate that it will take about 2 work-hours per product to comply with the modification requirement of this AD and will require parts costing $100, for a cost of $270 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify 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* by searching for and locating Docket No. FAA–2015–0951; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2015–13–03 Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'': Amendment 39–18190; Docket No. FAA–2015–0951; Directorate Identifier 2015–CE–007–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective August 3, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'' Model SZD–50–3 ''Puchacz'' sailplanes, all serial numbers, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as detachment of the rudder cable fitting block from the fuselage. We are issuing this AD to prevent detachment of the rudder cable fitting block from the fuselage, which if not detected and corrected, could result in reduced control.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (f)(3) of this AD:

(1) Within 30 days after August 13, 2015 (the effective date of this AD), inspect the area around both the left-hand (LH) and the right-hand (RH) rudder cable fitting blocks following paragraph 3.1. of the INSTRUCTIONS section in Allstar PZL Glider Service Bulletin BE–063/SZD–50–3/2014 ''Puchacz'', dated December 14, 2014.

(2) If, during the inspection required in paragraph (f)(1) of this AD, any crack or fitting block detachment is found, before further flight, repair and reinforce the attachment of both the LH and RH rudder cable fitting blocks. Do this repair and reinforcement following paragraph 3.2. of the INSTRUCTIONS section in Allstar PZL Glider Service Bulletin BE–063/SZD–50–3/2014 ''Puchacz'', dated December 14, 2014.

(3) Unless already done following the requirement in paragraph (f)(2) of this AD, within the next 12 months after August 3, 2015 (the effective date of this AD), reinforce the attachment of both the LH and RH rudder cable fitting blocks. Do this reinforcement following paragraph 3.2. of the INSTRUCTIONS section in Allstar PZL Glider Service Bulletin BE–063/SZD–50–3/2014 ''Puchacz'', dated December 14, 2014.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any sailplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2015–0046, dated March 16, 2015, for related information. You may examine the MCAI on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0951-0002.*

(i) Material Incorporated by Reference

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

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

(i) Allstar PZL Glider Service Bulletin BE–063/SZD–50–3/2014 ''Puchacz'', dated December 14, 2014.

(ii) Reserved.

(3) For PZL-Bielsko service information identified in this AD, contact Allstar PZL Glider, Sp. z o. o., ul. Cieszynska 325, 43–300 Bielsko-Biala, Poland; telephone: +48 33 812 50 26; fax: +48 33 812 37 39; email:

techsupport@szd.com.pl; Internet: *http://szd.com.pl/en/products/szd-50-3-puchacz.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0951.

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

Issued in Kansas City, Missouri, on June 18, 2015.

William Schinstock,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–15620 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33–9849; 34–75242; 39–2504; IC–31680]

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (the Commission) is adopting revisions to the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) Filer Manual and related rules to reflect updates to the EDGAR system. The updates are being made primarily to add new submission form types N–CR and N–CR/A for Current Report of Money Market Fund Material Events; update submission form types ABS–15G and ABS–15G/A for Asset-backed securities reporting based on Rule 15Ga-2; no longer display OMB expiration date on submission form types 13F and 13H; no longer provide support for the 2013 US GAAP financial reporting and 2013 EXCH taxonomies; documentation only corrections to Chapter 3, ''Index to Forms,'' of the ''EDGAR Filer Manual, Volume II: EDGAR Filing,'' which include adding submission types 8–K12B and 8–K12B/A to Table 3–3, ''Securities Exchange Act—Registration and Report Submission Types Accepted by EDGAR''; and documentation only changes to ''EDGAR Filer Manual, Volume II: EDGAR Filing'' for Section 508 compliance. The EDGAR system is scheduled to be upgraded to support this functionality on June 15, 2015.

DATES: Effective June 29, 2015. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of June 29, 2015.

FOR FURTHER INFORMATION CONTACT: In the Division of Corporate Finance, for questions concerning Form ABS–15G, contact Heather Mackintosh at (202) 551–8111, in the Division of Investment Management, for questions concerning Form N–CR, contact Heather Fernandez at (202) 551–6708, and in the Office of Information Technology, contact Tammy Borkowski at (202) 551–7208.

SUPPLEMENTARY INFORMATION: We are adopting an updated EDGAR Filer Manual, Volume II. The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the EDGAR system.[1] It also describes the requirements for filing using EDGARLink Online and the Online Forms/XML Web site.

The revisions to the Filer Manual reflect changes within Volume II entitled EDGAR Filer Manual, Volume II: ''EDGAR Filing,'' Version 32 (June 2015). The updated manual will be incorporated by reference into the Code of Federal Regulations.

The Filer Manual contains all the technical specifications for filers to submit filings using the EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.[2] Filers may consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.[3]

The EDGAR system will be upgraded to Release 15.2 on June 15, 2015 and will introduce the following changes:

EDGAR will be updated to add new submission form types N–CR and N–CR/A to EDGARLink Online. These new submission form types can be accessed by selecting the 'EDGARLink Online Form Submission' link on the EDGAR Filing Web site. Additionally, filers can construct XML submissions for these submission form types by following the ''EDGARLink Online XML Technical Specification'' document available on the SEC's Public Web site (*http://www.sec.gov/info/edgar.shtml*).

Submission form types ABS–15G and ABS–15G/A will be updated based on final Rule 15Ga–2.

The OMB expiration date will no longer be displayed on submission form types 13F–HR, 13F–HR/A, 13F–NT, 13F–NT/A, 13H, 13H–A, 13H–Q, 13H–I, 13H–T, and 13H–R.

EDGAR will no longer provide support for the US–GAAP–2013 and EXCH–2013 taxonomies. Please see *http://www.sec.gov/info/edgar/edgartaxonomies.shtml* for a complete listing of supported standard taxonomies.

Documentation only corrections were made to Chapter 3, ''Index to Forms,'' of the ''EDGAR Filer Manual, Volume II: EDGAR Filing,'' which include adding submission types 8–K12B and 8–K12B/A to Table 3–3, ''Securities Exchange Act—Registration and Report Submission Types Accepted by EDGAR.''

Documentation only changes were made to ''EDGAR Filer Manual, Volume II: EDGAR Filing'' for Section 508 compliance.

Along with the adoption of the Filer Manual, we are amending Rule 301 of Regulation S–T to provide for the incorporation by reference into the Code of Federal Regulations of today's revisions. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

The updated EDGAR Filer Manual will be available for Web site viewing and printing; the address for the Filer Manual is *http://www.sec.gov/info/edgar.shtml.* You may also obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m.

Since the Filer Manual and the corresponding rule changes relate solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (APA).[4] It follows that the requirements of the Regulatory Flexibility Act[5] do not apply.

The effective date for the updated Filer Manual and the rule amendments

[1] We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33–6986 (April 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on May 11, 2015. *See* Release No. 33–9773 (May 26, 2015) [80 FR 29942].

[2] *See* Rule 301 of Regulation S–T (17 CFR 232.301).

[3] *See* Release No. 33–9773 in which we implemented EDGAR Release 15.1.1. For additional history of Filer Manual rules, please see the cites therein.

[4] 5 U.S.C. 553(b).

[5] 5 U.S.C. 601–612.

is June 29, 2015. In accordance with the APA,[6] we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The EDGAR system upgrade to Release 15.2 is scheduled to become available on June 15, 2015. The Commission believes that establishing an effective date less than 30 days after publication of these rules is necessary to coordinate the effectiveness of the updated Filer Manual with the system upgrade.

Statutory Basis

We are adopting the amendments to Regulation S–T under Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,[7] Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,[8] Section 319 of the Trust Indenture Act of 1939,[9] and Sections 8, 30, 31, and 38 of the Investment Company Act of 1940.[10]

List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

Text of the Amendment

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The authority citation for part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 78o(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, and 7201 *et seq.;* and 18 U.S.C. 1350.

* * * * *

■ 2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR Filer and updating company data are set forth in the updated EDGAR Filer Manual, Volume I: ''General Information,'' Version 21 (May 2015). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: ''EDGAR Filing,'' Version 32 (June 2015). Additional provisions applicable to Form N–SAR filers are set forth in the EDGAR Filer Manual, Volume III: ''N–SAR Supplement,'' Version 4 (October 2014). All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You must comply with these requirements in order for documents to be timely received and accepted. The EDGAR Filer Manual is available for Web site viewing and printing; the address for the Filer Manual is *http://www.sec.gov/info/edgar.shtml.* You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. You can also inspect the document at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

By the Commission.

Dated: June 18, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–15825 Filed 6–26–15; 8:45 am]

BILLING CODE 8011–01–P

[6] 5 U.S.C. 553(d)(3).

[7] 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

[8] 15 U.S.C. 78c, 78*l,* 78m, 78n, 78o, 78w, and 78*ll.*

[9] 15 U.S.C. 77sss.

[10] 15 U.S.C. 80a–8, 80a–29, 80a–30, and 80a–37.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–0327]

Regattas and Marine Parades in the COTP Lake Michigan Zone—Chinatown Chamber of Commerce Dragon Boat Race, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulation on the South Branch of the Chicago River for the Chinatown Chamber of Commerce Dragon Boat Race in Chicago, Illinois. This regulated area will be enforced from 8 a.m. until 5 p.m. on June 27, 2015. This action is necessary and intended to ensure safety of life and property on navigable waters immediately prior to, during, and immediately after the Dragon Boat race. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in a portion of the Captain of the Port Lake Michigan Zone.

DATES: The regulations in 33 CFR 100.909 will be enforced from 8 a.m. until 5 p.m. on June 27, 2015.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email MST1 John Ng, Waterways Management Division, Marine Safety Unit Chicago, at 630–986–2155, email address *john.h.ng@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation listed in 33 CFR 100.909, Chinatown Chamber of Commerce Dragon Boat Race; Chicago, IL. This special local regulation will encompass all waters of the South Branch of the Chicago River from the West 18th Street Bridge at position 41°51′28″ N., 087°38′06″ W. to the Amtrak Bridge at position 41°51′20″ N., 087°38′13″ W. (NAD 83). This special local regulation will be enforced from 8 a.m. until 5 p.m. on June 27, 2015.

Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce wake to a minimum, and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties. The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regatta area.

This document is issued under authority of 33 CFR 100.909, Chinatown Chamber of Commerce Dragon Boat Race; Chicago, IL, and 5 U.S.C. 552(a). In addition to this notification in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement of this special local regulation via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan, or a designated on-scene representative may be contacted via Channel 16, VHF–FM.

Dated: June 11, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–15930 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0530]

RIN 1625–AA00

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Town of Dune Acres Independence Day Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Town of Dune Acres Independence Day Fireworks on a portion of Lake Michigan, on July 3, 2015. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after fireworks display. During the enforcement period listed below, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (e)(17), Table 33 CFR 165.929, on July 3, 2015 from 8:45 p.m. until 10:30 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email LT Lindsay Cook, Waterways Management Division, Marine Safety Unit Chicago, at 630–986–2155, email address *D09-DG-MSUChicago-Waterways@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone; Town of Dune Acres Independence Day Fireworks listed as item (e)(17) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone encompasses all waters of Lake Michigan within the arc of a circle with a 700-foot radius from the fireworks launch site located in position 41°39.303′ N., 087°05.239′ W. This zone will be enforced on July 03, 2015 from 8:45 p.m. until 10:30 p.m.

All vessels must obtain permission from the Captain of the Port Lake Michigan, or a designated on-scene representative to enter, move within, or exit this safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or a designated on-scene representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan, or a designated on-scene representative may be contacted via VHF Channel 16 during the event.

Dated: June 11, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–15928 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0530]

RIN 1625–AA00

Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Miesfeld's Lakeshore Weekend Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on the waters of Lake Michigan in Sheboygan, WI for the Miesfeld's Lakeshore Weekend Fireworks. This zone will be enforced from 9:15 p.m. until 10:15 p.m. on July 24, 2015. This action is necessary and intended to ensure safety of life on navigable waters immediately prior to, during, and immediately after the fireworks display. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (e)(49), Table 165.929, from 9:15 p.m. until 10:15 p.m. on July 24, 2015.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *joseph.p.mccollum@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Miesfeld's Lakeshore Weekend Fireworks safety zone listed as item (e)(49) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone will encompass waters of Lake Michigan and Sheboygan Harbor within an 800-foot radius from the fireworks launch site located at the south pier in approximate position 43°44.917′ N., 087°41.967′ W. (NAD 83). This zone will be enforced from 9:15 p.m. until 10:15 p.m. on July 24, 2015.

All vessels must obtain permission from the Captain of the Port Lake Michigan or the on-scene representative to enter, move within, or exit the safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or an on-scene representative may be contacted via Channel 16, VHF–FM.

Dated: June 11, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–15922 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0505]

RIN 1625–AA00

Safety Zone; Ohio River Between Mile 603.4 and 605.4; Louisville, KY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Ohio River between mile 603.4 and 605.4. This temporary safety zone is needed to protect persons, property, and infrastructure from potential damage and safety hazards associated with maintenance work on the Louisville and Indiana Railroad Bridge (L&I RR Bridge). Deviation from the safety zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Ohio Valley or a designated representative.

DATES: This rule is effective without actual notice from June 29, 2015 until July 7, 2015. For purposes of enforcement, actual notice will be used from June 9, 2015 until June 29, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2015–0505]. 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 James C. Robinson, U.S. Coast Guard; telephone 502–779–5347, email *James.C.Robinson@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

APA Administrative Procedures Act
BNM Broadcast Notice to Mariners
COTP Captain of the Port
DHS Department of Homeland Security
FR **Federal Register**
LNM Local Notice to Mariners
MM Mile Marker
NPRM Notice of Proposed Rulemaking

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. On June 9, June 10, June 16, June 17, June 23, 2015 and July 7, 2015, maintenance on the L&I RR Bridge will take place. The Coast Guard determined that immediate action is necessary to establish a temporary safety zone to protect life and property from the hazards associated with and resulting from maintenance being performed on the L&I RR Bridge.

This safety zone may include closures and/or navigation restrictions and requirements that are vital to maintaining safe navigation on the Ohio River during maintenance operations on the L&I RR Bridge. Therefore, delaying the effective date for this emergency safety zone to complete the NPRM process would be contrary to the public interest as it would delay the safety measures vital to safe navigation. Broadcast Notices to Mariners (BNM) and information sharing with the waterway users will update mariners of the restrictions, requirements, and enforcement times during this emergency situation.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this emergency rule effective less than 30 days after publication in the **Federal Register**. Providing 30 days notice would be contrary to public interest because immediate action is needed to protect life and property from the hazards associated with and resulting from maintenance on the L&I RR Bridge.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define safety zones.

The purpose of this temporary safety zone is to protect life and property from the hazards associated with and resulting from the maintenance on the L&I RR Bridge. The maintenance on the L&I RR Bridge poses significant safety hazards to vessels and mariners operating in the area. Establishing the safety zone to extend from mile 603.4 to mile 605.4 on the Ohio River is necessary for the Coast Guard to maintain navigational safety.

C. Discussion of the Temporary Final Rule

The Coast Guard is establishing a temporary safety zone for all vessel traffic on the Ohio River between mile 603.4 and mile 605.4, extending the entire width of the Ohio River. Maintenance on the bridge is expected to occur from 7:00 a.m. to 1:00 p.m. on 6/9/2015, 7:00 a.m. to 1:00 p.m. on 6/10/2015, 7:00 a.m. to 1:00 p.m. on 6/16/2015, 7:00 a.m. to 1:00 p.m. on 6/17/2015, 7:00 a.m. to 1:00 p.m. on 6/23/2015, and 7:00 a.m. to 10:00 p.m. on 7/07/2015, unless it is completed earlier. The COTP, or a designated representative will provide information as to when the safety zone if effective, based on information received for when the maintenance is taking place. Deviation from this temporary safety zone is prohibited unless specifically authorized by the COTP Ohio Valley, or a designated representative. Deviation requests will be considered and reviewed on a case-by-case basis. The COTP Ohio Valley may be contacted by telephone at 1–502–779–5424 or can be reached by VHF–FM channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of 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. This rule establishes a temporary safety zone for vessels on all waters of the Ohio River from mile 603.4 to mile 605.4. Notifications of enforcement times will be

communicated to the marine community via BNM and through local notice to mariners (LNM). The impacts on navigation will be limited to ensuring the safety of mariners and vessels associated with hazards associated with the maintenance on the L&I RR Bridge.

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 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. 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 the Ohio River, from 7:00 a.m. to 1:00 p.m. on 6/09/2015, 7:00 a.m. to 1:00 p.m. on 6/10/2015, 7:00 a.m. to 1:00 p.m. on 6/16/2015, 7:00 a.m. to 1:00 p.m. on 6/17/2015, 7:00 a.m. to 1:00 p.m. on 6/23/2015, and 7:00 a.m. to 10:00 p.m. on 7/07/2015 or until maintenance on the L&I RR Bridge is complete, whichever occurs earlier. This temporary safety zone will not have a significant economic impact on a substantial number of small entities because maintenance work is only expected to be done during certain hours. Requests to deviate from the rule will be considered on a case-by-case basis. Notifications to the marine community will be made through BNM, LNM, and communications with local waterway users. Notices of changes to the safety zone and effective times will also be made.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist and a categorical exclusion determination will be made available as indicated under the **ADDRESSES** section. 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; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T08–0505 is added to read as follows:

§ 165.T08–0505 Safety Zone; Ohio River between mile 603.4 and 605.4, Louisville, KY.

(a) *Location.* The following area is a safety zone: All waters of the Ohio River between mile 603.4 and mile 605.4, Louisville, KY, extending the entire width of the Ohio River.

(b) *Effective dates.* This safety zone is effective and enforceable with actual notice from June 9, 2015 to July 7, 2015 or until maintenance on the L&I RR Bridge is complete, whichever occurs earlier.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port (COTP) Ohio Valley or a designated representative.

(2) Persons or vessels desiring to enter into or passage through the zone must request permission from the COTP Ohio Valley or a designated representative. They may be contacted on VHF–FM channel 16 or by telephone at 1–502–5424.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP Ohio Valley or designated representative.

(d) *Informational broadcasts.* The COTP Ohio Valley or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the emergency safety zone as well as any changes in the dates and times of enforcement.

Dated: June 8, 2015.

R.V. Timme,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2015–15927 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0532]

RIN 1625–AA00

Safety Zone, Fourth of July Fireworks, Lake Winnebago; Menasha, Wisconsin

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on a portion of the Fox River and Lake Winnebago in Menasha, Wisconsin. This safety zone is intended to restrict vessels from a portion of the Fox River and Lake Winnebago due to a fireworks display. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the fireworks display.

DATES: This rule is effective from 8:45 p.m. until 10:30 p.m. on July 4, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2015–0532. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414–747–7148 or *Joseph.P.McCollum@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Final Rule
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

On February 18, 2015, the Coast Guard published an FR in the **Federal Register** which listed safety zones corresponding to annual marine events in the Sector Lake Michigan zone (80 FR 8536). This FR included the safety zone for the City of Menasha 4th of July Fireworks in Menasha, WI (the subject of this TFR). Because the City of Menasha 4th of July Fireworks is expected to be launched this year from a different location than that which is listed in the FR, the Coast Guard is issuing this TFR.

The Coast Guard is issuing this TFR without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Specifically, the Coast Guard was not informed of the new location planned for the fireworks launch location until the end of May, 2015. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with the barge-based fireworks display on July 4, 2015, which are discussed further below.

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 reason listed above, doing so would impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with the barge-based fireworks display.

B. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05–1, 160.5; Department of Homeland Security Delegation No. 0170.1.

On July 4, 2015, the City of Menasha is expected to hold its annual 4th of July fireworks display. This fireworks display will be launched from a barge within the waters of the Fox River. The Captain of the Port Lake Michigan has determined that this fireworks display will pose a significant risk to public

safety and property. Such hazards include falling and/or flaming debris, and collisions among spectator vessels.

C. Discussion of the Final Rule

With the aforementioned hazards in mind, the Captain of the Port Lake Michigan has determined that this temporary safety zone is necessary to ensure the safety of persons and vessels during the fireworks display near Menasha, Wisconsin. This zone is effective and will be enforced from 8:45 p.m. until 10:30 p.m. on July 4, 2015. The safety zone will encompass all waters of the Fox River and Lake Winnebago within a 600 foot radius of an approximate launch position at 44°12.017′ N., 088°25.904′ W. (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or her designated on-scene representative. The Captain of the Port or her 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 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. 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 safety zone created by this rule will be relatively small and enforced for only one day. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on small entities. 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 the affected portion of the Fox River and Lake Winnebago on July 4, 2015.

This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section. Additionally, before the enforcement of this zone, we would issue local Broadcast Notice to Mariners so vessel owners and operators can 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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination for this zone have been previously completed and are available via *http://www.regulations.gov* under Docket Number USCG–2014–1001. 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 record keeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0532 to read as follows:

§ 165.T09–0532 Safety Zone, Fourth of July fireworks, Lake Winnebago; Wisconsin.

(a) *Location.* All waters of the Fox River and Lake Winnebago within a 600 foot radius of an approximate launch position at 44°12.017′ N., 088°25.904′ W. (NAD 83).

(b) *Effective period.* This zone is effective from 8:45 p.m. until 10:30 p.m. on July 4, 2015.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or her designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or her designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Lake Michigan or her on-scene representative to obtain permission to do so. The Captain of the Port Lake Michigan or her on-scene representative may be contacted via VHF Channel 16.

(5) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or her on-scene representative.

Dated: June 11, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–15926 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0530]

RIN 1625–AA00

Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Vessel Launch at Marinette Marine

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on the Menominee River in Marinette, WI for a vessel launch from Marinette Marine Corporation. This zone will be enforced from 9 a.m. until 3 p.m. on July 18, 2015. This action is necessary and intended to ensure safety of life on navigable waters immediately prior to, during, and immediately after the vessel launch. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (f)(16), Table 165.929, from 9 a.m. until 3 p.m. on July 18, 2015.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *joseph.p.mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Vessel Launch at Marinette Marine safety zone listed as item (f)(16) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone will encompass all waters of the Menominee River in the vicinity of Marinette Marine Corporation, from the Bridge Street Bridge located in position 45°06.188′ N., 087°37.583′ W., then approximately .63 NM south east to a line crossing the river perpendicularly passing through positions 45°05.936′ N., 087°36.764′ W., and 45°06.992′ N., 087°36.728′ W. (NAD 83) in the vicinity of the Ansul Company. This zone will be enforced from 9 a.m. until 3 p.m. on July 18, 2015.

All vessels must obtain permission from the Captain of the Port Lake Michigan, or the on-scene representative to enter, move within, or exit the safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake

Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or an on-scene representative may be contacted via Channel 16, VHF–FM.

Dated: June 11, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–15929 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0530]

RIN 1625–AA00

Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Waterfront Festival Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on the waters of Green Bay in Menominee, MI for the Waterfront Festival Fireworks. This zone will be enforced from 9 p.m. until 11 p.m. on August 8, 2015. This action is necessary and intended to ensure safety of life on navigable waters immediately prior to, during, and immediately after the fireworks display. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (f)(8), Table 165.929, from 9 p.m. until 11 p.m. on August 8, 2015.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *joseph.p.mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Waterfront Festival Fireworks safety zone listed as item (f)(8) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone will encompass all waters of Green Bay, in the vicinity of Menominee Marina, within the arc of a circle with a 1000-foot radius from a center position at 45°06.447′ N., 087°35.991′ W. (NAD 83). This zone will be enforced from 9 p.m. until 11 p.m. on August 8, 2015.

All vessels must obtain permission from the Captain of the Port Lake Michigan or the on-scene representative to enter, move within, or exit the safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or an on-scene representative may be contacted via Channel 16, VHF–FM.

Dated: June 11, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–15915 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0501]

RIN 1625–AA00

Safety Zones; Annual Events in the Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: At various times throughout the month of July, the Coast Guard will enforce certain safety zones located in the regulations. This action is necessary and intended for the safety of life and property on navigable waters during this event. During each enforcement period, no person or vessel may enter the respective safety zone without the permission of the Captain of the Port Buffalo.

DATES: The regulations in 33 CFR 165.939 will be enforced on July 3, 2015 from 9 p.m. to 10:30 p.m., on July 4, 2015 from 9 p.m. to 11:30 p.m., and on July 4, 2015 from 9:15 p.m. to 11 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email LT Stephanie Pitts, Chief of Waterways Management Division, U.S. Coast Guard Marine Safety Unit Cleveland; telephone 216–937–0128, email *Stephanie.M.Pitts@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zones; Annual Events in the Captain of the Port Buffalo Zone listed in 33 CFR 165.939 for the following events:

(1) *Mentor Harbor Yacht Club Fireworks, Mentor Harbor, OH;* The safety zone listed in 33 CFR 165.939(a)(23) will be enforced from 9 p.m. to 10:30 p.m. on July 3, 2015.

(2) *Conneaut Fourth of July Fireworks, Conneaut, OH;* The safety zone listed in 33 CFR 165.939(a)(21) will be enforced from 9 p.m. to 11:30 p.m. on July 4, 2015.

(3) *Lorain 4th of July Celebration Fireworks, Lorain, OH;* The safety zone listed in 33 CFR 165.939(a)(28) will be enforced from 9:15 p.m. to 11 p.m. on July 4, 2015.

Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within these safety zones during an enforcement period is prohibited unless authorized by the Captain of the Port Buffalo or his designated representative. Those seeking permission to enter one of these safety zones may request permission from the Captain of Port Buffalo via channel 16, VHF–FM. Vessels and persons granted permission to enter one of these safety zones shall obey the directions of the Captain of the Port Buffalo or his designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This document is issued under authority of 33 CFR 165.939 and 5 U.S.C. 552(a). In addition to this notification in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Buffalo determines that one of these safety zones need not be enforced for

the full duration stated in this document he or she may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.

Dated: June 9, 2015.

B.W. Roche,

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

[FR Doc. 2015–15918 Filed 6–26–15; 08:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0279]

RIN 1625–AA00

Safety Zone for Fireworks Display, Chesapeake Bay, Prospect Bay; Queen Anne's County, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing certain waters of Prospect Bay. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a barge located between Hog Island and Kent Island in Queen Anne's County, MD on July 4, 2015. This safety zone is intended to protect the maritime public in a portion of Prospect Bay.

DATES: This rule is effective from 8:30 p.m. on July 4, 2015 through 10 p.m. on July 5, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2015–0279]. 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. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On May 5, 2015, we published a notice of proposed rulemaking (NPRM) entitled ''Safety Zone for Fireworks Display, Chesapeake Bay, Prospect Bay; Queen Anne's County, MD'' in the **Federal Register** (80 FR 25634). We received no comments on the proposed rule. No public meeting was requested, and none was held. The permanent safety zones listed in the Table to 33 CFR 165.506 do not apply to this event.

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**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, to allow 30 days after publication notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels, and enhancing public and maritime safety.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 33 CFR 1.05–1 and 160.5; and Department of Homeland Security Delegation No. 0170.1., which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. Fireworks displays are frequently held from locations on or near the navigable waters of the United States. The potential hazards associated with fireworks displays are a safety concern during such events. The purpose of this rule is to promote public and maritime safety during a fireworks display, and to protect mariners transiting the area from the potential hazards associated with a fireworks display, such as the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is needed to ensure safety on the waterway before, during and after the scheduled event.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held. Accordingly, the regulatory text mirrors the proposed text published in the NPRM.

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.

Although this regulation would restrict access to this area, the effect of this proposed rule will not be significant because: (i) The safety zone will only be in effect from 8:30 p.m. through 10 p.m. on July 4, 2015, and if necessary due to inclement weather, from 8:30 p.m. through 10 p.m. on July 5, 2015, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) although the safety zone will apply to certain portions of the Inner Harbor, smaller vessel traffic will be able to transit safely around 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 received no 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 may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to operate or transit through or within, or anchor in, the safety zone during the enforcement period.

This safety zone will not have a significant economic impact on a substantial number of small entities for

the reasons stated under paragraph D.1., Regulatory Planning and Review.

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 affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary safety zone for a fireworks display. The fireworks are launched from navigable waters of the United States and may negatively impact the safety or other interests of waterway users and near shore activities in the event area. The activity includes fireworks launched from barges near the shoreline that generally rely on the use of navigable waters as a safety buffer to protect the public from fireworks fallouts and premature detonations. This action is necessary to protect persons and property during the project. 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**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0279 to read as follows:

§ 165.0279 Safety Zone for Fireworks Display, Chesapeake Bay, Prospect Bay; Queen Anne's County, MD.

(a) *Location.* The following area is a safety zone: (1) All waters of Prospect Bay, within a 1,000 feet radius of a fireworks discharge barge in approximate position latitude 39°57′49.8″ N., longitude 076°14′58.5″ W., located between Hog Island and Kent Island in Queen Anne's County, MD. All coordinates refer to datum NAD 1983.

(b) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created

by this temporary section, § 165.T05.0279.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety zone must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed as directed while within the zone.

(4) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(c) *Definitions.* As used in this section:

Captain of the Port Baltimore means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

(d) *Enforcement period.* This section will be enforced from 8:30 p.m. through 10 p.m. on July 4, 2015, and if necessary due to inclement weather, from 8:30 p.m. through 10 p.m. on July 5, 2015.

Dated: June 12, 2015.

Kevin C. Kiefer,

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

[FR Doc. 2015–15759 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0198]

RIN 1625–AA00

Safety Zone; Ohio River Between Mile 618.5 and Mile 619.5; Louisville, KY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Ohio River between mile 618.5 and mile 619.5 on June 27, 2015. This safety zone is needed to protect persons, property, and infrastructure from potential damage and safety hazards associated with the Riverview Park Independence Festival firework display. Deviation from the safety zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Ohio Valley or a designated representative.

DATES: This rule is effective and will be enforced through actual notice from 10:00 p.m. through 10:30 p.m. on June 27, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0198]. 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 Cody Robinson, U.S. Coast Guard; telephone 502–779–5347, email *James.c.Robinson@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

APA Administrative Procedures Act
BNM Broadcast Notice to Mariners
CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR **Federal Register**
MM Mile Marker
NPRM Notice of Proposed Rulemaking

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. Providing a full 30 days notice is unnecessary and contrary to the public interest as it would delay the effectiveness of the temporary safety zone until after the planned fireworks event. Immediate action is needed to protect vessels and mariners from the safety hazards associated with aerial fireworks displays over a waterway when large concentrations of spectators and vessel traffic are expected. The Coast Guard will give actual notice to the public and maritime community that the safety zone will be in effect and of the enforcement period via broadcast notices to mariners (BNM).

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**. Immediate action is needed to protect vessels and mariners from the safety hazards associated with aerial fireworks displays over a waterway when large concentrations of spectators are expected. The Coast Guard will give actual notice to the public and maritime community that the safety zone will be in effect and of the enforcement period via BNM.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1 which collectively authorize the Coast Guard to establish and define safety zones.

The purpose of this safety zone is to protect life and property from the hazards associated with and resulting from the Riverview Park Independence Festival firework display. The rule is necessary due to significant safety hazards associated with an aerial fireworks display over the waterway

when a large concentration of spectators and vessel traffic are expected. Establishing the safety zone to extend from mile 618.5 to mile 619.5 on the Ohio River is necessary for the Coast Guard to maintain navigational safety on the river.

C. Discussion of the Temporary Final Rule

The Coast Guard is establishing a temporary safety zone on the Ohio River between mile 618.5 and mile 619.5, extending the entire width of the Ohio River. Transit into and through this area is prohibited beginning at 10:00 p.m. through 10:30 p.m. on June 27, 2015 or until the Riverview Park Independence Festival firework display has concluded, whichever occurs earlier. Deviation from this temporary safety zone is prohibited unless specifically authorized by the COTP Ohio Valley, or a designated representative. Deviation requests will be considered and reviewed on a case-by-case basis. The COTP Ohio Valley may be contacted by telephone at 1–800–253–7465 or can be reached by VHF–FM channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of 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. This rule establishes a temporary safety zone for vessels on all waters of the Ohio River from mile 618.5 to mile 619.5. The safety zone will be established for less than one hour. Due to the limited scope and short duration of the temporary safety zone, the impacts on routine navigation are expected to be minimal.

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 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. 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 the Ohio River, from 10:00 p.m. to 10:30 p.m. on June 27, 2015. This temporary safety zone will not have a significant economic impact on a substantial number of small entities due to its limited scope and short duration. Additionally, requests to deviate from the rule will be considered on a case-by-case basis. Notifications to the marine community will be made through BNM, local notice to mariners, and communications with local waterway users. Notices of changes to the safety zone and effective times will also be made.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such 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 is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. Because this safety zone is established in response to a temporary situation and is less than one week in duration, an environmental analysis checklist and a categorical exclusion determination are not required.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T08–0198 is added to read as follows:

§ 165.T08–0198 Safety Zone; Ohio River between mile 618.5 and mile 619.5, Louisville, KY.

(a) *Location.* The following area is a safety zone: All waters of the Ohio River between mile 618.5 and mile 619.5, Louisville, KY, extending the entire width of the Ohio River.

(b) *Effective dates.* This safety zone is effective and will be enforced through actual notice from 10:00 p.m. through 10:30 p.m. on June 27, 2015.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port (COTP) Ohio Valley or a designated representative.

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP Ohio Valley or a designated representative. They may be contacted on VHF–FM channel 16 or by telephone at 1–800–253–7465.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP Ohio Valley or designated representative.

(d) *Informational broadcasts.* The COTP Ohio Valley or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the temporary safety zone as well as any changes in the dates and times of enforcement.

Dated: June 9, 2015.

R.V. Timme,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2015–15932 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0530]

RIN 1625–AA00

Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Milwaukee Air and Water Show

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on Lake Michigan in Milwaukee, WI for the Milwaukee Air and Water Show. This zone will be enforced from 8:30 a.m. until 5 p.m. on each day of July 22, 2015 to July 26, 2015. This action is necessary and intended to ensure safety of life on navigable waters immediately prior to, during, and immediately after the Air and Water Show. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (f)(2), Table 165.929, from 8:30 a.m. until 5 p.m. on each day of July 22, 2015 to July 26, 2015.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *joseph.p.mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Milwaukee Air and Water Show safety zone listed as item (f)(2) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone will encompass all waters and adjacent shoreline of Lake Michigan in the vicinity of McKinley Park located within an area that is approximately 4800 by 1250 yards. The area will be bounded by the points beginning at 43°02.450′ N., 087°52.850′ W.; then southeast to 43°02.230′ N., 087°52.061′ W.; then northeast to 43°04.543′ N., 087°50.801′ W.; then northwest to 43°04.757′ N., 087°51.512′ W.; then southwest returning to the point of origin (NAD 83). This zone will be enforced from 8:30 a.m. until 5 p.m. on each day of July 22, 2015 to July 26, 2015.

All vessels must obtain permission from the Captain of the Port Lake Michigan, or the on-scene representative to enter, move within, or exit the safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan

or an on-scene representative may be contacted via Channel 16, VHF–FM.

Dated: June 11, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–15935 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 383

[Docket No. 14–CRB–0002–NSR (2016–2020)]

Determination of Terms and Royalty Rates for Ephemeral Reproductions and Public Performance of Sound Recordings by a New Subscription Service

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges publish final regulations that set the rates and terms for the use of sound recordings via digital transmissions made by new subscription services and for the making of ephemeral recordings to facilitate those transmissions during the period commencing January 1, 2016, and ending on December 31, 2020.

DATES: *Effective:* January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle, Attorney Advisor, by telephone at (202) 707–7658, or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: On December 12, 2014, the Copyright Royalty Judges (Judges) received a joint motion from SoundExchange, Inc. (''SoundExchange'') and Sirius XM Radio, Inc. (''Sirius XM'') to adopt a settlement of royalty rates and terms under Sections 112(e) and 114 of the Copyright Act (''the Act'') for 2016–2020 for new subscription services of the type at issue in the captioned proceeding (*i.e.,* music services provided to residential subscribers as part of a cable or satellite television bundle). *See* Joint Motion to Adopt Settlement at 1 and 37 CFR 383.2(h). Sirius XM creates music and nonmusic programming and transmits it through its satellite digital audio radio service and other outlets. According to Sirius XM, it relies on the royalty rates and terms in 37 CFR part 383 for music programming it provides through the DiSH satellite television service. Joint Motion at 2. SoundExchange is a nonprofit organization that is jointly controlled by representatives of sound recording copyright owners and performers. *Id.* The Judges published the proposed settlement and requested comments from the public. *See* 80 **Federal Register** 2065 (January 15, 2015).

Background

Section 801(b)(1) of the Act, among other things, authorizes the Judges to make determinations and adjustments of reasonable terms and rates of royalty payments as provided in Section 112(e) and 114 of the Act. Section 114(f)(2)(A) of the Act provides, among other things, that, proceedings under chapter 8 of the Act shall determine reasonable rates and terms of royalty payments for public performances of sound recordings by means of new subscription services. Section 112(e)(3) of the Act provides that proceedings under chapter 8 of the Act shall determine reasonable rates and terms of royalty payments for activities specified in Section 112(e)(1) of the Act (*i.e.,* the making of no more than one phonorecord of a sound recording by a transmitting organization entitled to transmit to the public a performance of a sound recording under a statutory license in accordance with Section 114(f) of the Act). The Judges have commenced two prior proceedings for five-year rate periods pursuant to these two provisions, both of which ended when the participants reached an agreement of the applicable rates and terms. See 72 FR 72253 (December 20, 2007) and 75 FR 14074 (March 24, 2010). The current rate period expires December 31, 2015.

Pursuant to section 803(b)(1)(A)(i)(III) of the Copyright Act, the Judges published in the **Federal Register** a notice commencing a rate determination proceeding for the 2016–2020 rate period and requesting interested parties to submit Petitions to Participate. *See* 79 FR 410 (January 3, 2014). The Judges received Petitions to Participate from Music Reports, Inc. (''Music Reports''), National Music Publishers Association (''NMPA''), Sirius XM, Spotify USA, Inc., and SoundExchange. The Judges subsequently dismissed the petitions to participate of NMPA and Music Reports. *See* Order Dismissing Petition to Participate (Music Reports) (May 30, 2014) and Order Granting SoundExchange Motion to Deny the Petition to Participate of National Music Publishers' Association (April 30, 2014). On September 26, 2014, Spotify withdrew from the proceeding. *See* Notice of Withdrawal of Petition to Participate. As a result, Sirius XM and SoundExchange are the only remaining participants in this proceeding. Joint Motion at 2.

Section 801(b)(7)(A) of the Copyright Act authorizes the Judges to adopt rates and terms negotiated by ''some or all of the participants in a proceeding at any time during the proceeding'' provided the settling parties submit the negotiated rates and terms to the Judges for approval. That provision directs the Judges to provide those who would be bound by the negotiated rates and terms an opportunity to comment on the agreement. The Judges will adopt the negotiated rates and terms unless a participant in a proceeding objects and the Judges conclude that the agreement does not provide a reasonable basis for setting statutory rates or terms, the Judges adopt the negotiated rates and terms. 17 U.S.C. 801(b)(7)(A).

Rates and terms the Judges adopt pursuant to this provision are binding on all owners of copyright in sound recordings and on all new subscription services performing the copyrighted sound recordings on digital audio channels transmitted by a cable or satellite television distribution service to residential customers, bundled with television channels as part of a ''basic'' service subscription package, and not available separately for a separate fee. *See* 37 CFR 383.2(h).

The Judges ''may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement,'' only ''if any participant [to the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.'' 17 U.S.C. 801(b)(7)(A)(ii). The Judges received no comments or objections in response to their request for comments published in the **Federal Register**.

The Judges, therefore, by this notice, adopt as final regulations for the period commencing January 1, 2016, and ending on December 31, 2020, the rates and terms agreed to by Sirius XM and SoundExchange for digital transmission of sound recordings by new subscription services and the making of ephemeral reproductions necessary to facilitate those transmissions.

List of Subjects in 37 CFR Part 383

Copyright, Digital audio transmissions, Performance right, Sound recordings.

Final Regulation

For the reasons set forth in the preamble, the Copyright Royalty Board amends 37 CFR part 383 as follows:

PART 383—RATES AND TERMS FOR SUBSCRIPTION TRANSMISSIONS AND THE REPRODUCTION OF EPHEMERAL RECORDINGS BY CERTAIN NEW SUBSCRIPTION SERVICES

■ 1. The authority citation for part 383 continues to read as follows:

Authority: 17 U.S.C. 112(e), 114, and 801(b)(1).

■ 2. The heading for part 383 is revised to read as set forth above.

§ 383.1 [Amended]

■ 3. Amend § 383.1 as follows:
■ a. In paragraph (a), by removing ''from the inception of the Licensees' Services'' and adding in its place ''January 1, 2016,'' and by removing ''2015'' and adding in its place ''2020''; and
■ b. In paragraph (c), by adding ''voluntary'' before ''license agreements''.

§ 383.2 [Amended]

■ 4. Amend § 383.2 as follows:
■ a. By removing paragraph (a);
■ b. By redesignating paragraphs (b) through (f) as paragraphs (a) through (e);
■ c. In newly redesignated paragraph (b), by adding ''made under this part pursuant to the statutory licenses'' before ''under 17 U.S.C.'', by removing ''or'' and adding in its place ''and'', and by removing ''(g)'';
■ d. In newly redesignated paragraph (c), by removing ''from the inception of the Licensees' Services'' and adding in its place ''January 1, 2016,'' and by removing ''2015'' and adding in its place ''2020'';
■ e. In newly redesignated paragraph (d), by removing ''(h)'' and adding in its place ''(f)'';
■ f. By removing paragraph (g);
■ g. By redesignating paragraphs (h) through (j) as paragraphs (f) through (h); and
■ h. In newly redesignated paragraph (f)(3), by removing ''(h)'' and adding in its place ''(f)''.

■ 5. Amend § 383.3 as follows:
■ a. In paragraph (a) introductory text, by removing ''License'' and adding in its place ''statutory licenses'';
■ b. By revising paragraphs (a)(1) and (2); and
■ c. In paragraph (b), by removing '', but payable pursuant to the applicable regulations for all years 2007 and earlier''.

The revisions read as follows:

§ 383.3 Royalty fees for public performances of sound recordings and the making of ephemeral recordings.

(a) * * *

(1) For Stand-Alone Contracts, the following monthly payment per Subscriber to the Service of such Licensee:

(i) 2016: $0.0179;
(ii) 2017: $0.0185;
(iii) 2018: $0.0190;
(iv) 2019: $0.0196;
(v) 2020: $0.0202;

(2) For Bundled Contracts, the following monthly payment per Subscriber to the Service of such Licensee:

(i) 2016: $0.0299;
(ii) 2017: $0.0308;
(iii) 2018: $0.0317;
(iv) 2019: $0.0326;
(v) 2020: $0.0336;

* * * * *

§ 383.4 [Amended]

■ 6. Amend § 383.4 in paragraph (a), by removing ''2007–2013'' and adding in its place ''2013–2017'' and by removing ''2015'' and adding in its place ''2020''.

Dated: March 24, 2015.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

Approved by:

James H. Billington,

Librarian of Congress.

[FR Doc. 2015–12668 Filed 6–26–15; 8:45 am]

BILLING CODE 1410–72–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2015–0001]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1-percent-annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Date: June 16, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

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

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Tioga County, Pennsylvania (All Jurisdictions) Docket No.: FEMA–B–1147			
Camp Brook Creek	Approximately 1,900 feet downstream of East Main Street	+ 1124	Township of Nelson.
	Approximately 460 feet downstream of East Main Street	+ 1127	
Charleston Creek	Approximately 2,670 feet upstream of Jackson Street	+ 1325	Township of Charleston.
	Approximately 2,720 feet upstream of Jackson Street	+ 1326	
Cowanesque River Reach 2	Approximately 3,600 feet downstream of State Route 49	+ 1124	Borough of Elkland, Township of Deerfield, Township of Nelson.
	Approximately 2.4 miles upstream of Holden Street	+ 1184	
Crooked Creek	Approximately 0.2 mile upstream of Bear Creek Road (Legislative Route 58122).	+ 1024	Borough of Tioga.
	Approximately 690 feet upstream of Mann Hill Road (Cowanesque Street).	+ 1034	
Tioga River Reach 1	Approximately 0.3 mile upstream of State Route 287	+ 1024	Borough of Tioga.
	Approximately 0.8 mile upstream of Park Street	+ 1034	
Tioga River Reach 2	Approximately 1.2 miles downstream of Spencer Road	+ 1139	Borough of Mansfield, Township of Hamilton.
	Approximately 0.4 mile upstream of Gulick Street	+ 1401	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Borough of Elkland
Maps are available for inspection at the Borough Hall, 105 Parkhurst Street, Elkland, PA 16920.

Borough of Mansfield
Maps are available for inspection at the Borough Hall, 14 South Main Street, Mansfield, PA 16933.

Borough of Tioga
Maps are available for inspection at the Borough Office, 18 North Main Street, Tioga, PA 16946.

Township of Charleston
Maps are available for inspection at the Charleston Township Building, 156 Catlin Hollow Road, Wellsboro, PA 16901.

Township of Deerfield
Maps are available for inspection at the Deerfield Township Building, 5322 State Route 49, Knoxville, PA 16928.

Township of Hamilton
Maps are available for inspection at the Hamilton Township Municipal Building, 16 Tioga Street, Morris Run, PA 16939.

Township of Nelson
Maps are available for inspection at the Nelson Township Community Building, 111 Village Drive, Nelson, PA 16940.

[FR Doc. 2015–15821 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–12–P

NATIONAL ENDOWMENT FOR THE ARTS

45 CFR Part 1157

RIN 3135–AA31

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

ACTION: Final rule.

SUMMARY: The National Endowment for the Arts (''NEA'') finalizes its portion of the uniform federal assistance rule published by the Office of Management and Budget.

DATES: This rule is effective on June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Aswathi Zachariah, Office of the General Counsel, National Endowment for the Arts, 400 7th Street SW., Washington, DC 20506, Telephone: 202–682–5418.

SUPPLEMENTARY INFORMATION: On December 12, 2014, the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget published an interim final rule that provided comprehensive modifications to the principles and requirements for federal awards. 79 FR 75871. The uniform rules were published as 2 CFR part 200. As part of that rulemaking, the National Endowment for the Arts adopted part 200, along with an agency-specific addendum in a new part 3255.

The NEA received no relevant comments in response to the rule. Therefore, 2 CFR part 3255, as described in the interim final rule, is adopted with no changes.

Regulatory Findings

For the regulatory findings regarding this rulemaking, please refer to the analysis prepared by OIRA in the interim final rule, which is incorporated herein. 79 FR at 75876.

Dated: June 18, 2015.

Kathy N. Daum,

Director, Office of Administrative Services.

[FR Doc. 2015–15736 Filed 6–26–15; 8:45 am]

BILLING CODE 7537–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 384

[Docket No. FMCSA 2015–0174]

RIN 2126–AB80

State Compliance With Commercial Driver's License Program: Correction

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: FMCSA corrects its regulations implementing certain provisions of the Moving Ahead for Progress in the 21st Century Act (MAP–21). FMCSA determined that an error was made in the publication of the October 1, 2013, MAP–21 Implementation final rule. That rule inadvertently deleted paragraph (c) of § 384.209, Notification of traffic violations. This final rule is necessary to address the inadvertent error made to the state compliance regulations.

DATES: This final rule becomes effective on June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Robert Redmond, Commercial Driver's License Division, Office of Safety Programs, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, by telephone at (202) 366–5014 or via email at *robert.redmond@dot.gov*.

If you have questions on viewing material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Legal Basis

Generally, agencies may promulgate final rules only after issuing a notice of proposed rulemaking (NPRM) and providing an opportunity for public comment under procedures required by the Administrative Procedure Act (APA), as provided in 5 U.S.C. 553(b) and (c). The APA, in 5 U.S.C. 553(b)(3)(B), provides an exception from these requirements when notice and public comment procedures are ''impracticable, unnecessary, or contrary to the public interest.'' FMCSA finds that notice and comment is unnecessary prior to adoption of this final rule because it is merely restoring an inadvertently removed, a statutorily-required regulation. Accordingly, the Agency is performing a nondiscretionary, ministerial act by publishing today's final rule. Therefore, the Agency may adopt this rule without notice and receiving public comment, in accordance with the APA. For these same reasons, under the good cause authority found in 5 U.S.C. 553(d)(3), the rule will be effective upon publication.

Background

FMCSA determined that an error was made in the publication of the October 1, 2013, MAP–21 Implementation final rule. 78 FR 60226. That rule inadvertently deleted paragraph (c) of § 384.209, Notification of traffic violations. As explained in the 2013 final rule, FMCSA intended to amend paragraphs (a) and (b) of § 384.209. Paragraphs (a) and (b) previously required States to report a commercial driver's convictions to the driver's State of licensure. The 2013 amendments added the requirement that States report foreign commercial drivers' convictions to FMCSA's Federal Convictions and Withdrawal Database, in accordance with MAP–21 requirements. 78 FR 60227. In making that addition, FMCSA did not intend to remove paragraph (c), which is statutorily required and directed States to report the convictions within 10 days. *See* 49 U.S.C. 31311.

Accordingly, the 10-day reporting requirement remains in effect and paragraph (c) should not have been removed as a part of the MAP–21 Implementation rule. Today's final rule corrects that error by restoring the 10-day reporting requirement in paragraph (c). Prior to its inadvertent removal, paragraph (c) contained outdated references to the effective dates for the 10-day reporting requirement, which took place in 2005 and 2008. The Agency believes that this final rule provides an appropriate opportunity to remove those outdated references. Accordingly, today's final rule restores the inadvertently removed reporting requirement, but eliminates the obsolete effective dates.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

FMCSA has determined this final rule is not a significant regulatory action within the meaning of Executive Order (E.O.) 12866, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), or within the meaning of Department of Transportation Regulatory Policies and Procedures.

As explained above, this final rule is strictly administrative in that it corrects the inadvertent removal of a nondiscretionary statutory requirement. Today's final rule will not exceed the

$100 million annual threshold. There are no costs attributed to this final rule. This final rule is not expected to generate substantial congressional or public interest. Therefore, a full regulatory impact analysis has not been conducted nor has there been a review by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FMCSA is not required to prepare a final regulatory flexibility analysis under 5 U.S.C. 604(a) for this final rule because the Agency has not issued a notice of proposed rulemaking prior to this action. FMCSA has determined that it has good cause to adopt the rule without notice and comment.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this final rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Mr. Robert Redmond, listed in the **FOR FURTHER INFORMATION CONTACT** section of this rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's 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 FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy ensuring the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

Unfunded Mandates Reform Act of 1995

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 $151 million (which is the value equivalent of $100,000,000 in 1995, adjusted for inflation to 2012 levels) or more in any 1 year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Paperwork Reduction Act

This final rule will call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) because it merely corrects an inadvertent error. Regardless, the notification requirement in 49 CFR 384.309(c) was previously approved under OMB Control No. 2126–0011.

E.O. 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of Executive Order 13132 if it has ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' As this rule merely corrects an inadvertent error from a previous rule, and will have no actual impact on any State nor limit the policymaking discretion of the States, FMCSA has determined that there is no federalism impact. As such, the Agency is not required to prepare a Federalism Assessment or Impact Statement.

E.O. 12988 (Civil Justice Reform)

This final 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.

E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this final rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

E.O. 12630 (Taking of Private Property)

FMCSA reviewed this final rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have takings implications.

Privacy

The Consolidated Appropriations Act, 2005, (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note) requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This rule does not include a collection of personally identifiable information (PII), therefore no PIA is required.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency which receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002, Public Law 107–347, § 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. As a result, FMCSA has not conducted a PIA.

E.O. 12372 (Intergovernmental Review of Federal Programs)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

E.O. 13175 (Indian Tribal Governments)

This final rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the

relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment (NEPA, CAA, Environmental Justice)

FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined that this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, March 1, 2004), Appendix 2, paragraph (6b), concerning editorial and procedural regulations. The CE is available for inspection or copying in the *Regulations.gov* Web site listed under **ADDRESSES**.

FMCSA also analyzed this action under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898, each Federal agency must identify and address, as appropriate, ''disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations'' in the United States, its possessions, and territories. FMCSA evaluated the environmental justice effects of this rule in accordance with the E.O., and has determined that no environmental justice issue is associated with this rule, nor is there any collective environmental impact that would result from its promulgation.

List of Subjects in 49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

In consideration of the foregoing, FMCSA amends 49 CFR part 384 as follows:

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 1. The authority citation for part 384 continues to read as follows:

Authority: 49 U.S.C. 31136, 31301, *et seq.,* and 31502; secs. 103 and 215 of Pub.L. 106–59, 113 Stat. 1753, 1767; and 49 CFR 1.87.

■ 2. In § 384.209, add paragraph (c) to read as follows:

§ 384.209 Notification of traffic violations.

* * * * *

(c) Notification of traffic violations must be made within 10 days of the conviction.

Issued under the authority of delegation in 49 CFR 1.87: June 22, 2015.

T.F. Scott Darling, III,

Chief Counsel.

[FR Doc. 2015–15906 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130403322–4454–02]

RIN 0648–XE017

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Re-Opening of Commercial Sector for Atlantic Dolphin

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

ACTION: Temporary rule; re-opening.

SUMMARY: NMFS announces the re-opening of the commercial sector for Atlantic dolphin (dolphin) in the exclusive economic zone (EEZ) off the Atlantic states (Maine through the east coast of Florida) through this temporary rule. The most recent landings for dolphin indicate the commercial annual catch limit (ACL) has not yet been reached. Therefore, NMFS re-opens the commercial sector for dolphin at 4:15 p.m., local time, June 24, 2015, and it will close at 12:01 a.m., local time, June 30, 2015 in the exclusive economic zone (EEZ) of the Atlantic. A June 30, 2015, closure will minimize the risk of the commercial ACL being exceeded and provides more sufficient notice to fishermen of the closure.

DATES: This rule is effective at 4:15 p.m., local time, June 24, 2015, until 12:01 a.m., local time, June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *catherine.hayslip@noaa.gov.*

SUPPLEMENTARY INFORMATION: The dolphin and wahoo fishery off the Atlantic states is managed under the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council, in cooperation with the Mid-Atlantic and New England Fishery Management Councils, and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL for dolphin is 1,157,001 lb (524,807 kg), round weight. Under 50 CFR 622.280(a)(l)(i), NMFS is required to close the commercial sector for dolphin when the commercial ACL has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS previously determined that the commercial ACL would be reached and that the commercial sector for dolphin should close on June 24, 2015. Therefore, NMFS published a temporary rule to implement accountability measures (AMs) to close the commercial sector for dolphin in the EEZ off the Atlantic states (Maine through the east coast of Florida), effective at 12:01 a.m., local time, June 24, 2015 (80 FR 36249, June 24, 2015).

However, the most recent landings for dolphin indicate the commercial ACL has not been reached. Consequently and in accordance with 50 CFR 622.8(c), NMFS temporarily re-opens the commercial sector for dolphin on June 24, 2015, and closes the commercial sector on June 30, 2015. A closure on June 30, 2015, minimizes the risk of the commercial ACL for dolphin from being exceeded and provides sufficient notice to fishermen of the closure.

The operator of a vessel with a valid commercial vessel permit for dolphin on board must have landed and

bartered, traded, or sold such species prior to the closure at 12:01 a.m., local time, June 30, 2015. During the closure, the bag and possession limits specified in 50 CFR 622.277(a)(1) apply to all harvest or possession of dolphin in or from the Atlantic EEZ. Additionally, these bag and possession limits apply in the Atlantic EEZ (Maine through the east coast of Florida) on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for dolphin and wahoo has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters. During the closure, the sale or purchase of dolphin taken from the EEZ is prohibited. The commercial sector for dolphin will re-open on January 1, 2016, the beginning of the 2016 commercial fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of dolphin off the Atlantic states and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(c) and 622.280(a)(1)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to temporarily re-open the commercial sector for dolphin constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial ACL and AMs has been subject to notice and comment, and all that remains is to notify the public of the re-opening. Such procedures are contrary to the public interest because of the need to immediately implement this action to allow vessels with dolphin to transit safely and land dolphin harvested in the EEZ by June 30, 2015, while minimizing the risk of exceeding the commercial ACL. Prior notice and opportunity for public comment would require time, would delay the re-opening of the commercial sector, and would potentially result in the discard of dolphin already harvested legally prior to June 24, 2015.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: June 24, 2015.

Jennifer M. Wallace,

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

[FR Doc. 2015–15863 Filed 6–24–15; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 150428405–5539–02]

RIN 0648–XD927

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement annual management measures and harvest specifications to establish the allowable catch levels (*i.e.* annual catch limit (ACL)/harvest guideline (HG)) for the northern subpopulation of Pacific sardine (hereafter, simply Pacific sardine), in the U.S. exclusive economic zone (EEZ) off the Pacific coast for the fishing season of July 1, 2015, through June 30, 2016. These specifications were determined according to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). This action includes a prohibition on directed non-tribal Pacific sardine commercial fishing for Pacific sardine off the coasts of Washington, Oregon and California, which is required because the estimated 2015 biomass of Pacific sardine has dropped below the cutoff threshold in the HG control rule. Under this action Pacific sardine may still be harvested as part of either the live bait or tribal fishery or incidental to other fisheries; the incidental harvest of Pacific sardine will initially be limited to 40-percent by weight of all fish per trip when caught with other CPS or up to 2 metric tons (mt) when caught with non-CPS. The ACL for 2015–2016 Pacific sardine fishing year is 7,000 mt. This rule is intended to conserve and manage the Pacific sardine stock off the U.S. West Coast.

DATES: Effective July 1, 2015 through June 30, 2016.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, West Coast Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: NMFS manages the Pacific sardine fishery in the U.S. EEZ off the Pacific coast (California, Oregon, and Washington) in accordance with the CPS FMP. Annual specifications published in the **Federal Register** establish the allowable harvest levels (*i.e.* over fishing limit (OFL)/ACL/HG) for each Pacific sardine fishing year. The purpose of this final rule is to implement these annual catch reference points for the 2015–2016 fishing year. This final rule adopts, without changes, the reference points that NMFS proposed in the rule published on May 21, 2015 (80 FR 29296), including an OFL and an ABC that takes into consideration uncertainty surrounding the current estimate of biomass for Pacific sardine in the U.S. EEZ off the Pacific coast.

The FMP and its implementing regulations require NMFS to set these annual catch levels for the Pacific sardine fishery based on the annual specification framework and control rules in the FMP. These control rules include the HG control rule, which in conjunction with the OFL and ABC rules in the FMP, are used to manage harvest levels for Pacific sardine, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* According to the FMP, the quota for the principle commercial fishery is determined using the FMP-specified HG formula. The HG formula in the CPS FMP is HG = [(Biomass-CUTOFF) * FRACTION * DISTRIBUTION] with the parameters described as follows:

1. *Biomass.* The estimated stock biomass of Pacific sardine age one and above. For the 2015–2016 management season this is 96,688 mt.

2. *CUTOFF.* This is the biomass level below which no HG is set. The FMP established this level at 150,000 mt.

3. *DISTRIBUTION.* The average portion of the Pacific sardine biomass estimated in the EEZ off the Pacific coast. The FMP established this at 87 percent.

4. *FRACTION.* The temperature-varying harvest fraction is the percentage of the biomass above 150,000 mt that may be harvested.

As described above, the Pacific sardine HG control rule, the primary mechanism for setting the annual

directed commercial fishery quota, includes the CUTOFF parameter which has been set as a biomass amount of 150,000 mt. This amount is subtracted from the annual biomass estimate before calculating the applicable HG for the fishing year. Therefore, because this year's biomass estimate is below that value, the formula results in an HG of zero and therefore no Pacific sardine are available for the commercial directed fishery during the 2015–2016 fishing year.

At the April 2015 Pacific Fishery Management Council (Council) meeting, the Council adopted the ''Assessment of the Pacific Sardine Resource in 2015 for U.S.A. Management in 2015–2016'' completed by NMFS Southwest Fisheries Science Center and the resulting Pacific sardine biomass estimate of 96,688 mt. Based on recommendations from its Science and Statistical Committee (SSC) and other advisory bodies, the Council recommended and NMFS is implementing, an OFL of 13,227 mt, an available biological catch (ABC) of 12,074 mt, and a prohibition on sardine catch unless it is harvested as part of either the live bait or tribal fishery or incidental to other fisheries for the 2015–2016 Pacific sardine fishing year. As additional conservation measures, the Council also recommended and NMFS is implementing an ACL of 7,000 mt and an annual catch target (ACT) of 4,000 mt. Incidental catch of Pacific sardine in other CPS fisheries will be managed under the ACT and be subject to the following management controls to reduce targeting and potential discard of Pacific sardine: (1) A 40 percent by weight incidental catch rate when Pacific sardine are landed with other CPS until a total of 1,500 mt of Pacific sardine are landed; (2) after 1,500 mt have been caught, the allowance will be reduced to 30 percent; and (3) when 4000 mt is reached, the incidental per landing allowance will be reduced to 5 percent for the remainder of the 2015–2016 fishing year. Additionally, the Council adopted a 2 mt incidental per landing allowance in non-CPS fisheries. Because Pacific sardine is known to comingle with other CPS stocks, these incidental allowances were adopted to allow for the continued prosecution of these other important CPS fisheries and reduce the potential discard of sardine.

The NMFS West Coast Regional Administrator will publish a notice in the **Federal Register** announcing the date of attainment of any of the incidental catch levels described above and subsequent changes to allowable incidental catch percentages. Additionally, to ensure that the regulated community is informed of any closure, NMFS will make announcements through other means available, including fax, email, and mail to fishermen, processors, and state fishery management agencies.

As explained in the proposed rule, 1,000 mt of the ACL are being set aside for tribal harvest use as a result of a request by the Quinault Indian Nation.

On May 21, 2015, NMFS published a proposed rule for this action and solicited public comments (80 FR 29296), with a public comment period that ended on June 5, 2015. NMFS received two comments—explained below—regarding the proposed Pacific sardine specifications. After consideration of the public comments, no changes were made from the proposed rule. For further background information on this action please refer to the preamble of the proposed rule.

Comments and Responses

Comment 1: The commenter stated that the language in the proposed rule seems to minimize the economic impact of the sardine closure on the fleet and that sardine income has been a critical component of profitability. The commenter requested that NMFS address the economic impacts of the closure by re-opening the sardine fishery as soon as possible. The commenter further states that the immediate focus should be on confirming whether the surveys used to estimate biomass are accurate.

Response: NMFS understands and agrees that this action is likely to have a negative economic impact on vessels that harvest Pacific sardine. NMFS did not intend to minimize the potential lost revenue to sardine fisherman caused by this rule compared to previous seasons. Although most vessels within the CPS fleet may be able to shift fishing effort to other species and supplement economic losses incurred by the sardine closure, we also understand that for certain individuals, including the commenter, the prohibition on directed commercial harvest may carry a heavier financial burden. The fact that many sardine fishermen also participate in other fisheries, which is expected to help offset lost revenue from sardine harvest, was not the deciding factor for NMFS in taking this action.

The CPS FMP and its implementing regulations require NMFS to set the harvest specifications for the Pacific sardine fishery using the control rules set in the FMP. As stated above, the Pacific sardine HG control rule includes a CUTOFF of 150,000 mt. When the sardine biomass drops below this level, the FMP dictates that there will be no quota allocated to the primary commercial directed fishery. Allowing a directed commercial fishery as requested by the commenter would therefore violate the FMP. While allowing directed commercial fishing for the 2015–2016 fishing year could provide short-term economic benefits, the HG control rule is intended to help ensure long-term opportunities for harvesting sardine and relatively stable levels of harvest as opposed to a ''boom-and-bust'' type fishery. Although even in the absence of a commercial fishery, unfavorable environmental conditions could keep the sardine population at a low level, the purpose of a cutoff that is three times greater than the overfished level (50,000 mt) is akin to having a pre-determined, systemic rebuilding program that limits fishing as the stock declines. A cutoff both helps prevent overfishing and also stops fishing at an early stage in the stock's decline to help maintain a stable core population of sardines that can jump-start a new cycle of population growth if the environmental conditions become favorable.

With regard to the commenter's question about whether the surveys used to estimate sardine biomass are sound, as explained above under **SUPPLEMENTARY INFORMATION**, this year's biomass estimate used for the 2015–2016 specifications went through extensive review, and along with the resulting OFL and ABC, was endorsed by the Council's SSC and NMFS as the best available science. The stock assessment for the 2015–2016 fishing year, as with each annual stock assessment, went through a multi-stage review process including being reviewed and discussed by the Council, and the Council's SSC, CPS management team, and CPS advisory subpanel to ensure that the best available science is utilized when calculating the biomass estimate. Every year, NOAA conducts a stock assessment for the northern subpopulation of Pacific Sardine that combines fisheries data with data collected off the West Coast by NOAA research ships surveying for sardine eggs, larvae and schools of mature fish, with models that incorporate sardine biology. As noted by the commenter, in past years the assessment has also incorporated scientific information from industry sponsored aerial surveys. However, this survey was not conducted in 2014 so data was not available for use in the 2015 survey. If in future years this work becomes available then this data source can be incorporated.

Comment 2: One commenter expressed support for the prohibition on

directed commercial sardine fishing, but opposed the proposed ACL and ACT levels, and requested that NMFS instead set an ACL of no more than 1,000 mt. The commenter expressed an opinion that the FMP does not allow any fishing when the biomass drops below the CUTOFF. The commenter further stated that the proposed ACL would allow too much harvest at a time when the sardine biomass is low and would further reduce the population to an overfished condition and does not provide an incentive for fisherman to avoid incidentally catching sardine.

Response: NMFS disagrees that the ACL and ACT implemented in this rule are not in line with the FMP or that they fail to prevent overfishing and thereby will not protect the stock from becoming overfished. The ACL and ACT should be viewed in the context of the OFL for the northern subpopulation of Pacific Sardine of 13,227 mt and an ABC of 12,074 mt that takes into account scientific uncertainty surrounding the OFL. These reference limits were recommended by the Council based on the control rules in the FMP and were endorsed the Council's SSC. The commenter does not note disagreement with these levels. By definition, fishing could conceivably occur up to these levels and overfishing would not be occurring and therefore fishing would not be the cause of the stock moving towards an overfished state. An ACL of 7,000 mt is well below both the OFL and ABC and with the ACT of 4,000 mt under which incidental catch of sardine will be managed, along with the multiple safeguards in place to keep the catch under that level, the management measures implemented by this rule are more than adequate to prevent exceeding the OFL.

In response to the commenter's opinion that no harvest should be allowed when the biomass drops below the 150,000-mt CUTOFF, NMFS notes that the FMP does not forbid incidental, live bait or tribal harvest in this situation. It also appears that although the commenter states that the harvest rate in this situation should be zero, the commenter nevertheless agrees that the FMP can allow these types of harvest. The commenter specifically cites the CPS FMP language that allows for live bait harvest when the estimated biomass drops below the CUTOFF. The commenter also recommends setting the ACL at 1,000 mt to accommodate live bait, tribal and incidental harvest of sardine. Additionally, although the commenter disagrees with setting the ACL at 7,000 mt because it would allow a harvest rate above zero percent (which the commenter argues would violate the FMP), the commenter also requests that an ACL of 1,000 mt be implemented (implying that the commenter recognizes that the FMP allows a harvest rate above zero percent). Detailed information on the fishery and the stock assessment are found in the report ''Assessment of the Pacific Sardine Resource in 2015 for U.S.A. Management in 2015–2016.''

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

NMFS finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for the establishment of these final harvest specifications for the 2015–2016 Pacific sardine fishing season. In accordance with the FMP, this rule was recommended by the Council at its meeting in April 2015, the contents of which were based on the best available new information on the population status of Pacific sardine that became available at that time. Making these final specifications effective on July 1 is necessary for the conservation and management of the Pacific sardine resource. The FMP requires a prohibition on directed fishing for Pacific sardine for the 2015–2016 fishing year because the sardine biomass has dropped below the CUTOFF. The purpose of the CUTOFF in the FMP—and disallowing directed fishing when the biomass drops below this level—is to protect the stock when biomass is low and provide a buffer of spawning stock that is protected from fishing and available for use in rebuilding the stock. A delay in the effectiveness of this rule for a full 30 days would not allow the implementation of this prohibition prior to the expiration of the closure of the directed fishery on July 1, 2015, which was imposed under the 2014–2015 annual specifications.

Delaying the effective date of this rule beyond July 1 would be contrary to the public interest because reducing Pacific sardine biomass beyond the limits set out in this action could decrease the sustainability of the Pacific sardine, as well as causing future harvest limits to be even lower under the harvest control rule, thereby reducing future profits of the fishery.

These final specifications are exempt from review under Executive Order 12866.

A final regulatory flexibility analysis (FRFA) was prepared for this action. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA). No issues were raised by public comments in response to the IRFA prepared pursuant to the Regulatory Flexibility Act (RFA) for this action or on the economic impacts of the rule generally. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The results of the FRFA are stated below. Additionally for copies of the FRFA, please see the **FOR FURTHER INFORMATION CONTACT** section above.

The purpose of this action is to implement the 2015–2016 annual specifications for Pacific sardine in the U.S. EEZ off the Pacific coast. Annual specifications published in the **Federal Register** establish the allowable harvest levels (*i.e.* OFL/ACL/HG) for each Pacific sardine fishing year. This final rule adopts without changes the reference points that NMFS proposed in the rule published on May 21, 2015 (80 FR 29296), including an OFL and an ABC that takes into consideration uncertainty surrounding the current estimate of biomass for Pacific sardine in the U.S. EEZ off the Pacific coast. The FMP and its implementing regulations require NMFS to set these annual catch levels for the Pacific sardine fishery based on the annual specification framework and control rules in the FMP.

On June 12, 2014, the Small Business Administration (SBA) issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33467). The rule increased the size standard for Finfish Fishing from $19.0 to 20.5 million, Shellfish Fishing from $5.0 to 5.5 million, and Other Marine Fishing from $7.0 to 7.5 million. 78 FR 33656, 33660, 33666 (See Table 1). NMFS conducted its analysis for this action in light of the new size standards.

The small entities that would be affected by the action are the vessels that fish for Pacific sardine as part of the West Coast CPS small purse seine fleet. As stated above, the U.S. Small Business Administration now defines small businesses engaged in finfish fishing as those vessels with annual revenues of $20.5 million or less. Under the former, lower standards, all entities subject to this action in previous years were considered small entities, and under the new standards they continue to be considered small. In 2014, there were approximately 81 vessels permitted to operate in the directed sardine fishery

component of the CPS fishery off the U.S. West Coast; 58 vessels in the Federal CPS limited entry fishery off California (south of 39 N. lat.), and a combined 23 vessels in Oregon and Washington's state Pacific sardine fisheries. The average annual per vessel revenue in 2014 for the West Coast CPS finfish fleet was well below $20.5 million; therefore, all of these vessels therefore are considered small businesses under the RFA. Because each affected vessel is a small business, this rule has an equal effect on all of these small entities and therefore will impact a substantial number of these small entities in the same manner. Therefore, this rule would not create disproportionate costs between small and large vessels/businesses.

For the 2014–2015 fishing year, approximately 22,076 mt were available for harvest by the directed non-tribal commercial fishery (this includes 2,500 released from the tribal set aside). Approximately 19,440 mt (approximately 3,378 mt in California and 16,023 mt in Oregon and Washington) of this allocation was harvested during the 2014–2015 fishing year, for an estimated ex-vessel value of $8.8 million.

The CPS FMP and its implementing regulations require NMFS to annually set an OFL, ABC, ACL and HG or ACT for the Pacific sardine fishery based on the specified harvest control rules in the FMP applied to the current stock biomass estimate for that year. The derived annual HG or ACT is the level typically used to manage the principle commercial sardine fishery and is the harvest level typically used by NMFS for profitability analysis each year. As stated above, the FMP dictates that when the estimated biomass drops below a certain level (150,000 mt) that there is no HG. Therefore, for purposes of profitability analysis, this action is implementing an HG of zero for the 2015–2016 Pacific sardine fishing year (July 1, 2014 through June 30, 2015). As there is no directed fishing for the 2015–2016 fishing year, the rule will decrease small entities' potential profitability compared to last season.

However, revenue derived from harvesting Pacific sardine is typically only one source of fishing revenue for a majority of the vessels that harvest Pacific sardine; as a result, the economic impact to the fleet from the action cannot be viewed in isolation. From year to year, depending on market conditions and availability of fish, most CPS/sardine vessels supplement their income by harvesting other species. Many vessels in California also harvest anchovy, mackerel, and in particular squid, making Pacific sardine only one component of a multi-species CPS fishery. For example, market squid have been readily available to the fishery in California over the last three years with total annual ex-vessel revenue averaging approximately $66 million over that time, compared to an annual average ex-vessel from sardine of $15 million over that same time period. Additionally, some sardine vessels that operate off of Oregon and Washington also fish for salmon in Alaska or squid in California during times of the year when sardine are not available. The purpose of the incidental allowances under this action are to ensure the vessels impacted by this sardine action can still access these other profitable fisheries while still limiting the harvest of sardine.

These vessels typically rely on multiple species for profitability because the total and regional abundance of sardine, like the other CPS stocks, is highly associated with ocean conditions and seasons of the year, and therefore are harvested at various times and areas throughout the year. Because each species responds to ocean conditions in its own way, not all CPS stocks are likely to be abundant at the same time; therefore, as abundance levels and markets fluctuate, it has necessitated that the CPS fishery as a whole rely on a group of species for its annual revenues. Therefore, although there will a reduction in sardine revenue for the small entities affected by this action as compared to the previous season, it is difficult to predict exactly how this reduction will impact overall annual revenue for the fleet.

No significant alternatives to this action exist that would accomplish the stated objectives of the applicable statutes. The zero directed harvest level is required by the FMP. NMFS implemented incidental catch allowances, which minimizes the economic impact of this rule on the affected small entities and ensures that the CPS fleet can continue fishing other CPS species where sardine incidental catch is possible.

There are no reporting, record-keeping, or other compliance requirements required by this final rule. Additionally, no other Federal rules duplicate, overlap or conflict with this final rule.

This action does not contain a collection-of-information requirement for purposes of the Paper Reduction Act.

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

Dated: June 23, 2015.

Samuel D. Rauch III,

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

[FR Doc. 2015–15838 Filed 6–24–15; 4:15 pm]

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Proposed Rules

Federal Register
Vol. 80, No. 124
Monday, June 29, 2015

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4

[Docket No. 150324296–5527–02]

RIN 0605–AA38

Public Information, Freedom of Information Act and Privacy Act Regulations

AGENCY: Office of the Secretary, U.S. Department of Commerce.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: On May 8, 2015, the Department of Commerce (Department) published in the **Federal Register** a proposed rule to revise the Department's regulations under the Privacy Act. In particular, the Department proposed to amend its regulations regarding applicable exemptions to the Privacy Act to reflect new Department wide systems of records notices published since the last time the regulations were updated. The Department opened a public comment period through June 8, 2015. The Department is reopening the original public comment period of 30 days for the proposed rulemaking for an additional 30 days from the date of publication of this notice. The reopening is necessary because not all interested parties may have been given appropriate notification about this proposed new system of records, as well as time to respond with comments prior to the closing date of the original public comment period of June 8, 2015.

DATES: The comment period for the proposed rule published May 8, 2015 (80 FR 26499), is reopened. To be considered, written comments must be submitted on or before July 29, 2015.

ADDRESSES: You may submit written comments, identified by Regulatory Identification Number (RIN) 0605–AA38, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 482–0827. Include RIN 0605–AA38 in the subject line.
- *Mail:* Dr. Michael Toland, Office of Privacy and Open Government, 1401 Constitution Ave. NW., Washington, DC 20230.

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 regulations.gov, including any personal information received. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section for the proposed rule published May 8, 2015 (80 FR 26499).

FOR FURTHER INFORMATION CONTACT: Dr. Michael Toland, Office of Privacy and Open Government, 1401 Constitution Ave. NW., Washington, DC 20230, (202) 482–3842.

SUPPLEMENTARY INFORMATION: On May 8, 2015, the Department of Commerce published in the **Federal Register** a rule proposing revisions to the Department's Privacy Act regulations under the Privacy Act. The revisions of the Privacy Act regulations in subpart B of part 4 incorporate changes to the language in the regulations in the following provisions: § 4.33 (General exemptions); and § 4.34 (Specific Exemptions). See 80 FR 26499, May 8, 2015. In the original proposal, the Department requested comment on or before June 8, 2015. The public comment period is being reopened because not all interested parties may have been given adequate notice, as well as time to respond with comments about the Department's proposal to revise its regulations under the Privacy Act of 1974. This reopening will provide an opportunity for appropriate review and comment of the proposed rulemaking now posted in regulations.gov, RIN 0605–AA38, or in the public docket, Docket ID No. 150324296–5265–01, for 30 days from the date of today's publication.

All previously submitted comments will be responded to as appropriate, and members of the public who have submitted comments during the prior comment period need not resubmit them at this time. Comments received after June 8, but before publication of this notice must be resubmitted in order to be considered.

If no comments are received, a rule will be published, effective as proposed in 80 FR 26499 (May 8, 2015) on the date of publication, in the **Federal Register**.

Dated: June 19, 2015.

Catrina D. Purvis,

Department of Commerce, Chief Privacy Officer and Director for Open Government.

[FR Doc. 2015–15865 Filed 6–26–15; 8:45 am]

BILLING CODE 3510–BX–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 2

[Docket No. FDA–2015–N–1355]

Use of Ozone-Depleting Substances; Request for Comment Concerning Essential-Use Designations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice and request for public comment.

SUMMARY: The Food and Drug Administration (FDA or Agency) is seeking public comment on whether the uses of ozone-depleting substances (ODSs), including chlorofluorocarbons (CFCs), in certain FDA-regulated products currently designated essential are no longer essential under the Clean Air Act due to the availability of alternatives that do not use CFCs or because the products are no longer being marketed. Essential-use products are exempt from FDA's ban on the use of CFC propellants in FDA-regulated products and the Environmental Protection Agency's (EPA's) ban on the use of CFCs in pressurized dispensers. FDA is seeking public comment because it is responsible for determining which FDA-regulated products that release CFCs or other ODSs are essential uses under the Clean Air Act. FDA is soliciting comments to assist the Agency in striking an appropriate balance that will best protect the public health, both by ensuring the availability of an adequate number of alternatives and by curtailing the release of ODSs.

DATES: Submit written or electronic comments by August 28, 2015.

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

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

• *Mail/Hand delivery/Courier (for paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Docket No(s). ([INSERT]). All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Daniel Orr, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6246, Silver Spring, MD 20993, 240–402–0979, *daniel.orr@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Any drug, device, cosmetic, or food contained in an aerosol product or other pressurized dispenser that releases a CFC or other ODS propellant is not an essential use of the ODS under the Clean Air Act except as provided in 21 CFR 2.125(c) and (e). This prohibition is based on scientific research indicating that CFCs reduce the amount of ozone in the stratosphere and thereby increase the amount of ultraviolet radiation reaching the Earth. An increase in ultraviolet radiation will increase the incidence of skin cancer, and produce other adverse effects of unknown magnitude on humans, animals, and plants. Sections 2.125(c) and (e) provide exemptions for essential uses of ODSs for certain products containing ODS propellants that FDA determines provide unique health benefits that would not be available without the use of a CFC.

EPA regulations implementing the provisions of section 610 of the Clean Air Act (42 U.S.C. 7671i) contain a general ban on the use of CFCs in pressurized dispensers, such as metered-dose inhalers (MDIs) (40 CFR 82.64(c) and 82.66(d)). These EPA regulations exempt from the general ban ''medical devices'' that FDA considers essential and that are listed in 21 CFR 2.125(e). Section 601(8) of the Clean Air Act (42 U.S.C. 7671(8)) defines ''medical device'' as any device (as defined in the FD&C Act), diagnostic product, drug (as defined in the FD&C Act), and drug delivery system, if such device, diagnostic product, drug, or drug delivery system uses a class I or class II ODS for which no safe and effective alternative has been developed (and, where necessary, approved by the Commissioner of Food and Drugs (the Commissioner)); and if such device, diagnostic product, drug, or drug delivery system has, after notice and opportunity for public comment, been approved and determined to be essential by the Commissioner in consultation with the Administrator of EPA (the Administrator). Class I substances include CFCs, halons, carbon tetrachloride, methyl chloroform, methyl bromide, and other chemicals not relevant to this document (see 40 CFR part 82, appendix A to subpart A). Class II substances include hydrochlorofluorocarbons (see 40 CFR part 82, appendix B to subpart A).

Production of ODSs is being phased out worldwide under the terms of the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol), Sept. 16, 1987, S. Treaty Doc. No. 10, 100th Cong., 1st sess., 26 I.L.M. 1541 (1987). In accordance with the provisions of the Montreal Protocol, under authority of Title VI of the Clean Air Act (section 601 *et seq.*), manufacture of ODSs, including CFCs, in the United States was banned generally as of January 1, 1996. To receive permission to manufacture CFCs in the United States after the phase-out date, manufacturers must obtain an exemption from the phase-out requirements from the Parties to the Montreal Protocol. Procedures for securing an essential-use exemption under the Montreal Protocol are described in the most recent request by EPA for applications for exemptions (60 FR 54349, October 23, 1995). Firms that wish to use CFCs manufactured after the phase-out date in medical devices (as defined in section 601(8) of the Clean Air Act) covered under section 610 of the Clean Air Act must receive exemptions for essential uses under the Montreal Protocol.

Faced with the statutorily mandated phase-out of the production of CFCs, drug manufacturers have developed alternatives to MDIs and other self-pressurized drug dosage forms that do not contain ODSs. Examples of these alternative dosage forms are MDIs that use non-ODSs as propellants and dry-powder inhalers. The current and future availability of technically feasible alternatives to the use of a CFC may mean that the existing listing of an essential use in 21 CFR 2.125(e) no longer reflects current conditions. It is with this situation in mind that FDA is seeking public comment regarding the Agency's consideration of whether certain uses of ODSs are no longer essential.

FDA is soliciting comments to assist the Agency in striking an appropriate balance that will best protect the public health by ensuring the availability of an adequate number of treatment alternatives and by curtailing the release of ODSs.

II. Listed Uses That May No Longer Be Considered Essential

There are certain uses of CFCs currently listed in 21 CFR 2.125(e) as essential that may no longer be considered as essential. Section 2.125(g) sets forth standards for determining whether the use of an ODS in a medical product is no longer essential. FDA is seeking public comment concerning whether the following uses should still be considered essential:

A. Sterile Aerosol Talc Administered Intrapleurally by Thoracoscopy for Human Use (21 CFR 2.125(e)(4)(ix))

There is currently one sterile aerosol talc product containing ODSs which is approved for administration intrapleurally by thoracoscopy for human use for the treatment of recurrent malignant pleural effusion (MPE) in symptomatic patients. Under 21 CFR 2.125(g)(3), an essential-use designation for individual active moieties marketed as ODS products and represented by one new drug application may no longer be essential if:

• At least one non-ODS product with the same active moiety is marketed with the same route of administration, for the same indication, and with approximately the same level of convenience of use as the ODS product containing that active moiety;

• Supplies and production capacity for the non-ODS product(s) exist or will exist at levels sufficient to meet patient need;

• Adequate U.S. postmarketing-use data are available for the non-ODS product(s); and

• Patients who medically require the ODS product are adequately served by the non-ODS product(s) containing that active moiety and other available products (21 CFR 2.125(g)(3)).

Sterile aerosol talc is currently marketed for intrapleural administration in two non-ODS formulations—powder and aerosol. Sterile aerosol talc is a powder formulation of talc available for intrapleural administration via chest tube. Sclerosol Intrapleural Aerosol (sterile talc powder) is an aerosol formulation which contains the propellant, hydrofluoroalkane (HFA) 134a and is approved for intrapleural administration. Sclerosol Intrapleural Alcohol, a form of aerosol sterile talc, is indicated for the treatment of recurrent MPE in symptomatic patients.

The route of administration, indications, and level of convenience appear to be the same for the ODS and non-ODS formulations of sterile aerosol talc. Moreover, because production of non-ODS formulations are not limited by restrictions on the use of ODSs, the Agency believes that non-ODS formulations can be produced at greater quantities and have the potential to be more widely available than prior formulations that contained ODSs. In addition, there is adequate U.S. postmarketing-use data indicating that the non-ODS products are available in sufficient quantities to serve the current patient population. For these reasons, we believe that patients may be adequately served by the non-ODS products containing sterile aerosol talc. Thus, FDA is seeking public comment concerning whether sterile aerosol talc administered intrapleurally by thoracoscopy for human use is no longer an essential use of ODSs described in 21 CFR 2.125(e).

B. Drug Products That Are No Longer Being Marketed

Under 21 CFR 2.125(g)(1), an active moiety may no longer be an essential-use (21 CFR 2.125(e)) if it is no longer marketed in an approved ODS formulation. FDA believes failure to market indicates non-essentiality because the absence of a demand sufficient for even one company to market the product is highly indicative that the use is not essential.

FDA is seeking public comment as to whether metered-dose atropine sulfate aerosol human drugs administered by oral inhalation (21 CFR 2.125(e)(4)(vi)) and anesthetic drugs for topical use on accessible mucous membranes of humans where a cannula is used for application (21 CFR 2.125(e)(4)(iii)) are no longer essential uses as described at 21 CFR 2.125(e). FDA has information that these products are not currently being marketed in an approved form that releases ODSs, and, under 21 CFR 2.125(g)(1), they may no longer constitute an essential-use. Because these products are no longer being marketed, FDA does not believe that loss of essential use status would not result in any drugs being made unavailable to patients.

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

Dated: June 24, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–15902 Filed 6–26–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 630 and 635

[Docket No. FHWA–2015–0009; FHWA RIN 2125–AF61

Construction Manager/General Contractor Contracting

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: Section 1303 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) amends 23 U.S.C. 112 to require the Secretary of Transportation to promulgate regulations as necessary to implement the Construction Manager/General Contractor (CM/GC) contracting method. This NPRM initiates the formal rulemaking process to fulfill the legislative requirement and establish such regulations as are necessary for the FHWA's approval of projects using the CM/GC method of contracting.

DATES: Comments must be received on or before August 28, 2015.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

• Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

• Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., West Building Ground Floor Room W12–140, Washington, DC 20590–0001;

• Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., between 9 a.m. 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329;

• Instructions: You must include the agency name and docket number DOT–FHWA-or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Yakowenko, Contract Administration Team Leader, Office of Program Administration, (202) 366–1562, or Ms. Janet Myers, Office of the Chief Counsel, (202) 366–2019, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Summary

This regulatory action is undertaken to fulfill the statutory requirement in Section 1303(b) of MAP–21 requiring the Secretary to promulgate a regulation to implement the CM/GC method of contracting. The CM/GC is a contracting method that allows a contracting agency to use a single procurement to secure pre-construction and construction services. In the pre-construction services phase, a contracting agency procures the services of a construction contractor early in the design phase of a project in order to obtain the contractor's input on constructability issues that may be affected by the project design. A CM/GC contractor does not provide any preliminary or final design services. As part of the preconstruction services phase of a CM/GC contract, the CM/GC contractor provides information for consideration in the design and environmental review processes on construction-related aspects of a project, including the potential effects of design elements on

construction costs, schedule and quality. The second phase, for construction services, may begin once environmental review is complete and risks are adequately defined. If the contracting agency and the CM/GC contractor are able to agree on a price for a given scope and schedule for construction, the CM/GC contractor and the contracting agency may execute contract commitments for the construction services phase of the project or a portion of the project.[1] The CM/GC method has proven to be an effective method of project delivery through its limited deployment in the FHWA's Special Experimental Project Number 14 (SEP–14) Program. Utilizing the contractor's unique construction expertise in the design phase can offer innovations, best practices, reduced costs, and reduced schedule risks.

The major provisions of these proposed regulations include: (1) establish the minimum standards that contracting agencies' CM/GC procurement procedures must follow, (2) establish the FHWA's role in reviewing contracting agencies' CM/GC procurement procedures and other FHWA approval requirements, (3) establish the procedures for authorizing Federal funds for CM/GC projects, and 4) establish rules regarding the relationship between the procurement of CM/GC project and the environmental review process required under the National Environmental Policy Act (NEPA) of 1969. The rule would apply to State transportation agencies (STA) that contract for CM/GC services, and any State or local government agency, public-private partnership, or Indian tribe (as defined in 2 CFR 200.54) that is acting under the supervision of the STA and is awarding or administering a CM/GC contract.

(1) The CM/GC Procurement Procedures: The proposed regulations provide that CM/GC contracts must be procured through competitive selection procedures providing for free and open competition. This section also establishes procedural options for a contracting agency to utilize in procuring CM/GC projects, the minimum information required to be included in a CM/GC solicitation document, rules regarding the use of interviews, and the basis on which CM/GC contracts are to be awarded.

(2) The FHWA Concurrence in CM/GC Procedures, Contract Documents, and Contract Awards: These proposed regulations provide that contracting agencies must submit their CM/GC procurement procedures to FHWA for approval to fulfill FHWA responsibilities to ensure that the procedures comply with Federal requirements. The proposed rule also provides that certain documents or actions relating to CM/GC contracting, such as contract solicitation documents, contracts, contract prices, and contract price analyses, require FHWA approval prior to award. While the proposed regulation would reserve the approval of the State's CM/GC procedures to FHWA, it would permit States to assume all other CM/GC approvals through the FHWA-State Stewardship and Oversight Agreements in accordance with 23 U.S.C. 106(c) and related FHWA guidance (see *http://www.fhwa.dot.gov/federalaid/stewardship/140328.cfm*). If an STA assumes responsibility for CM/GC approvals under 23 U.S.C. 106(c), the STA would be required to include documentation in the project file regarding actions taken for assumed responsibilities. The documentation must be sufficient to substantiate the approval or determination and, if applicable, to support project authorization. In such cases, the STA will provide FHWA with the documentation upon request. Note that the authority for State assumption does not extend to eligibility determinations or project authorizations.

(3) Authorization: These proposed regulations provide that FHWA must approve contracting agencies' price estimate for the entire CM/GC project before the authorization of construction services. Also, these proposed regulations provide that FHWA must approve contracting agencies' price or cost analyses, performed in accordance with 2 CFR 200.323(a), for preconstruction and constructions services before the authorization of either of those activities. These approvals would be subject to STA assumption of responsibilities under 23 U.S.C. 106(c). When authorizing construction services, FHWA will rely on the agreed price and scope of services or, if no agreement is reached between the contracting agency and the CM/GC contractor, on the price established through competitive bidding.

(4) Relationship to NEPA: These proposed regulations also establish the relationship of the procurement of CM/GC projects to the NEPA process to ensure that the CM/GC process may be used on projects involving all potential NEPA reviews—a categorical exclusion, environmental assessment (EA), or environmental impact statement (EIS). One area in which CM/GC projects are similar to design-build projects is that both types of projects may be awarded to a contractor before the completion of NEPA. As such, these proposed regulations incorporate many of the provisions regarding this relationship from the design-build regulations at 23 CFR 636.109, such as ensuring that alternatives will be evaluated and fairly considered when a project involves an EA or EIS, including a provision in the CM/GC contract that allows termination in the event the environmental review process does not result in the selection of a build alternative, and permitting Federal authorization of preliminary design activities. These proposed regulations also establish the rules and conditions under which Federal funds may participate, through reimbursement after the completion of the NEPA process, in eligible costs of final design activities that the contracting agency undertook at its own expense before completion of the NEPA process.

Background

Section 1303 of MAP–21 amended 23 U.S.C. 112(b) by adding paragraph (4) to authorize the use of the CM/GC method of contracting for projects carried out by, or under the supervision of, an STA.

While the term CM/GC is not used in Section 1303 of MAP–21, the statute allows contracting agencies to award a two-phase contract to a ''construction manager or general contractor'' for the provision of construction-related services during both the preconstruction and construction phases of a project. State statutes authorizing this method of contracting use different titles including: CM/GC, Construction Manager at-Risk, and General Contractor/Construction Manager. Regardless of the terminology used by grantees and subgrantees, FHWA has elected to use the term ''construction manager/general contractor,'' or ''CM/GC,'' in reference to two-phase contracts that provide for construction-related services in the preconstruction and construction phases of a project.

The CM/GC contracting method allows a contracting agency to receive a contractor's constructability recommendations during the design process. A number of States, including Utah, Colorado, and Arizona, have used the CM/GC project delivery method on a number of Federal-aid highway projects under FHWA's SEP–14 program with great success. These projects have shown that early contractor involvement through the CM/GC method has the potential to improve the quality, performance, and cost of the project while ensuring that construction issues

[1] After NEPA is complete, early work packages may be used and can be awarded while final design for the project is being completed, as described in the Section-by-Section analysis for sections 635.504 and 635.506(d).

are addressed and resolved early in the project development process. The CM/GC contractor's constructability input during the design process is used to supplement, but not replace or duplicate, the engineering or design services provided by the contracting agency or its consultant. More information about the CM/GC project delivery method can be found on the FHWA's Every Day Counts Web page at *http://www.fhwa.dot.gov/everydaycounts/edctwo/2012/cmgc.cfm.*

The following procedures are typically included in the CM/GC contracting method: (1) The contracting agency enters into an agreement for pre-construction services with a construction contractor who provides advice regarding constructability, price, construction scheduling, and other information related to the construction of the project; (2) the contracting agency may use this information in the preliminary and final design phases of the project; (3) at a certain stage in the design process where risks are adequately identified and the scope of work is defined sufficiently for the contracting agency and the CM/GC contractor to reasonably determine price, the contracting agency may receive a price proposal from the CM/GC contractor (or negotiate a price) for the defined scope and schedule for the project or a portion of the project (such as an early work package); and (4) if the price is reasonable, the contracting agency awards a construction contract for the project or portion of the project. If the contracting agency is not able to reach an agreement regarding price, scope, and schedule, it may complete the design and let a traditional construction contract by competitive bidding in accordance with Part 635. Given the advanced stage of design at the conclusion of the preconstruction phase of a CM/GC project, it is unlikely that a contracting agency would convert the project to a design-build project; however, in such cases, the contracting agency must comply with FHWA's design-build procurement and other requirements in Part 636.

Services provided by the selected CM/GC contractor during the preconstruction phase generally shall be limited to providing advice on construction scheduling, sequencing, cost estimation, constructability, material pricing, risk identification, and other construction related-factors or issues (as defined in 23 U.S.C. 112(b)(4)(A)(ii)). During the construction phase of the contract, the CM/GC contractor is responsible for the physical construction of the project, or portion of the project, for the agreed scope, schedule, and price.

The selected CM/GC contractor must not provide or conduct engineering and design related services (as defined in 23 U.S.C. 112(b)(2) and 23 CFR part 172) under the contract. During the construction phase of a CM/GC project, the CM/GC contractor may provide incidental engineering related services typically performed by general construction contractors, such as the preparation of falsework plans, shop drawings, etc., which are identified within the request for proposal and in the final plans and specifications for the project. These services are not engineering and design related services as defined in 23 CFR 172.3. Engineering and design related services for a project utilizing a CM/GC contract would still be procured under a separate contract in accordance with 23 CFR part 172.

Section 1303(b) of MAP–21 requires FHWA, acting on behalf of the Secretary of Transportation, to promulgate regulations as necessary to implement the CM/GC method of contracting. This NPRM is intended to address the legislative requirement and establish procedures for FHWA's approval of the CM/GC method of contracting in the Federal-aid highway program.

Section-by-Section Discussion of the Proposed Changes

General Conforming Amendments in 23 CFR Parts 630 and 635

The FHWA proposes several amendments in 23 CFR part 630 and 635 to account for the particular application of various Federal requirements to CM/GC projects.

Section 630.106

The FHWA proposes to amend 23 CFR 630.106(a)(8) to provide for the execution of the project agreement for CM/GC projects. This amendment is similar to the existing language for design-build projects at § 630.106(a)(7) in that this proposed amendment makes clear that FHWA execution of a project agreement for preconstruction services associated with final design and for construction shall not occur until after the completion of the NEPA process. This language implements 23 U.S.C. 112(b)(4)(C)(ii), which prohibits the contracting agency from awarding the construction services phase of a CM/GC contract until after completion of the NEPA process.

Section 635.102

The FHWA proposes to amend the definitions in 23 CFR 635.102 by adding a definition of CM/GC project. This definition incorporates the language at 23 U.S.C. 112(b)(4)(A)(i) authorizing contracting agencies to award 2-phase contracts to a construction manager or general contractor for preconstruction and construction services.

Section 635.104

The FHWA proposes to amend 23 CFR 635.104 to state that the applicable regulations pertaining to the CM/GC contracting process, which are proposed in this rule, apply to CM/GC projects.

Section 635.107

The FHWA proposes to amend 23 CFR 635.107 to clarify that the disadvantaged business enterprise program requirement will also apply to CM/GC projects.

Section 635.109

The FHWA proposes to amend 23 CFR 635.109 to clarify that the standardized changed condition clauses would also apply to construction services agreements of CM/GC projects.

Section 635.110

The FHWA proposes to amend 23 CFR 635.110 to clarify that STAs may use their own bonding, insurance, licensing, qualification or prequalification procedure for any phase of design-build or CM/GC procurement.

Section 635.112

The FHWA proposes to amend 23 CFR 635.112 to indicate that the FHWA Division Administrator's approval of the solicitation document constitutes FHWA's approval to use the CM/GC contracting method and approval to release the solicitation document.

Section 635.113

The FHWA proposes to amend 23 CFR 635.113 to make clear that the requirements for bid opening and tabulation do not apply to CM/GC projects because the requirements in this section are only appropriate for projects delivered under the traditional design-bid-build method.

Section 635.114

The FHWA proposes to amend 23 CFR 635.114 to make clear that the award of a contract for a CM/GC project and the FHWA's concurrence in such award are subject to the proposed requirements in 23 CFR part 635 subpart E.

Section 635.122

The FHWA proposes to amend 23 CFR 635.122 to require contracting agencies to define their procedures for making progress payments for CM/GC

projects in the appropriate solicitation and contract documents.

Section 635.309

The FHWA proposes to amend 23 CFR 635.309(p) to make clear what certification is required as a prerequisite to FHWA authorization of physical construction and final design activities. Since both CM/GC and design-build contracts are similar in that both types of contracts may be awarded before the completion of the NEPA process, FHWA believes that the certification requirements applicable to design-build contracts should be equally applicable to CM/GC contracts.

CM/GC Procedures and Requirements

The FHWA proposes to add a new subpart E to 23 CFR part 635 to provide the policies, requirements, and procedures relating to the use of CM/GC contracting. As previously discussed, with the exception of approval of STA CM/GC procedures, all FHWA approval requirements proposed in this new subpart would be subject to assumption by the STA in accordance with 23 U.S.C. 106(c).

Section 635.501—Purpose

In 23 CFR 635.501, we propose to add a paragraph describing that the general purpose of subpart E is to prescribe the policies, requirements, and procedures for the use of the CM/GC contracting method.

Section 635.502—Definitions

In 23 CFR 635.502, we propose the definitions for certain terms utilized in subpart E.

First, FHWA proposes to define the term *agreed price* to mean the price agreed to by the CM/GC contractor and the contracting agency for construction services.

Second, FHWA proposes to define the term *CM/GC contractor* to mean the entity that has been awarded a CM/GC contract and is responsible for providing preconstruction services under the first phase and, if a price agreement is reached, construction services under the second phase of such contract.

Third, FHWA proposes to define the term *CM/GC project* to mean a project delivered using a 2-phase contract for preconstruction and construction services. This definition is the same as the definition proposed for section 635.102.

Fourth, FHWA proposes to define the term *construction services* as the physical construction work undertaken by a CM/GC contractor to construct a project or a portion of the project (including early work packages). Construction services may be authorized as a single contract for the project, or through a combination of contracts covering portions of the project. If a combination of contracts is used for the CM/GC project construction phase, procurement and authorization procedures are the same for every construction services contract.

Fifth, FHWA proposes to define the term *contracting agency* as the STA and any State or local government agency, public-private partnership, or Indian tribe (as defined in 2 CFR 200.54) that is acting under the supervision of the STA. This definition is consistent with the grant structure reflected in 23 U.S.C. 112(a), (b)(1), and (d). Those provisions set forth requirements and authorities applicable to STAs as the recipients of title 23 funds. The requirements include STA responsibility for overseeing compliance with applicable Federal requirements by STA contractors and subrecipients. In the proposed rule, the definition of ''contracting agency'' explicitly acknowledges that both public and private entities may serve as subrecipients of title 23 funds. This is consistent with 2 CFR 200.330, which guides determinations on whether a non-Federal entity is receiving funds as a subrecipient or as a contractor.

Sixth, FHWA proposes to define the term *Division Administrator* as the chief FHWA official assigned to conduct business in a particular State.

Seventh, FHWA proposes to define the term *early work package* as a portion or phase of construction work (including material acquired for a construction phase) that is procured before all design work for the project is complete. Under the proposed rule, once NEPA is complete, early work packages would allow contracting agencies to acquire long-lead items or start a particular phase of construction for which the risks are adequately identified and the scope of work is defined sufficiently for the contracting agency and the CM/GC contractor to reasonably determine price. If the authorized early work ultimately is not needed or used for the project, Federal-aid funding participation would be determined in a manner similar to FHWA's long-established test for participation in the cost of corrective work necessitated by engineering errors (see FHWA guidance at *http://www.fhwa.dot.gov/programadmin/contracts/071263.cfm* and *http://www.fhwa.dot.gov/programadmin/contracts/090878.cfm*). The FHWA would determine, on a case-by-case basis, whether the excess costs were incurred based on the reasonable exercise of diligence and judgment by the contracting agency, in which case participation is permissible. If carelessness, negligence, or incompetence on the part of the contracting agency or those working on its behalf led to the excess costs, then Federal-aid participation will be denied. Although there is some financial risk to the contracting agency associated with using early work packages, in certain instances, the use of early work packages may provide for schedule acceleration, overall risk mitigation, and cost savings related to inflation. The use of an early work package as a phase of a project is consistent with 23 U.S.C. 112(b)(4)(A)(iii)–(iv).

Eighth, FHWA proposes to define the term *final design* as having the same meaning as defined in 23 CFR 636.103. The FHWA intends for the definition of final design to be as uniform as possible for all project delivery methods.

Ninth, FHWA proposes to define the term *NEPA process* to make clear that this is the environmental review required under the National Environmental Policy Act of 1969, the applicable portions of the CEQ Regulations Implementing NEPA (40 CFR parts 1500–1508), and the FHWA regulations implementing NEPA at 23 CFR part 771.

Tenth, FHWA proposes to define the term *preconstruction services* as consulting to provide a contracting agency and its designer with information regarding the impacts of design on the physical construction of the project. The ability of a contracting agency to obtain this information from the CM/GC contractor early in the process is the key component of a CM/GC contract and is what makes this project delivery method beneficial. Under the preconstruction services phase of a CM/GC contract, the CM/GC contractor may provide such information during both preliminary and final design phases. However, while preconstruction services includes constructability input from a CM/GC contractor, these services must not constitute design and engineering related services as defined in 23 CFR 172.3. Any procurement of design and engineering related services must follow the procedures required under 23 CFR part 172.

Eleventh, FHWA proposes to define the term *preliminary design* as having the same meaning defined in 23 CFR 636.103. The FHWA intends for the definition of preliminary design to be as uniform as possible for all project delivery methods.

Twelfth, FHWA proposes to define the term *solicitation document* as the document used by a contracting agency

to advertise a CM/GC project and request expressions of interest, statements of qualifications, proposals or offers.

Lastly, FHWA proposes to define the term *State transportation agency* as having the same meaning as the term *State transportation department* under section 635.102.

Section 635.503—Applicability

In 23 CFR 635.503, FHWA proposes to add a general statement of the applicability regarding the requirements for this subpart. The requirements apply to all CM/GC Federal-aid projects within the right-of-way of a public highway or projects which are linked to a Federal-aid project within the right-of way of a public highway. The determination whether a project is ''linked'' is based on proximity, dependency, or impact (*i.e.,* the non-highway construction project would not exist without the public highway, or exists to fulfill a separate requirement of another highway project). Where the applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. The terms ''Federal-aid highway'' and ''highway,'' as used in this NPRM, are defined in 23 U.S.C. 101(a)(6) and (11), respectively. The proposed language for this rule is similar to applicability language used in the design-build contracting regulation (23 CFR 636.104). The applicability provision is intended to distinguish between projects that are subject to the provisions of 23 CFR parts 635 and 636, and projects where the contracting agency may follow State-approved procedures and requirements. Parts 635 and 636 are applicable to Federal-aid construction projects that are located within the right-of-way of a public highway. For projects neither within a right-of-way of a public highway, nor linked to a project within a right-of way of a public highway, contracting agencies may follow their own State-approved procurement procedures consistent with 2 CFR part 200. These distinctions in procurement requirements are discussed in the June 26, 2008, FHWA guidance ''Procurement of Federal-aid Construction Contracts,'' available online at *http://www.fhwa.dot.gov/construction/080625.cfm.*

Section 635.504—CM/GC Requirements

In section 635.504(a), FHWA proposes to make clear that contracting agencies may award a 2-phase contract for preconstruction and construction services, as provided in 23 U.S.C. 112(b)(4)(A). The two phases shall be the preconstruction and construction phases, respectively. Subject to applicable procurement requirements, the contracting agency has flexibility in determining how to structure the award and contract documents that flow from the single competitive procurement of the CM/GC contractor authorized in 23 U.S.C. 112(b)(4)(A), enacted by MAP–21. For example, the contracting agency may elect to use a single contract document that makes firm commitments for the preconstruction services at the time the contract is executed, but conditions commitments for construction services on actions that occur in the future (*e.g.,* a negotiated agreement on construction price). Alternatively, the contracting agency may choose to structure the commitments by using separate agreements for the preconstruction and construction services phases. In this latter scenario, the contracting agency may treat the contract award as occurring in two phases. The construction services phase may occur under one contract or under multiple contracts covering portions of the project, including early work packages.

The FHWA believes these contracting flexibilities are consistent with the contracting efficiency purposes underlying 23 U.S.C. 112(b)(4), and with contracting practices used by participants in the CM/GC SEP–14 experiments approved by FHWA. The language in 23 U.S.C. 112(b)(4) is ambiguous with respect to whether there is any limitation on the number of contracts that may be used to carry out the 2-phase CM/GC process. Section 112(b)(4) of Title 23, U.S.C. references the use of ''a 2-phase contract'' (23 U.S.C. 112(b)(4)(A)(i)), which could be interpreted as limiting CM/GC contracting agencies to the use of a single contract. However, 23 U.S.C. 112(b)(4)(C)(ii) references ''the award of the construction services phase of a contract.'' This could be read as calling for the use of two contracts. The ''award'' of a public contract typically is the contracting agency's decision to accept an offer for performance of the specified work. In the normal course of business, an award is followed by the execution of a contract between the contracting agency and the successful offeror. Based on its experience with CM/GC contracting, FHWA concluded requiring the use of a single contract would create legal and administrative barriers to the use of CM/GC contracting. For example, procurement laws in some States require the use of separate contracts for preconstruction and construction services. In addition, it could be administratively challenging to develop adequate construction contract documents at the time of the selection of the CM/GC contractor. Much of the relevant construction information is not available until well into the preconstruction phase. The FHWA concluded it is important to provide contracting agencies with the flexibility to use either a single contract or multiple contracts for CM/GC projects. This will facilitate the use of the CM/GC method of procurement and further the statutory purpose of more efficient contracting.

In section 635.504(b), FHWA proposes several requirements that apply to contracting agencies' CM/GC procedures. First, consistent with 23 U.S.C. 112(a) and the new provisions in 23 U.S.C. 112(b)(4)(B), FHWA proposes that all CM/GC contracts be procured utilizing competitive selection procedures providing for free and open competition. The requirement for free and open competition is a fundamental principle under 23 U.S.C. 112 for the procurement of all Federal-aid highway projects.

Second, FHWA proposes to allow contracting agencies to procure the services of a CM/GC contractor using any of the following solicitation options: Letters of interest, requests for qualifications, interviews, request for proposals, or other solicitation procedures permitted by applicable State law, regulation, or policy that promote a fair and transparent procurement process.

Third, FHWA proposes to require contracting agencies to provide the following minimum information in their solicitation documents for CM/GC preconstruction services to ensure fairness and transparency: (1) A clearly defined scope of services; (2) a list of evaluation factors and significant subfactors, including their relative weight of importance that will be used in evaluating proposals; (3) a list of required deliverables; (4) an indication of whether interviews will be conducted before establishing the final rank; and (5) a sample contract form(s). In FHWA's experience, this information is needed, at a minimum, to have an effective, fair, and transparent procurement process. In addition, this information is typical of what many of the contracting agencies that have utilized CM/GC under SEP–14 have included in their solicitation documents.

Fourth, FHWA proposes to require contracting agencies to offer the opportunity for an interview to all short listed firms if the contracting agency

intends to interview any contractor during the procurement process. If an interview is conducted, the opportunity for an interview must be offered to all shortlisted firms (or firms that submitted responsive proposals, if a short list is not used). Also, in conducting interviews, contracting agencies must not engage in conduct that favors one offeror over another and must not disclose one contractor's proposal to another. The FHWA feels that interviews could aid a contracting agency in evaluating its selection of a contractor for a CM/GC project. If interviews are conducted, then it is important that they be done in a fair and transparent manner.

Fifth, FHWA proposes to permit contracting agencies to award CM/GC contracts based on qualifications, experience, best value, or any other combination of factors considered appropriate by the contracting agency as provided in 23 U.S.C. 112(b)(4)(B) and allowed by State law.

Lastly, FHWA proposes that contracting agencies follow the traditional competitive bidding process required under 23 CFR part 635 subpart A in situations where they are unable to agree on a price with the CM/GC contractor for the construction of the project. In such cases, it is proposed that the contracting agency must notify the FHWA Division Administrator of this decision and request FHWA's approval before advertising for the receipt of competitive bids pursuant to 23 CFR 635 Subpart A if Federal-aid funding is desired in the cost of construction. Once the contracting agency advertises for bids or proposals for the project or a portion of the project, the contracting agency no longer can use the CM/GC agreed price procedures under this regulation.

Where contracting agencies bid the construction of the project after being unable to reach a price agreement with the CM/GC contractor, there is an inherent risk that the CM/GC contractor may have (or be perceived as having) an unfair advantage if permitted to competitively bid for project construction work. Under the proposed rule, the contracting agency may follow State or local procurement policies in determining if there is a real or apparent conflict of interest and it is necessary to preclude the CM/GC contractor from competitive bidding. For example, the contracting agency may determine that the CM/GC contractor that performed preconstruction services does not have an inherent advantage over other potential bidders/proposers because the same information is available to all bidders/proposers. In other cases, the contracting agency may preclude the CM/GC contractor from competing with other firms due to State or local conflict of interest policies, or a belief that the firm has knowledge or information that other potential bidders/proposers do not have.

In section 635.504(c), FHWA proposes several standards governing the FHWA's approval of an STA's CM/GC procedures.

First, FHWA proposes that STAs must submit their proposed CM/GC procurement procedures to the FHWA Division Administrator for review and approval. This review and approval is consistent with 23 U.S.C. 112(a), and is necessary to facilitate efficient administrative oversight of an STA's CM/GC procurement process for compliance with Federal requirements. The FHWA's approval of the STA's process will eliminate the need for FHWA to review and evaluate the STA's CM/GC procurement process on a project-by-project basis. Also, this review and approval is consistent with other project delivery methods. The FHWA also proposes that other contracting agencies be allowed to either follow the FHWA-approved STA procedures or their own local procedures if such local procedures are approved by both the STA and FHWA.

Second, FHWA proposes to establish the parameters for the Division Administrator's approval of the STA's CM/GC procedures. Under the proposed rule, the Division Administrator would be required to review an STA's CM/GC procedures to verify that the procedures conform to the requirements of applicable Federal regulations and do not operate to restrict competition.

The Division Administrator's approval of CM/GC procurement procedures is a program-level action and may not be delegated or assigned to the STA.

In 23 CFR 635.504(d), FHWA proposes to include language that makes it clear the 30 percent minimum self-performance requirement by the general contractor in 23 CFR 635.116(a) applies to all agreements for construction services. In CM/GC contracting, the contractor's role in the construction phase of the contract is very similar to a general contractor's role in traditional bid-build contracting. Therefore, it is reasonable to require the same minimum self-performance requirements for the construction phase of CM/GC projects. Contracting agencies may continue to use higher self-performance requirements if required by applicable State law, regulation or policy. Also, FHWA proposes to allow contracting agencies to require the CM/GC contractor to award subcontracts for construction services on a low bid basis if required by State law, regulation, or policy.

In 23 CFR 635.504(e), FHWA proposes to specify the payment methods that may be used for CM/GC projects. For preconstruction services, the method of payment may be lump sum, cost plus fixed fee, cost per unit of work, specific rates of compensation, or any other comparable payment method permitted under State law. Since preconstruction services are essentially services for consulting, the payment methods for these services should be similar to other methods used for consulting. However, the cost plus a percentage of cost and other percentage of cost methods of payment must not be used, since these methods are highly susceptible to abuse and, as a result, generally prohibited in any type of Federal contracting. For construction services, the method of payment may include any method of payment authorized by State law (including, but not limited to; lump sum, unit price, and target price); however, when compensation is based on actual costs, an approved indirect cost rate must be used. See proposed section 635.507.

Section 635.505—Relationship to the NEPA Process

In section 635.505, FHWA proposes the requirements to establish the relationship between the CM/GC procurement process and the NEPA process. The requirements in this section are designed to protect the integrity of the NEPA decisionmaking process, since the solicitation and award of a CM/GC project will often occur before the completion of the NEPA process. In this section, FHWA not only incorporates the specific statutory requirements in 23 U.S.C. 112(b)(4)(C), but also substantially follows the requirements that have already been established for design-build projects in 23 CFR 636.109 for consistency. The design-build requirements were established to protect the integrity of the NEPA decisionmaking process in situations where design-build contracts are awarded before the completion of the NEPA process.

First, in section 635.505(a), FHWA incorporates the provision of 23 U.S.C. 112(b)(4)(C)(i), providing that before the completion of the NEPA process a contracting agency may: (a) Issue requests for proposals, (b) proceed with the award of a contract for preconstruction services, (c) issue notices to proceed to the contractor for preconstruction services for preliminary design-related work, and (d) issue

notices to proceed to a design firm for the preliminary design of the project and any work related to preliminary design, to the extent that those actions do not limit any reasonable range of alternatives. The FHWA interprets the statutory condition in 23 U.S.C. 112(b)(4)(C)(i)(III), which appears in section 635.505(a)(4) of the proposed regulation, as intended to ensure that performance of preliminary design work will not bias or influence the environmental review of the project, and that all reasonable alternatives will be fairly considered when a project involves an EIS or EA.

Second, in section 635.505(b), FHWA proposes to implement the provisions of revised 23 U.S.C. 112(b)(4)(C)(ii), by prohibiting contracting agencies from proceeding with the award of an agreement for construction services (including early work packages such as advanced material acquisition or site work) before the completion of the NEPA review process.

Third, in section 635.505(c), FHWA proposes to implement the provisions of revised 23 U.S.C. 112(b)(4)(C)(ii) and (iv), by allowing contracting agencies to proceed, solely at their own risk and expense, with final design activities for a CM/GC project before completion of the NEPA review process without affecting subsequent approvals required for the project. If the contracting agency wishes to use the CM/GC contractor for advice in connection with at-risk final design activities, it may do so if it has a procedure for segregating the costs of the CM/GC contractor's at-risk final design work from other work. This is to ensure that the costs of the CM/GC contractor's at-risk final design work are not submitted for Federal reimbursement until after NEPA is complete. The proposed rule would require the contracting agency to notify FHWA of its decision to proceed with at-risk final design before the completion of the NEPA process. After NEPA review of the CM/GC project is completed, contracting agencies may seek reimbursement of eligible costs pursuant to proposed section 635.506(c), including any CM/GC contractor costs for at-risk final design-related work. The statute and the proposed regulation create an exception to the normal cost eligibility principles under 2 CFR part 200, subpart E, which exclude costs incurred before Federal authorization. The proposed provisions are based on FHWA's interpretation of 23 U.S.C. 112(b)(4)(C)(iv), as allowing final design work by a contracting agency solely at its own risk, and 23 U.S.C. 112(b)(4)(C)(ii), as prohibiting FHWA approval or financial support for final design and construction-related work before the completion of NEPA review for the CM/GC project. The FHWA's proposal is consistent with the statutory objective of protecting the integrity of the NEPA decisionmaking process, as articulated throughout 23 U.S.C. 112(b)(4)(C).

Fourth, in section 635.505(d), FHWA proposes to implement the requirement of 23 U.S.C. 112(b)(4)(C)(v), that contracting agencies include a contract termination provision in the CM/GC contract in the event the NEPA process does not result in the selection of a build alternative. This NEPA-related provision is included to help ensure the NEPA decisionmaking process is not biased by the existence of the CM/GC contract. This provision is in addition to contract clauses relating to termination for cause and convenience required by 2 CFR Appendix II to Part 200.

Fifth, in section 635.505(e), FHWA proposes to require contracting agencies to include a provision in their CM/GC contracts making it clear that the scope of services in the preconstruction phase includes all alternatives identified and considered in the NEPA process. It is FHWA's belief that unbiased decisionmaking in the NEPA process requires the State to maintain the ability to receive preconstruction services from the constructor on any alternative identified and evaluated in the NEPA process.

Sixth, in section 635.505(f), FHWA proposes to require contracting agencies to include a provision in their CM/GC contracts expressly declaring that no commitments are being made to any alternative evaluated in the NEPA process and that the comparative merits of the alternatives will be evaluated and fairly considered. Similar to section 635.505(e), this provision is intended to ensure unbiased decisionmaking in the NEPA process.

Seventh, in section 635.505(g), FHWA proposes to prohibit the CM/GC contractor from preparing NEPA documentation or having any decisionmaking responsibility with respect to the NEPA process. This provision protects the preparation of the NEPA documentation against any conflict of interest in the preconstruction services provided by the CM/GC contractor. However, information that the CM/GC contractor develops in providing preconstruction services may be considered in the NEPA analysis and included in the record.

Lastly, in section 635.505(h), FHWA proposes to require contracting agencies to include a provision in all agreements for construction services ensuring that all environmental and mitigation measures identified in the NEPA documentation and committed to in the NEPA determination for the selected alternative will be implemented. Those commitments form part of the basis for FHWA decision approving the project for funding. Any proposed change to a final commitment made during NEPA (regardless whether the review involved a categorical exclusion, EA, or EIS) requires FHWA consideration of potential effects on the earlier environmental review process.

Section 635.506—Project Approvals and Authorizations

First, in section 635.506(a)(1), FHWA proposes to provide parameters regarding the assumption of specific project approval actions by the STA under 23 U.S.C. 106(c). Under the proposed rule, FHWA would retain approval of the STA's CM/GC procedures, but all of the proposed CM/GC project-level FHWA approval responsibilities may be assumed by the STA, in accordance with 23 U.S.C. 106(c). Assumptions by the STA would occur through the FHWA/STA Stewardship and Oversight Agreement for that State. Section 106(c) provides authority for State assumption of a broad range of FHWA project-level actions relating to design, plans, specifications, estimates, contract awards and inspection of projects. The STAs may not further delegate or assign FHWA's responsibilities to approve CM/GC projects to other contracting agencies.

In section 635.506(a)(2), FHWA proposes a requirement for the contracting agency to provide a copy of the solicitation documents for FHWA review and approval before requesting FHWA's authorization for either preconstruction or construction activities.

Second, in section 635.506(b), FHWA proposes to require contracting agencies to request FHWA's authorization of preliminary engineering before incurring costs for preconstruction services. Under the proposed rule, the Division Administrator must review and approve the contracting agency's cost or price analysis for preconstruction services, prepared in a manner consistent with 23 CFR 200.323, before authorizing preconstruction services for all procurements exceeding the simplified acquisition threshold (currently $150,000).

Third, in section 635.506(c), FHWA proposes the requirements that must be met before FHWA can authorize funds to reimburse a contracting agency for final design and preconstruction services associated with final design for

a CM/GC project where those costs were incurred at the contracting agency's risk before the completion of the NEPA review of the project. As discussed under section 635.505(c), 23 U.S.C. 112(b)(4)(C)(ii) and (iv), as well as 23 CFR 771.113(a), prohibit FHWA authorization of funding or other FHWA approval of these activities until after the completion of the NEPA process. However, as provided in 23 U.S.C. 112(b)(4)(C)(iv), a contracting agency may proceed at its own expense with final design and preconstruction services related to final design, and seek reimbursement if the NEPA process concludes in the selection of a build alternative.

In cases where contracting agencies proceed at their own risk and expense, 23 U.S.C. 112(b)(4)(C)(iv)(II) provides that these activities may eventually be eligible for Federal reimbursement.[2] The FHWA proposes to adopt provisions to safeguard the NEPA process and the use of Federal funds for these activities by using criteria derived from other parts of section 112 that address the NEPA process, and from governmentwide NEPA implementing regulations issued by the President's Council on Environmental Quality.[3] Accordingly, FHWA proposes that such activities be eligible for post-NEPA reimbursement only if the Division Administrator finds the contracting agency's final design-related activities: (1) Did not limit the identification and fair evaluation of a reasonable range of alternatives for the proposed project, (2) did not result in an irrevocable commitment by the contracting agency to the selection of a particular alternative, (3) did not have an adverse environmental impact, and (4) consistent with governmentwide cost principles (2 CFR 200.403), are necessary and reasonable and are adequately documented. This is an eligibility determination, and it cannot be delegated or assigned to the STA. However, in the case of projects for which the State is directly responsible for NEPA compliance (either under an assignment of environmental responsibilities pursuant to 23 U.S.C. 326 or 327, or under a programmatic categorical exclusion agreement as authorized by section 1318(d) of MAP–21), the Division Administrator may rely on a State certification indicating these conditions are satisfied. These proposed conditions for reimbursement under 23 U.S.C. 112(b)(4)(C)(iv)(II) in no way diminish the responsibility of the Division Administrator to prevent actions by FHWA and others during the NEPA process that would limit the choice of reasonable alternatives or have an adverse environmental effect.[4] If the Division Administrator finds that either of those circumstances are present during the NEPA review of the CM/GC project, regardless of whether the contracting agency plans to seek reimbursement for final design-related activities from Federal funds, the Division Administrator shall require the contracting agency to take any necessary action to maintain the integrity of the NEPA process.

Fourth, section 635.506(d) would address construction approvals and authorizations. Under proposed section 635.506(d)(1), FHWA's construction contracting requirements will apply to all of the CM/GC project's construction contracts if any portion (including an early work package) of the CM/GC project construction is funded with title 23 funds. In section 635.506(d)(2), the proposed rule would require FHWA approval of the price estimate for construction costs for the entire project before authorization of construction services (including authorization for an early work package). This requirement is in the statute at 23 U.S.C. 112(b)(4)(C)(iii)(I).

In section 635.506(d)(3), FHWA proposes to require contracting agencies to perform a price analysis for every agreement for construction services that establishes or modifies scope, schedule and price for the CM/GC project or a portion of the project. This requirement is intended to be consistent with price analysis requirements under 2 CFR 200.323. The construction services price analysis will be a comparison of the agreed price with the contracting agency engineer's estimate or an independent cost estimate (if required by the agency).

In section 635.506(d)(4), FHWA proposes to require FHWA approval of the contracting agency's price analysis and agreed construction services price before FHWA's construction authorization. This paragraph would implement 23 U.S.C. 112(b)(4)(C)(iii)(II), which requires FHWA's approval of any price agreement with the CM/GC contractor for the project or any portion of the project before authorizing construction activities.

Under section 635.506(d)(5) of the proposed rule, FHWA's authorization of construction services will be based on the approved agreed price for the project or portion of the project. The FHWA proposes to allow the construction services authorization for early work packages. Early work packages would allow contracting agencies to acquire long-lead items, such as materials for the project (consistent with 23 CFR 635.122), or start a particular phase of construction for which final design is complete. Under the proposed rule, and in accordance with 2 CFR part 200 and proposed section 635.507, FHWA may deny eligibility for part or all of an early work package if such work is not needed or used for the project. For example, if construction materials are acquired for a CM/GC project, but not installed in the project, the cost of such material would not be eligible for Federal-aid participation (however, the contracting agency, as owner of the excess materials, may propose use of the material on a future Federal-aid project in accordance with 23 CFR 635.407(a)). In making the cost eligibility determination, FHWA would include consideration of the kinds of factors described in its long-established guidance on participation in the cost of corrective work necessitated by engineering errors (see FHWA guidance at *http://www.fhwa.dot.gov/programadmin/contracts/071263.cfm* and *http://www.fhwa.dot.gov/programadmin/contracts/090878.cfm*). The FHWA would evaluate, on a case-by-case basis, whether the excess costs were incurred based on the reasonable exercise of diligence and judgment by the contracting agency. The FHWA would not participate in excess costs incurred as a result of fraud, carelessness, negligence, or incompetence on the part of the contracting agency or those working on its behalf. Despite the financial risk to the contracting agency, in certain instances the use of early work packages may provide for schedule acceleration, overall risk mitigation, and cost savings related to inflation. The use of an early work package as a phase of a project is consistent with 23 U.S.C. 112(b)(4)(A)(iii)–(iv).

Lastly, in section 635.506(e), FHWA proposes to require concurrence from the Division Administrator before a contracting agency's award of a Federal-aid CM/GC contract, including agreements to proceed to the construction services phase or decisions to not proceed with an agreement for construction services. Concurrence in the contract award constitutes approval of the agreed price, scope, and schedule for the work. Under 23 U.S.C. 112(b)(4)(C)(iii)(II), approval of the price agreement is a prerequisite to FHWA authorization of preconstruction and construction services costs. The documentation supporting a contract

[2] Note that 23 U.S.C. 112(b)(4)(C)(iv)(II) erroneously references 23 U.S.C. 109(r), which cannot be applied to this provision.

[3] 40 CFR 1506.1(a).

[4] 40 CFR 1506.1(a)–(b).

award should include the Disadvantaged Business Enterprise (DBE) documentation required by 26 CFR 26.53(b)(2) when there is a contract goal. The FHWA's concurrence in contract awards is required by 23 U.S.C. 112(d), and the concurrence provides FHWA with an opportunity to verify that the appropriate contract requirements have been incorporated and DBE commitments or good faith efforts have been submitted.

Section 635.507—Cost Eligibility

In this section, FHWA makes clear that the Federal cost principles must be satisfied for any costs that are included in negotiated prices, as required by 2 CFR part 200, subpart E. Contracting agencies must perform a cost or price analysis in connection with every procurement action (including contract modifications) in excess of the simplified acquisition threshold (currently $150,000).

In section 635.507(a)(1), for preconstruction services agreements where actual costs or cost estimates are included in negotiated prices that will be used for cost reimbursement, we propose to require that all such costs must comply with the Federal cost principles to be eligible for participation. This is consistent with 2 CFR part 200 subpart E.

In section 635.507(a)(2), for construction services agreements or contracts, FHWA proposes that a price analysis must confirm price reasonableness, consistent with 2 CFR 200.320 and 200.323, to satisfy cost eligibility requirements. The FHWA will rely on a price analysis that is prepared and approved in accordance with section 635.506(d)(3) of this proposed rule, when authorizing construction services (including early work packages).

In section 635.507(b), for cost-reimbursement contracts, we propose to require that the CM/GC contractor provide an indirect cost rate established in accordance with the Federal cost principles. The indirect cost rate provisions in 23 U.S.C. 112(b)(2) do not apply to CM/GC contracts because they are not agreements for architectural or design services. Accordingly, contracting agencies must use an indirect cost rate that is consistent with applicable provisions in 2 CFR part 200.

In section 635.507(c), we propose to implement a certification requirement regarding the use of indirect cost rates for those firms who have provided an approved indirect cost rate for use. This proposal is consistent with Paragraph 3(d) of FHWA Order 4470.1A, ''FHWA Policy for Contractor Certification of Costs in Accordance with Federal Acquisition Regulations to Establish Indirect Cost Rates on Engineering and Design-related Services Contracts.'' (*http://www.fhwa.dot.gov/legsregs/directives/orders/44701a.htm*).

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, FHWA will continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

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). The FHWA has determined preliminarily that this action would not be a significant regulatory action within the meaning of Executive Order 12866, nor within the meaning of the U.S. Department of Transportation's regulatory policies and procedures. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The FHWA anticipates that the economic impact of this rulemaking would be minimal. The FHWA anticipates that the proposed rule would not adversely affect, in a material way, any sector of the economy. As mandated by Section 1303 of MAP–21, this rulemaking provides a regulatory framework for the CM/GC contracting method, which is a process that has already been deployed and used under the authority of the FHWA's SEP–14 Program. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this action on small entities and anticipates that the action would not have a significant economic impact on a substantial number of small entities. The proposed amendment provides procedures for approving CM/GC projects in the Federal-aid highway program. As such, it primarily affects States and States are not included in the definition of small entity set forth in 5 U.S.C. 601.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995) as it will not result in the expenditure by State, local, tribal governments, in the aggregate, or by the private sector, of $148.1 million or more in any one year (2 U.S.C. 1532). Further, in compliance with the Unfunded Mandates Reform Act of 1995, the agency will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and tribal governments and the private sector.

Executive Order 13132 (Federalism Assessment)

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and FHWA has determined that this proposed action would not have a substantial direct effect or sufficient federalism implications on the States. The FHWA has also determined that this proposed action would not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The FHWA has analyzed this proposed rule under the PRA and has determined preliminarily that this proposal does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the NEPA, as amended (42 U.S.C. 4321 *et seq.*). Agencies are required to adopt implementing procedures for NEPA that establish specific criteria for, and identification of, three classes of actions: Those that normally require preparation of an EIS; those that normally require preparation of an EA; and those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). The proposed action is the adoption of regulations that provide the policies, procedures, and requirements for implementing the CM/GC contracting method pursuant to 23 U.S.C. 112(b)(4). This proposed action qualifies for categorical exclusions under 23 CFR 771.117(c)(20) (promulgation of rules, regulations, and directives). The FHWA has evaluated whether the proposed action would involve unusual circumstances or extraordinary circumstances and has determined that this proposed rulemaking action would not involve such circumstances. As a result, FHWA finds that this proposed rulemaking would not result in significant impacts on the human environment.

Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

Executive Order 12898 (Environmental Justice)

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,* and DOT Order 5610.2(a) (the DOT Order), 91 FR 27534 (May 10, 2012) (available online at *www.fhwa.dot.gov/enviornment/environmental_justice/ej_at_dot/order_56102a/index.cfm*), require DOT agencies to achieve environmental justice (EJ) as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority populations and low-income populations in the United States. The DOT Order requires DOT agencies to address compliance with Executive Order 12898 and the DOT Order in all rulemaking activities. In addition, FHWA has issued additional documents relating to administration of Executive Order 12898 and the DOT Order. On June 14, 2012, FHWA issued an update to its EJ order, FHWA Order 6640.23A, *FHWA Actions to Address Environmental Justice in Minority Populations and Low Income Populations* (the FHWA Order) (available online at *www.fhwa.dot.gov/legsregs/directives/orders/664023a.htm*).

The FHWA has evaluated this proposed rule under the Executive Order, the DOT Order, and the FHWA Order. The FHWA has determined that the proposed regulations would not cause disproportionately high and adverse human health and environmental effects on minority or low income populations.

Executive Order 12988 (Civil Justice Reform)

This action 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.

Executive Order 13045 (Protection of Children)

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this action would not cause an environmental risk to health or safety that might disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal laws. The proposed rulemaking addresses obligations of Federal funds to States for Federal-aid highway projects and would not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA has determined that this is not a significant energy action under that order since it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Regulation Identifier Number

A RIN is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

23 CFR Part 630

Government contracts, Grant programs-transportation, Highways and roads, Reporting and recordkeeping requirements.

23 CFR Part 635

Grant programs-transportation, Highways and roads, Reporting and recordkeeping requirements.

Issued on: June 19, 2015.

Gregory G. Nadeau,

Acting Administrator, Federal Highway Administration.

In consideration of the foregoing, FHWA proposes to amend title 23, Code of Federal Regulations, parts 630 and 635 as follows:

PART 630—PRECONSTRUCTION PROCEDURES

■ 1. Revise the authority citation for part 630 to read as follows:

Authority: 23 U.S.C. 106, 109, 112, 115, 315, 320, and 402(a); Sec. 1501 and 1503 of Public Law 109–59, 119 Stat. 1144; Public Law 105–178, 112 Stat. 193; Public Law 104–59, 109 Stat. 582; Public Law 97–424, 96 Stat. 2106; Public Law 90–495, 82 Stat. 828; Public Law 85–767, 72 Stat. 896; Public Law 84–627, 70 Stat. 380; 23 CFR 1.32 and 49 CFR 1.48(b), and Pub. L. 112–141, 126 Stat. 405, section 1303.

■ 2. Amend § 630.106 by adding a new paragraph (a)(8) to read as follows:

§ 630.106 Authorization to proceed.

(a) * * *

(8) For Construction Manager/General Contractor projects, the execution or modification of the project agreement for preconstruction services associated with final design and construction services, and authorization to proceed with such services, shall not occur until after the completion of the NEPA process. However, preconstruction services associated with preliminary design may be authorized in accordance with this section.

* * * * *

PART 635—CONSTRUCTION AND MAINTENANCE

■ 3. Revise the authority citation for part 635 to read as follows:

Authority: Sections 1525 and 1303 of Pub.L. 112–141, Sec. 1503 of Pub.L. 109–59, 119 Stat. 1144; 23 U.S.C. 101 (note), 109, 112, 113, 114, 116, 119, 128, and 315; 31 U.S.C. 6505; 42 U.S.C. 3334, 4601 *et seq.;* Sec. 1041(a), Pub.L. 102–240, 105 Stat. 1914; 23 CFR 1.32; 49 CFR 1.85(a)(1).

■ 4. Amend § 635.102 by adding, in alphabetical order, the definition of ''Construction Manager/General Contractor (CM/GC) project'' to read as follows:

§ 635.102 Definitions.

* * * * *

Construction Manager/General Contractor (CM/GC) project means a project to be delivered using a two-phase contract with a construction manager or general contractor for services during both the preconstruction and construction phases of a project.

* * * * *

■ 5. Amend § 635.104 by adding paragraph (d) to read as follows:

§ 635.104 Method of construction.

* * * * *

(d) In the case of a CM/GC project, the requirements of subpart E of this part and the appropriate provisions pertaining to the CM/GC method of contracting in this part will apply. However, no justification of cost effectiveness is necessary in selecting projects for the CM/GC delivery method.

■ 6. Amend § 635.107 by revising the first sentence of paragraph (b) to read as follows:

§ 635.107 Participation by disadvantaged business enterprises.

* * * * *

(b) In the case of a design-build or CM/GC project funded with title 23 funds, the requirements of 49 CFR part 26 and the State's approved DBE plan apply. * * *

■ 7. Amend § 635.109 by revising paragraph (a) introductory text to read as follows:

§ 635.109 Standardized changed condition clauses.

(a) Except as provided in paragraph (b) of this section, the following changed conditions contract clauses shall be made part of, and incorporated in, each highway construction project, including construction services agreements of CM/GC projects, approved under 23 U.S.C. 106:

* * * * *

■ 8. Amend § 635.110 by revising paragraph (f) introductory text to read as follows:

§ 635.110 Licensing and qualification of contractors.

* * * * *

(f) In the case of a design-build and CM/GC project, the STDs may use their own bonding, insurance, licensing, qualification or prequalification procedure for any phase of procurement.

* * * * *

■ 9. Amend § 635.112 by adding paragraph (j) to read as follows:

§ 635.112 Advertising for bids and proposals.

* * * * *

(j) In the case of a CM/GC project, the FHWA Division Administrator's approval of the solicitation document will constitute the FHWA's approval to use the CM/GC contracting method and approval to release the solicitation document. The STD must obtain the approval of the FHWA Division Administrator before issuing addenda which result in major changes to the solicitation document.

■ 10. Amend § 635.113 by adding paragraph (d) to read as follows:

§ 635.113 Bid opening and bid tabulation.

* * * * *

(d) In the case of a CM/GC project, the requirements of this section do not apply. See subpart E of this part for approval procedures.

■ 11. Amend § 635.114 by adding paragraph (l) to read as follows:

§ 635.114 Award of contract and concurrence in award.

* * * * *

(l) In the case of a CM/GC project, the CM/GC contract shall be awarded in accordance with the solicitation document. See subpart E of this part for CM/GC project approval procedures.

■ 12. Amend § 635.122 by adding paragraph (d) to read as follows:

§ 635.122 Participation in progress payments.

* * * * *

(d) In the case of a CM/GC project, the STD must define its procedures for making progress payments pursuant to the selected payment method in the appropriate solicitation and contract documents.

■ 13. Amend § 635.309 by revising paragraphs (p) introductory text, (p)(1)(vi) introductory text, and (p)(3) to read as follows:

§ 635.309 Authorization.

* * * * *

(p) In the case of a design-build or CM/GC project, the following certification requirements apply:

(1) * * *

(vi) If the STD elects to include right-of-way, utility, and/or railroad services as part of the design-builder's (or CM/GC contractor's) scope of work, then the Request for Proposals document must include:

* * * * *

(3) Changes to the design-build or CM/GC project concept and scope may require a modification of the transportation plan and transportation improvement program. The project sponsor must comply with the metropolitan and statewide transportation planning requirements in 23 CFR part 450 and the transportation conformity requirements (40 CFR parts 51 and 93) in air quality nonattainment and maintenance areas, and provide appropriate approval notification to the design builder (or the CM/GC contractor) for such changes.

■ 14. Add subpart E to read as follows:

Subpart E—Construction Manager/General Contractor (CM/GC) Contracting

Sec.

635.501 Purpose.
635.502 Definitions.
635.503 Applicability.
635.504 CM/GC requirements.
635.505 Relationship to the NEPA process.
635.506 Project approvals and authorizations.

635.507 Cost eligibility.

Subpart E—Construction Manager/General Contractor (CM/GC) Contracting

§ 635.501 Purpose.

The regulations in this subpart prescribe policies, requirements, and procedures relating to the use of the CM/GC method of contracting on Federal-aid projects.

§ 635.502 Definitions.

As used in this subpart:

Agreed price means the price agreed to by the Construction Manager/General Contractor (CM/GC) contractor and the contracting agency to provide construction services for a specific scope and schedule.

CM/GC contractor means the entity that has been awarded a two-phase contract for a CM/GC project and is responsible for providing preconstruction services under the first phase and, if a price agreement is reached, construction services under the second phase of such contract.

CM/GC project means a project to be delivered using a two-phase contract with a CM/GC contractor for services during the preconstruction and construction phases of a project.

Construction services means the physical construction work undertaken by a CM/GC contractor to construct a project or a portion of the project (including early work packages). Construction services may be authorized as a single contract for the project, or through a combination of contracts covering portions of the CM/GC project. Procurement and authorization procedures are the same for every contract for construction services.

Contracting agency means the State Transportation Agency (STA), and any State or local government agency, public-private partnership, or Indian tribe (as defined in 2 CFR 200.54) that is the acting under the supervision of the STA and is awarding and administering a CM/GC contract.

Division Administrator means the chief FHWA official assigned to conduct business in a particular State.

Early work package means a portion or phase of physical construction work (including material acquired for a construction phase) that is procured after NEPA is complete but before all design work for the project is complete. Contracting agencies may procure an early work package only when the risks of the work are adequately identified and the scope of work is defined sufficiently for the contracting agency and the CM/GC contractor to reasonably determine price. The requirements in § 635.506 and § 635.507 apply to procuring an early work package and FHWA authorization for an early work package.

Final design has the same meaning as defined in § 636.103 of this chapter.

NEPA process means the environmental review required under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), applicable portions of the NEPA implementing regulations at 40 CFR parts 1500–1508, and part 771 of this chapter.

Preconstruction services means consulting to provide a contracting agency and its designer with information regarding the impacts of design on the physical construction of the project, including scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification. Under an agreement for preconstruction services, the CM/GC contractor may provide consulting services during both preliminary and final design. Such services do not include design and engineering-related services as defined in § 172.3 of this chapter.

Preliminary design has the same meaning as defined in § 636.103 of this chapter.

Solicitation document means the document used by the contracting agency to advertise the CM/GC project and request expressions of interest, statements of qualifications, proposals, or offers.

State transportation agency (STA) has the same meaning as the term State transportation department under § 635.102 of this chapter.

§ 635.503 Applicability.

The provisions of this subpart apply to all Federal-aid projects within the right-of-way of a public highway, those projects required by law to be treated as if located on a Federal-aid highway, and other projects which are linked to such projects (*i.e.,* the project would not exist without another Federal-aid highway project) that are to be delivered using the CM/GC contractor method.

§ 635.504 CM/GC requirements.

(a) *In general.* A contracting agency may award a two-phase contract to a CM/GC contractor for preconstruction and construction services. The first phase of this contract is the preconstruction services phase. The second phase is the construction services phase. The construction services phase may occur under one contract or under multiple contracts covering portions of the project, including early work packages.

(b) *Procurement requirements.* (1) The contracting agency shall procure the CM/GC contract using competitive selection procurement procedures providing for free and open competition.

(2) Contracting agency procedures may use any of the following solicitation options in procuring a CM/GC contract: Letters of interest, requests for qualifications, interviews, request for proposals or other solicitation procedures provided by applicable State law, regulation or policy. Single-phase or multiple-phase selection procedures may also be used.

(3) Contracting agency procedures shall require, at a minimum, that a CM/GC contract be advertised through solicitation documents that:

(i) Clearly define the scope of services being requested;

(ii) List evaluation factors and significant subfactors and their relative importance in evaluating proposals;

(iii) List all required deliverables;

(iv) Identify whether interviews will be conducted before establishing the final rank; and

(v) Include or reference sample contract form(s).

(4) If interviews are used in the selection process, the contracting agency must offer the opportunity for an interview to all short listed firms (or firms that submitted responsive proposals, if a short list is not used). Also, if interviews are used, then the contracting agency must not engage in conduct that favors one firm over another and must not disclose a firm's offer to another firm.

(5) A contracting agency may award a CM/GC contract based on qualifications, experience, best value, or any other combination of factors considered appropriate by the contracting agency and the Division Administrator and which are clearly specified in the solicitation documents.

(6) In the event that the contracting agency is unwilling or unable to enter into an agreement with the CM/GC contractor for the construction services phase of the project (including any early work package), after notification to the Division Administrator, the contracting agency may initiate a new procurement process meeting the requirements of subpart A of this part. If FHWA participation is being requested in the cost of construction, the contracting agency must request FHWA's approval before advertising for bids or proposals in accordance with § 635.112. Once the contracting agency advertises for bids or proposals for the project or a portion of

the project, the contracting agency no longer can use the agreed price procedures under this CM/GC regulation. When the contracting agency makes a decision to initiate a new procurement, the contracting agency may determine that there is an apparent conflict of interest and not allow the CM/GC contractor to submit competitive bids.

(c) *FHWA approval of CM/GC procedures.* (1) The STA must submit its proposed CM/GC procurement procedures to the FHWA Division Administrator for review and approval. Any changes in approved procedures and requirements shall also be subject to approval by the Division Administrator. Other contracting agencies may follow STA approved procedures or their own procedures if approved by the both the STA and FHWA.

(2) The Division Administrator may approve procedures that conform to the requirements of this subpart and which do not, in the opinion of the Division Administrator, operate to restrict competition. The Division Administrator's approval of CM/GC procurement procedures may not be delegated or assigned to the STA.

(d) *Subcontracting.* Consistent with § 635.116(a), agreements for construction services must specify a minimum percentage of work (no less than 30 percent of the total cost of the agreement for construction services, excluding specialty work) that a contractor must perform with its own forces. If required by State law, regulation, or administrative policy, the contracting agency may require the CM/GC contractor to competitively let and award subcontracts for construction services to the lowest responsive bidder.

(e) *Payment methods.* (1) The method of payment to the CM/GC contractor shall be set forth in the original solicitation documents, contract, and any contract modification or change order thereto. A single contract may contain different payment methods as appropriate for compensation of different elements of work.

(2) The methods of payment for preconstruction services shall be: Lump sum, cost plus fixed fee, cost per unit of work, specific rates of compensation, or other comparable payment method permitted in State law and regulation. The cost plus a percentage of cost and percentage of construction cost methods of payment shall not be used.

(3) The method of payment for construction services may include any method of payment authorized by State law (including, but not limited to, lump sum, unit price and target price); however, when compensation is based on actual costs, an approved indirect cost rate must be used.

§ 635.505 Relationship to the NEPA process.

(a) In procuring a CM/GC contract before the completion of the NEPA process, the contracting agency may:

(1) Issue solicitation documents;

(2) Proceed with the award of a CM/GC contract providing for preconstruction services and an option to enter into a future agreement for construction services once the NEPA review process is complete;

(3) Issue notices to proceed to the CM/GC contractor for preconstruction services, excluding final design-related activities; and

(4) Issue a notice-to-proceed to a consultant design firm for the preliminary design and any work related to preliminary design of the project to the extent that those actions do not limit any reasonable range of alternatives.

(b) The contracting agency shall not proceed with the award of an agreement for the construction services phase of a CM/GC contract (including early work packages such as advanced material acquisition or site work) and, except as provided in paragraph (c) of this section, shall not proceed, or permit any consultant or contractor to proceed, with construction until the completion of the NEPA process for the project.

(c) A contracting agency may proceed, solely at the risk and expense of the contracting agency, with design activities at any level of detail, including final design and preconstruction services associated with final design, for a CM/GC project before completion of the NEPA process without affecting subsequent approvals required for the project. However, FHWA shall not authorize final design activities and preconstruction services associated with final design, and such activities shall not be eligible for Federal funding as provided in § 635.506(c), until after the completion the NEPA process. A contracting agency may use a CM/GC contractor for preconstruction services associated with at-risk final design only if the contracting agency has a procedure for segregating the costs of the CM/GC contractor's at-risk work from preconstruction services eligible for reimbursement during the NEPA process. If a contracting agency decides to perform at-risk final design, it must notify FHWA of its decision to do so before undertaking such activities.

(d) The CM/GC contract must include termination provisions in the event the environmental review process does not result in the selection of a build alternative. This termination provision is in addition to the termination for cause or convenience clause required by 2 CFR part 200, Appendix II.

(e) The CM/GC contract must include a provision providing that the scope of services in the preconstruction phase includes all alternatives identified and considered in the NEPA process.

(f) The CM/GC contract must include appropriate provisions ensuring no commitments are made to any alternative during the NEPA process, and that the comparative merits of all alternatives identified and considered during the NEPA process, including the no-build alternative, will be evaluated and fairly considered.

(g) The CM/GC contractor must not prepare NEPA documentation or have any decisionmaking responsibility with respect to the NEPA process. However, the CM/GC contractor may be requested to provide information about the project and possible mitigation actions, including constructability information, and its work product may be considered in the NEPA analysis and included in the record.

(h) Any agreement for construction services under a CM/GC contract must include appropriate provisions ensuring that all environmental and mitigation measures identified in the NEPA documentation and committed to in the NEPA determination for the selected alternative will be implemented.

§ 635.506 Project approvals and authorizations.

(a) *In general.* (1) Under 23 U.S.C. 106(c), the States may assume certain FHWA responsibilities for project design, plans, specifications, estimates, contract awards, and inspections. Any individual State's assumption of FHWA responsibilities for approvals and determinations for CM/GC projects, as described in this subpart, will be addressed in the State's FHWA/STA Stewardship and Oversight Agreement. The State may not further delegate or assign those responsibilities. If an STA assumes responsibility for an FHWA approval or determination contained in this subpart, the STA will include documentation in the project file sufficient to substantiate its actions and to support any request for authorization. The STA will provide FHWA with the documentation upon request.

(2) Before requesting the authorization for either preconstruction or construction activities, the contracting agency must submit its solicitation document for CM/GC services to the Division Administrator for approval.

(b) *Preconstruction services approvals and authorization.* (1) If the contracting agency wishes Federal participation in the cost of the CM/GC contractor's preconstruction services, it must request FHWA's authorization of preliminary engineering before incurring such costs.

(2) Before authorizing pre-construction services by the CM/GC contractor, the Division Administrator must review and approve the contracting agency's cost or price analysis for every procurement (including contract modifications). A cost or price analysis is encouraged but not required for procurements less than the simplified acquisition threshold (currently $150,000).

(c) *Final design during NEPA process.* (1) If the contracting agency proceeds with final design activities, including preconstruction services associated with final design activities, at its own expense before the completion of the NEPA process, then those activities for the selected alternative may be eligible for Federal reimbursement after the completion of the NEPA process so long as the Division Administrator finds that the contracting agency's final design-related activities:

(i) Did not limit the identification and fair evaluation of a reasonable range of alternatives for the proposed project,

(ii) Did not result in an irrevocable commitment by the contracting agency to the selection of a particular alternative,

(iii) Did not have an adverse environmental impact, and

(iv) Are necessary and reasonable and adequately documented.

(2) If, during the NEPA process, the Division Administrator finds the final design work limits the fair evaluation of alternatives, irrevocably commits the contracting agency to the selection of any alternative, or causes an adverse environmental impact, then the Division Administrator shall require the contracting agency to take any necessary action to ensure the integrity of the NEPA process regardless of whether the contracting agency wishes to receive Federal reimbursement for such activities.

(d) *Construction services approvals and authorizations.* (1) Subject to the requirements in § 635.505, the contracting agency may request Federal participation in the construction services costs associated with a CM/GC construction project, or portion of a project (including an early work package). In such cases, FHWA's construction contracting requirements will apply to all of the CM/GC project's construction contracts if any portion (including an early work package) of the CM/GC project construction is funded with title 23 funds. Any expenses incurred for construction services before FHWA authorization shall not be eligible for reimbursement except as may be determined in accordance with § 1.9 of this chapter.

(2) The FHWA must approve the price estimate for construction costs for the entire project before authorization of construction services (including authorization of an early work package).

(3) The contracting agency must perform a price analysis for any agreement (or contract modification) that establishes or revises the scope, schedule or price for the construction of the CM/GC project or a portion of the project (including an early work package). The price analysis must compare the agreed price with the contracting agency's engineer's estimate or an independent cost estimate (if required by the contracting agency). A price analysis is encouraged but not required for procurements less than the simplified acquisition threshold (currently $150,000).

(4) The Division Administrator must review and approve the contracting agency's price analysis and agreed price for the construction services of a CM/GC project or a portion of the project (including an early work package) before authorization of construction services.

(5) Where the contracting agency and the CM/GC contractor agree on a price for construction services, FHWA's authorization of construction services will be based on the approved agreed price for the project or portion of the project. The authorization may include authorization of an early work package, including the advanced acquisition of materials consistent with § 635.122. In the event that construction materials are acquired for a CM/GC project but not installed in the CM/GC project, the cost of such material will not be eligible for Federal-aid participation. In accordance with § 635.507 and 2 CFR part 200, FHWA may deny eligibility for part or all of an early work package if such work is not needed for, or used for, the project.

(e) *Contract award.* Award of Federal-aid CM/GC contracts for preconstruction and construction services requires prior concurrence from the Division Administrator. The concurrence is a prerequisite to the authorization of preconstruction and construction services (including authorization for an early work package). Concurrence in the contract award constitutes approval of the agreed price, scope, and schedule for the work. The documentation supporting a contract award should include the Disadvantaged Business Enterprise documentation required by 26 CFR 26.53(b)(2) when there is a contract goal. A copy of the executed contract between the contracting agency and the CM/GC contractor, including any agreement for construction services, shall be furnished to the Division Administrator as soon as practical after execution. If the contracting agency decides not to proceed with the award of a CM/GC construction services contract, then it must notify the FHWA Division Administrator as provided in § 635.504(b)(6).

§ 635.507 Cost eligibility.

(a) Costs, or prices based on estimated costs, for agreements under a CM/GC contract shall be eligible for Federal-aid reimbursement only to the extent that costs incurred, or cost estimates included in negotiated prices, are allowable in accordance with the Federal cost principles (as specified in 2 CFR part 200, subpart E). Contracting agencies must perform a cost or price analysis in connection with procurement actions, including contract modifications, in accordance with 2 CFR 200.323(a) and this subpart.

(1) For preconstruction services, to the extent that actual costs or cost estimates are included in negotiated prices that will be used for cost reimbursement, the costs must comply with the Federal cost principles to be eligible for participation.

(2) For construction services, the price analysis must confirm the agreed price is reasonable in order to satisfy cost eligibility requirements (see § 635.506(d)(3)). The FHWA will rely on an approved price analysis when authorizing funds for construction.

(b) *Indirect cost rates.* Where contract terms and payment are negotiated based on individual elements of costs, the CM/GC contractor must provide an indirect cost rate established in accordance with the Federal cost principles (as specified in 2 CFR part 200, subpart E).

(c) *Cost certification.* (1) If the CM/GC contractor presents an indirect cost rate established in accordance with the Federal cost principles (as specified in 2 CFR part 200, subpart E), it shall include a certification by an official of the CM/GC contractor that all costs are allowable in accordance with the Federal cost principles.

(2) An official of the CM/GC contractor shall be an individual executive or financial officer of the CM/GC contractor's organization, at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has the authority to make representations about the financial

information utilized to establish the indirect cost rate proposal submitted.

(3) The certification of final indirect costs shall read as follows:

Certificate of Final Indirect Costs

This is to certify that I have reviewed this proposal to establish final indirect cost rates and to the best of my knowledge and belief:

1. All costs included in this proposal (identify proposal and date) to establish final indirect cost rates for (identify period covered by rate) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) of title 48, Code of Federal Regulations (CFR), part 31; and

2. This proposal does not include any costs which are expressly unallowable under applicable cost principles of the FAR of 48 CFR part 31.

Firm:

Signature:

Name of Certifying Official:

Title:

Date of Execution:

[FR Doc. 2015–15617 Filed 6–26–15; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0022]

RIN 1625–AA00

Safety Zone; Charleston Patriot Festival, Cooper River; Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone on the Cooper River in Charleston, South Carolina during the International Outboard Grand Prix (IOGP) Charleston Patriot Festival, a series of high-speed boat races. The event is scheduled to take place on Friday, September 11 through Sunday, September 13, 2015. Approximately 25 high-speed race boats are anticipated to participate in the races. This safety zone is necessary to provide for the safety of life and property on navigable waters of the United States during the event. This safety zone would temporarily restrict vessel traffic in a portion of Cooper River in front of River Front Park. Persons and vessels that are not participating in the races would be prohibited from entering, transiting through, anchoring in, or remaining within the restricted area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This proposed rule would be effective from September 11, 2015 until September 13, 2015. It would be enforced on September 11, 2015 from 4:00 p.m. until 6:45 p.m.; on September 12, 2015 from 9:00 a.m. until 7:30 p.m.; and on September 13, 2015 from 10:00 a.m. until 5:45 p.m. There will be periodic river openings between each race.

Comments and related material must be received by the Coast Guard on or before July 29, 2015. Requests for public meetings must be received by the Coast Guard on or before July 14, 2015.

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

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* 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. Deliveries accepted 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 further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Warrant Officer Christopher Ruleman, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843)–740–3184, email *Christopher.L.Ruleman@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**

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, 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*, type the docket number [USCG–2015–0022] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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–2015–0022) 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, but you may submit a request for one on or before July 14, 2015 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**. For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact the person named in the **FOR FURTHER INFORMATION CONTACT** section, above.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish a safety zone: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

The purpose of the proposed rule is to protect the safety of spectator and participant vessels and to ensure safety of life and property of the general public on the navigable waters of the United States during the IOGP Charleston Patriot Festival boat races.

C. Discussion of Proposed Rule

On Friday September 11 through Sunday September 13, 2015 the IOGP will host ''Charleston Patriot Festival'' a series of high-speed boat races. The event will be held on a portion of Cooper River in Charleston, South Carolina. Approximately 25 high-speed race boats are anticipated to participate in the races.

The proposed rule would establish a safety zone to encompass certain waters of the Cooper River in Charleston, South Carolina. The safety zone would be enforced daily: 4:00 p.m. through 6:45 p.m. on September 11, 9:00 a.m. through 7:30 p.m. on September 12, and 10:00 a.m. through 5:45 p.m. on September 13, 2015. There will be periodic river openings to allow vessel traffic to pass between races. The safety zone establishes a regulated area around vessels participating in the event in the vicinity of Cooper River Front Park. Persons and vessels, except those participating in the race, would be prohibited from entering, transiting through, anchoring, or remaining within the safety zone unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels would be able to request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization would be required to comply with the instructions of the Captain of the Port Charleston or designated representative. The Coast Guard would provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or 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, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this proposed rule is not significant for the following reasons: (1) Although persons and vessels would not be able to enter, transit through, anchor in, or remain within the regulated area without authorization from the Captain of the Port Charleston or a designated representative, they would be able to operate in the surrounding area during the enforcement periods; (2) even during the enforcement periods, the River would periodically open between races to allow vessel traffic to pass; (3) persons and vessels would still be able to enter, transit through, anchor in, or remain within the regulated area if authorized by the Captain of the Port Charleston or a designated representative; and (4) the Coast Guard would provide advance notification of the regulated area to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

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 rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Charleston harbor encompassed within the safety zone on September 11, 2015 from 4:00 p.m. until 6:45 p.m.; on September 12, 2015 from 9:00 a.m. until 7:30 p.m.; and on September 13, 2015 from 10:00 a.m. until 5:45 p.m. For the reasons discussed in the Regulatory Planning and Review section above, 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 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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

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 proposed 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 proposed rule would not result in such an 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 From Environmental Health Risks

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 which do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a safety zone effective from 4:00 p.m. September 11 through 5:45 p.m. on September 13, 2015. This proposed rule involves establishing a safety zone as described in Figure 2–1, paragraph (34)(g), of the Commandant Instruction. A preliminary 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 proposed 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 proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a temporary § 165.T07–0022 to Subpart F under the undesignated center heading ''Seventh Coast Guard District'' to read as follows:

§ 165.T07–0022 Safety Zones; Charleston Patriot Festival, Cooper River; Charleston, SC.

a) *Regulated Area.* The proposed rule would establish a safety zone on certain waters of the Charleston harbor in Charleston, South Carolina. The safety zone will consist of a regulated area which will be enforced daily from 4:00 p.m. through 6:45 p.m. on September 11, 9:00 a.m. through 7:30 p.m. on September 12, and 10:00 a.m. through 5:45 p.m. on September 13, 2015. The safety zone establishes a regulated area around vessels participating in the event in the vicinity of Cooper River Front Park.

1. *Regulated Area.* All waters of the Charleston Harbor encompassed within the following points; starting at point 1 in position 32°52′31.31″ N. 079°57′44.31″ W.; thence west to point 2 in position 32°52′28.69″ N. 079°58′00.52″ W.; thence south to point 3 in position 32°51′58.83″ N. 079°57′48.28″ W.; thence east to point 4 in position 32°52′03.79″ N. 079°57′33.61″ W.; thence back to origin. All coordinates are North American Datum 1983.

(a) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the safety zone.

(b) *Regulations.* (1) All persons and vessels, except those participating in the Charleston Patriot Festival, or serving as safety vessels, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port

Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or designated representative.

(2) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(e) *Enforcement Dates.* This rule will be enforced daily during the effective dates: From 4:00 p.m. through 6:45 p.m. on September 11, 9:00 a.m. through 7:30 p.m. on September 12, and 10:00 a.m. through 5:45 p.m. on September 13, 2015.

Dated: June 17, 2015.

G.L. Tomasulo,

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

[FR Doc. 2015–15934 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2014–0205; FRL–9929–68–Region 6]

Approval and Promulgation of Implementation Plans; New Mexico; Infrastructure for the 2010 Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from the State of New Mexico for the Sulfur Dioxide (SO_2) National Ambient Air Quality Standards (NAAQS). The submittal addresses how the existing SIP provides for implementation, maintenance, and enforcement of the 2010 SO_2 NAAQS (infrastructure SIP or i-SIP). This i-SIP ensures that the State's SIP is adequate to meet the state's responsibilities under the Federal Clean Air Act (CAA).

DATES: Written comments must be received on or before July 29, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R06–OAR–2014–0205, by one of the following methods:

- *www.regulations.gov.* Follow the online instructions.
- *Email:* Sherry Fuerst at *fuerst.sherry@epa.gov.*
- *Mail or delivery:* Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2014–0205. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, telephone 214–665–6454, *fuerst.sherry@epa.gov.* To inspect the hard copy materials, please schedule an appointment with her or Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

On June 22, 2010, EPA revised the primary SO_2 NAAQS (hereafter the 2010 SO_2 NAAQS) to establish a new 1-hour standard, with a level of 75 parts per billion, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations (75 FR 35520). Each state must submit an i-SIP within three years after the promulgation of a new or revised NAAQS. Section 110(a)(2) of the CAA includes a list of specific elements the i-SIP must meet. EPA issued guidance addressing the i-SIP elements for NAAQS.[1] The Secretary of the New Mexico Environmental Department (NMED) submitted an i-SIP revision to address this revised NAAQS.

EPA is proposing to approve the New Mexico i-SIP submittal for the 2010 SO_2 NAAQS.[2]

II. EPA's Evaluation of New Mexico's i-SIP Submittal

Below is a summary of EPA's evaluation of the New Mexico i-SIP for each applicable element of 110(a)(2) A–M.[3] New Mexico provided a demonstration of how the existing New Mexico SIP met all the requirements of the 2010 SO_2 NAAQS on February 14, 2014. This SIP submission became complete by operation of law on August 14, 2014. *See* CAA section 110(k)(1)(B).

[1] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

[2] Additional information on: The history of SO_2, its levels, forms and, determination of compliance; EPA's approach for reviewing i-SIPs; the details of the SIP submittal and EPA's evaluation; the effect of recent court decisions on i-SIPs; the statute and regulatory citations in the New Mexico SIP specific to this review; the specific i-SIP applicable CAA and EPA regulatory citations; **Federal Register** Notice citations for New Mexico SIP approvals; New Mexico's minor New Source Review program and EPA approval activities; and, New Mexico's Prevention of Significant Deterioration (PSD) program can be found in the Technical Support Document (TSD).

[3] A detailed discussion of our evaluation can be found in the TSD for this action. The TSD can be accessed through *www.regulations.gov* (e-docket EPA–R06–OAR–2014–0205).

(A) Emission limits and other control measures: The SIP must include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters as needed to implement, maintain and enforce each of the NAAQS.[4] New Mexico's Environmental Improvement Act (EIA) and Air Quality Control Act (AQCA) provide the Secretary, the NMED and the New Mexico Environmental Improvement Board (EIB) with broad legal authority. They can adopt emission standards and compliance schedules applicable to regulated entities; emission standards and limitations and any other measures necessary for attainment and maintenance of national standards; and, enforce applicable laws, regulations, standards and compliance schedules, and seek injunctive relief. This authority has been employed to adopt and submit multiple revisions to the New Mexico State Implementation Plan. The approved SIP for New Mexico is documented at 40 CFR part 52.1620, subpart GG.[5]

(B) Ambient air quality monitoring/data system: The SIP must provide for establishment and implementation of ambient air quality monitors, collection and analysis of monitoring data, and providing the data to EPA upon request.

The AQCA provides the authority allowing EIB and NMED to collect air monitoring data, quality-assure the results, and report the data. New Mexico maintains and operates a SO_2 network to measure ambient levels. All monitoring data is measured using EPA approved methods and subject to the EPA quality assurance requirements. NMED submits all required data to EPA, following the EPA rules. The statewide network was approved into the SIP and it undergoes recurrent annual review by EPA.[6] In addition, NMED conducts a recurrent assessment of its monitoring network every five years, which includes an evaluation of the need to conduct ambient monitoring for SO_2, as required by EPA rules. The most recent of these 5-year monitoring network assessments was conducted by NMED and approved by EPA.[7] The NMED Web site provides the monitor locations and posts past and current concentrations of criteria pollutants measured in the State's network of monitors.[8]

(C) Program for enforcement: The SIP must include the following three elements: (1) A program providing for enforcement of the measure in paragraph *A* above; (2) a program for the regulation of the modification and construction of stationary sources as necessary to protect the applicable NAAQS (*i.e.,* state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS in question).[9]

(1) Enforcement of SIP Measures. As noted in (*A*), the state statutes provide authority for the Secretary, EIB and the NMED to enforce the requirements of the AQCA, and any regulations, permits, or final compliance orders. Its statutes also provide the Secretary, the NMED and the EIB with general enforcement powers. Among other things, they can file lawsuits to compel compliance with the statutes and regulations; commence civil actions; issue field citations; conduct investigations of regulated entities; collect criminal and civil penalties; develop and enforce rules and standards related to protection of air quality; issue compliance orders; pursue criminal prosecutions; investigate, enter into remediation agreements; and issue emergency cease and desist orders. The AQAC also provides additional enforcement authorities and funding mechanisms.

(2) Minor New Source Review (NSR). The SIP is required to include measures to regulate construction and modification of stationary sources to protect the NAAQS. New Mexico's minor NSR permitting requirements are approved as part of the SIP.[10]

(3) Prevention of Significant Deterioration (PSD) permit program. New Mexico's PSD portion of the SIP covers all NSR regulated pollutants as well as the requirements for the 2010 SO_2 NAAQS and has been approved by EPA.[11]

(D) Interstate and international transport: There are four requirements the SIP must include relating to interstate transport. These four requirements are referred to as prongs 1 through 4. Prongs 1 and 2 require adequate provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of any NAAQS in another state. Prong 3 and 4 prohibit interfering with measures required of any other state to prevent significant deterioration of air quality or to protect visibility. In addition, States must comply with requirements to prevent transport of international air pollution.

New Mexico did not address Prongs 1 and 2 in this submission. EPA intends to develop guidance and additional information for the states to address these requirements. We expect that New Mexico will make a SIP submittal for prongs 1 and 2 at a later time.

The necessary provisions for prong 3 are contained in the PSD portion of the SIP. The prong 4 requirement was met by our approval of the regional haze and visibility component of the SIP.

New Mexico's SIP includes provisions that satisfy the CAA interstate pollution abatement requirements prongs 3 and 4. There are no final findings by EPA that New Mexico air emissions affect other countries. Therefore, New Mexico has no international obligations. If EPA makes such a finding, NMED will consult with EPA.

(E) Adequate authority, resources, implementation, and oversight: The SIP must provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) requirements relating to state boards; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments

[4] The specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2010 SO_2 NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

[5] *https://www.law.cornell.edu/cfr/text/40/52.1620.*

[6] A copy of the 2014 Annual Air Monitoring Network Plan and EPA's approval letter are included in the docket for this proposed rulemaking.

[7] A copy of the 2010 5-year ambient monitoring network assessment and EPA's approval letter are included in the docket for this proposed rulemaking.

[8] See *http://air.nmenv.state.nm.us.*

[9] As discussed in further detail in the TSD.

[10] EPA is not proposing to approve or disapprove New Mexico's existing minor NSR program to the extent that it may be inconsistent with EPA's regulations governing this program. EPA has maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs in order for EPA to approve the infrastructure SIP for element C (*e.g.,* 76 FR 41076–41079, July 13, 2011). EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs.

[11] As discussed further in the TSD.

or other entities to carry out that portion of the plan.

Both elements A and E address the requirement that there is adequate authority to implement and enforce the SIP and that there are no legal impediments.

This i-SIP submission for the 2010 SO_2 NAAQS describes the SIP regulations governing the various functions of personnel within the EIB and NMED, including the administrative, technical support, planning, enforcement, and permitting functions of the program.

With respect to funding, the AQCA requires NMED to establish an emissions fee schedule for sources in order to fund the reasonable costs of administering various air pollution control programs and authorizes NMED to collect additional fees necessary to cover reasonable costs associated with processing of air permit applications. EPA conducts periodic program reviews to ensure that the state has adequate resources and funding to among other things implement and enforce the SIP.

As required by the CAA, the EIA and the SIP stipulate that any board or body, which approves permits or enforcement orders, must have at least a majority of members who represent the public interest and do not derive any ''significant portion'' of their income from persons subject to permits and enforcement orders or who appear before the board on issues related to the CAA or AQCA. The members of the board or body, or the head of an agency with similar powers, are required to adequately disclose any potential conflicts of interest.

With respect to assurances that the State has responsibility to implement the SIP adequately when it authorizes local or other agencies to carry out portions of the plan, the EIA and the AQCA designate the NMED as the primary air pollution control agency. The statutes allow for local agencies to carry out some or all of the Act's responsibilities.

There is one local air quality control agency, the Albuquerque/Bernalillo County Air Quality Control Board, which assumes jurisdiction for local administration and enforcement of the AQCA in Bernalillo County. There are Albuquerque/Bernalillo County SIP provisions which are part of the New Mexico SIP.[12]

(F) Stationary source monitoring system: The SIP requires the establishment of a system to monitor emissions from stationary sources and to submit periodic emission reports. It must require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from sources, and require that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times.

The AQCA authorizes the NMED to require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to the nature and amount of emissions. There also are SIP state regulations pertaining to sampling and testing and requirements for reporting of emissions inventories. In addition, SIP rules establish general requirements for maintaining records and reporting emissions.

The NMED uses this information, in addition to information obtained from other sources, to track progress towards maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general emission levels, and determining compliance with SIP regulations and additional EPA requirements. The SIP requires this information be made available to the public. Provisions concerning the handling of confidential data and proprietary business information are included in the SIP's regulations. These rules specifically exclude from confidential treatment any records concerning the nature and amount of emissions reported by sources.

(G) Emergency authority: The SIP must provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or the environment and to include contingency plans to implement such authorities as necessary.

The AQCA provides NMED with authority to address environmental emergencies, and NMED has contingency plans to implement emergency episode provisions.

Upon a finding that any owner/operator is unreasonably affecting the public health, safety or welfare, or the health of animal or plant life, or property, AQCA authorizes NMED to, after a reasonable attempt to give notice, declare a state of emergency and issue without hearing an emergency special order directing the owner/operator to cease such pollution immediately.

The New Mexico ''Air Pollution Episode Contingency Plan for New Mexico,'' is part of the SIP. However, because of the low levels of SO_2 emissions monitored statewide, New Mexico is not required to have contingency plans for this revised NAAQS. However, to provide additional protection, the State has general emergency powers to address any possible dangerous SO_2 episode if necessary to protect the environment and public health.

(H) Future SIP revisions: States must have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

The AQCA requires the NMED to revise its SIP, as necessary, to account for revisions of the NAAQS, new NAAQS, to attain and maintain the NAAQS, to abate air pollution, to adopt more effective methods of attaining the NAAQS, and to respond to EPA SIP calls.

(I) Nonattainment areas: New Mexico presently does not have any non-attainment areas for SO_2 and EPA believes that nonattainment area requirements should be treated separately from the i-SIP requirements.[13] If necessary, EPA will take action through a separate rulemaking process on the non-attainment area requirements.

(J) Consultation with government officials, public notification, PSD and visibility protection: The SIP must meet the following three requirements: (1) Relating to interagency consultation regarding certain CAA requirements; (2) relating to public notification of NAAQS exceedances and related issues; and, (3) prevention of significant deterioration of air quality and visibility protection.

(1) *Interagency consultation:* As required by the AQCA, there must be a public hearing before the adoption of any regulations or emission control requirements and all interested persons are given a reasonable opportunity to submit data, view, or arguments orally or in writing and to examine witnesses testifying at the hearing. In addition, the AQAC provides the NMED the power and duty to ''advise, consult, contract

[12] Albuquerque/Bernalillo County SIP *http://yosemite.epa.gov/r6/Sip0304.nsf/home!OpenView&Start=1&Count=30&Collapse=4.4#4.4* or *https://www.law.cornell.edu/cfr/text/40/52.1620.*

[13] This infrastructure SIP rulemaking will not address the New Mexico program for provisions related to nonattainment areas, since EPA considers evaluation of these provisions to be outside the scope of infrastructure SIP actions.

with and cooperate with local authorities, other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control . . .''. Furthermore, New Mexico's PSD SIP rules mandate that the NMED shall provide for public participation and notification regarding permitting applications to any other state or local air pollution control agencies, local government officials of the city or county where the source will be located, tribal authorities, and Federal Land Managers (FLMs) whose lands may be affected by emissions from the source or modification. Additionally, the State's PSD SIP rules require the NMED to consult with FLMs regarding permit applications for sources with the potential to impact Class I Federal Areas. The SIP also includes a commitment to consult continually with the FLMs on the review and implementation of the visibility program, and the State recognizes the expertise of the FLMs in monitoring and new source review applicability analyses for visibility and has agreed to notify the FLMs of any advance notification or early consultation with a major new or modifying source prior to the submission of the permit application. The State's Transportation Conformity SIP rules provide procedures for interagency consultation, resolution of conflicts, and public notification.

(2) *Public Notification:* The i-SIP provides the SIP regulatory citations requiring the NMED to regularly notify the public of instances or areas in which any NAAQS are exceeded. Included in the SIP are the rules for NMED to advise the public of the health hazard associated with such exceedances; and enhance public awareness of measures that can prevent such exceedances and of ways in which the public can participate in the regulatory and other efforts to improve air quality. In addition, as discussed for infrastructure element B above, the NMED air monitoring Web site provides live air quality data for each of the monitoring stations in New Mexico.[8] The Web site also provides information on the health effects of ozone, particulate matter, and other criteria pollutants.

(3) *PSD and Visibility Protection:* The PSD requirements here are the same as those addressed under (C). The New Mexico SIP requirements relating to visibility and regional haze are not affected when EPA establishes or revises a NAAQS. Therefore, EPA believes that there are no new visibility protection requirements due to the revision of the NAAQS, and consequently there are no newly applicable visibility protection obligations pursuant to infrastructure element J after the promulgation of a new or revised NAAQS.

(K) Air quality and modeling/data: The SIP must provide for performing air quality modeling, as prescribed by EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to EPA upon request.

The NMED has the power and duty, under the AQCA to investigate and develop facts providing for the functions of environmental air quality assessment. Past modeling and emissions reductions measures have been submitted by the State and approved into the SIP. Additionally, New Mexico has the ability to perform modeling for the primary and secondary SO_2 standards and other criteria pollutant NAAQS on a case-by-case permit basis consistent with their SIP-approved PSD rules and with EPA guidance.

The New Mexico AQCA authorizes and requires NMED to cooperate with the federal government and local authorities concerning matters of common interest in the field of air quality control, thereby allowing the agency to make such submissions to the EPA.

(L) Permitting Fees: The SIP must require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under the CAA, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to Title V of the CAA, relating to operating permits, is approved by EPA.

See element (E) above for the description of the mandatory collection of permitting fees outlined in the SIP.

(M) Consultation/participation by affected local entities: The SIP must provide for consultation and participation by local political subdivisions affected by the SIP.

See element J (1) and (2) for a discussion of the SIP's public participation process, the authority to advise and consult, and the PSD SIP's public participation requirements. Additionally, the AQCA also requires initiation of cooperative action between local authorities and the NMED, between one local authority and another, or among any combination of local authorities and the NMED for control of air pollution in areas having related air pollution problems that overlap the boundaries of political subdivisions, and entering into agreements and compacts with adjoining states and Indian tribes, where appropriate. NMED has a long history of successful cooperation with the local air quality authority in Albuquerque/Bernalillo County and tribal governments. The transportation conformity component of New Mexico's SIP requires that interagency consultation and opportunity for public involvement be provided before making transportation conformity determinations and before adopting applicable SIP revisions on transportation-related issues.

III. Proposed Action

EPA is proposing to approve the February 14, 2014, infrastructure SIP submission from New Mexico, which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2010 SO_2 NAAQS. Specifically, EPA is proposing to approve the following infrastructure elements, or portions thereof: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). EPA is not proposing action on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions, nor on the visibility protection portion of section 110(a)(2)(J) as EPA believes these need not be addressed in the i-SIP. Based upon review of the state's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in these submissions or referenced in New Mexico's SIP, EPA believes that New Mexico has the infrastructure in place to address all applicable required elements of sections 110(a)(1) and (2) (except otherwise noted) to ensure that the 2010 SO_2 NAAQS are implemented in the state.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under

Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide reporting and recordkeeping requirements.

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

Dated: June 18, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2015–15911 Filed 6–26–15; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 80, No. 124
Monday, June 29, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request; Correction

June 24, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Pesticide Use Proposal (PUP) Form.

Action: Notice; Correction.

OMB Control Number: 0596—New.

Summary: The Department of Agriculture published a document in the **Federal Register** on June 18, 2015, Volume 80, page 34880 concerning a request for comments on the Information Collection ''Pesticide Use Proposal (PUP) Form'' OMB control number 0596—New. The number of respondents 36, and the 600 total burden hours reported were incorrect. The correct figures are 700 respondents and 1,750 total burden hours.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–15898 Filed 6–26–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 24, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 29, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Importation of Peppers from Certain Central American Countries.

OMB Control Number: 0579–0274.

Summary of Collection: Under the Plant Protection Act (PPA) (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed throughout the United States. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the world are contained in ''Subpart Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–72). The fruits and vegetables regulations allow certain type of peppers grown in approved registered production sites in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama to be imported, under certain conditions, into the United States without treatment while continuing to provide protection against the introduction of quarantine pests into the United States.

Need and Use of the Information: The regulations require the use of information collection activities including inspections by Central American national plant protection organization officials, phytosanitary certificate, labeling of boxes, monitor traps, trapping records, bilateral workplan, production site registrations,

and quality control program. If the information were not collected, it would cripple the Animal and Plant Health Inspection Service ability to regulate and prevent the importation or spread of plant pests and diseases from entering the United States.

Description of Respondents: Not-for-profit institutions; Federal Government.

Number of Respondents: 36.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 4,554.

Animal and Plant Health Inspection Service

Title: Movement of Plants and Plant Products from Hawaii and the Territories (formerly, Revision of Hawaii and the Territories Fruits and Vegetables Regulations).

OMB Control Number: 0579–0346.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of fruits, vegetables, plants, and plant pests to prevent the introduction of pests or diseases into the United States, or dissemination of pests and diseases within the United States. The Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ), is responsible for implementing this Act and does so through the enforcement of its Hawaiian and territorial quarantine regulations contained in Part 318 of Title 7, Code of Federal Regulations.

Need and Use of the Information: APHIS will use the following forms and activities to collect information: PPQ 530, PPQ 586, PPQ 519, PPQ 540, Labeling of Boxes for Pest Free Areas, Inspection and Certification, Trapping and Surveillance, Contingency Plans approved by APHIS, Updated Mapping Identifying Places Where Horticultural or Other Crops are Grown, Written Request for Facility Approval—and Recertification, Recordkeeping, and Decertification of Pest Free Areas—and Reinstatement. If APHIS did not collect this information or if APHIS collected this information less frequently, the spread of dangerous plant diseases and pests could cause millions of dollars in damage to U.S. agriculture.

Description of Respondents: Business or other for-profits; State, Local or Tribal Government.

Number of Respondents: 178.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 7,660.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–15897 Filed 6–26–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meeting Notice of the Agricultural Research Service—Animal Handling and Welfare Review Panel

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 1409(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3124a(e)), *Federal-State Partnership and Coordination*, the United States Department of Agriculture (USDA) announces an open meeting of the Agricultural Research Service—Animal Handling and Welfare Review Panel (ARS–AHWR) to discuss the report and recommendations on the Phase II review of the agency-wide research animal care and well-being policies, procedures, and standards for agricultural livestock in ARS research.

DATES: The ARS–AHWR will meet virtually on Tuesday, July 14, 2015, at 1:00 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will take place virtually at the AT&T Meeting Room below. Please follow the pre-registration instructions to ensure your participation in the meeting.

Call-In instructions for Tuesday, July 14, 2015 at 1:00 p.m. Eastern Daylight Time

Web Preregistration: Participants may preregister for this teleconference at *http://emsp.intellor.com?p=420376&do=register&t=8.* Once the participant registers, a confirmation page will display dial-in numbers and a unique PIN, and the participant will also receive an email confirmation of this information.

You may submit written comments to: REE Advisory Board Office, Jamie L. Whitten Building, Room 332A, 1400 Independence Avenue SW., Washington, DC 20250, or via email at *ahwrpanel@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Michele Esch, Executive Director, REE Advisory Board Office, U.S. Department of Agriculture; telephone: (202) 720–3684; fax: (202) 720–6199; or email: *ahwrpanel@usda.gov.*

SUPPLEMENTARY INFORMATION: On Tuesday, July 14, 2015, at 1:00 p.m. Eastern Daylight Time a virtual meeting will be conducted for any interested stakeholders and/or interested parties to hear the summary of findings and recommendations of the Phase II review of the agency-wide research animal care and well-being policies, procedures, and standards for agricultural livestock in ARS research. The Review Panel plans to hear stakeholder input received from this meeting as well as other written comments. The report will be available at *www.ree.usda.gov* on July 6, 2015.

This meeting is open to the public and any interested individuals wishing to attend.

Opportunity for verbal public comment will be offered on the day of the meeting. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to the day of the meeting (by close of business on Tuesday, July 14, 2015). All statements will become a part of the official record of the REE Mission Area and will be kept on file for public review in the REE Advisory Board Office.

Done at Washington, DC, this 23 day of June 2015.

Ann Bartuska,

Deputy Under Secretary, Research, Education, and Economics.

[FR Doc. 2015–15895 Filed 6–26–15; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

WTO Agricultural Quantity-Based Safeguard Trigger Levels

AGENCY: Foreign Agricultural Service, U.S. Department of Agriculture.

ACTION: Notice of product coverage and trigger levels for safeguard measures provided for in the World Trade Organization (WTO) Agreement on Agriculture.

SUMMARY: This notice lists the updated quantity-based trigger levels for products which may be subject to additional import duties under the safeguard provisions of the WTO Agreement on Agriculture. This notice also includes the relevant period applicable for the trigger levels on each of the listed products.

DATES: June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Safeguard Staff, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture,

Stop 1020, 1400 Independence Avenue SW., Washington, DC 20250–1020; by telephone (202) 720–0638; or by fax (202) 720–0876.

SUPPLEMENTARY INFORMATION: Article 5 of the WTO Agreement on Agriculture provides that additional import duties may be imposed on imports of products subject to tariffication as a result of the Uruguay Round, if certain conditions are met. The agreement permits additional duties to be charged if the price of an individual shipment of imported products falls below the average price for similar goods imported during the years 1986–88 by a specified percentage. It also permits additional duties to be imposed if the volume of imports of an article exceeds the average of the most recent 3 years for which data are available by 5, 10, or 25 percent, depending on the article. These additional duties may not be imposed on quantities for which minimum or current access commitments were made during the Uruguay Round negotiations, and only one type of safeguard, price or quantity, may be applied at any given time to an article.

Section 405 of the Uruguay Round Agreements Act requires that the President cause to be published in the **Federal Register** information regarding the price and quantity safeguards, including the quantity trigger levels, which must be updated annually based upon import levels during the most recent 3 years. The President delegated this duty to the Secretary of Agriculture in Presidential Proclamation No. 6763, dated December 23, 1994, 60 FR 1005 (Jan. 4, 1995). The Secretary of Agriculture further delegated this duty, which lies with the Administrator of the Foreign Agricultural Service (7 CFR 2.43(a)(2)). The Annex to this notice contains the updated quantity trigger levels.

Additional information on the products subject to safeguards and the additional duties which may apply can be found in subchapter IV of Chapter 99 of the Harmonized Tariff Schedule of the United States (2014) and in the Secretary of Agriculture's Notice of Uruguay Round Agricultural Safeguard Trigger Levels, published in the **Federal Register** at 60 FR 427 (Jan. 4, 1995).

Notice: As provided in Section 405 of the Uruguay Round Agreements Act, consistent with Article 5 of the WTO Agreement on Agriculture, the safeguard quantity trigger levels previously notified are superceded by the levels indicated in the Annex to this notice. The definitions of these products were provided in the Notice of Safeguard Action published in the **Federal Register**, at 60 FR 427 (Jan. 4, 1995).

Issued at Washington, DC, this 4th day of June 2015.

Philip C. Karsting,

Administrator, Foreign Agricultural Service.

ANNEX

QUANTITY-BASED SAFEGUARD TRIGGER

Product	Trigger level	Period
Beef	276,008 mt	January 1, 2015 to December 31, 2015.
Mutton	3,233 mt	January 1, 2015 to December 31, 2015.
Cream	12,129 liters	January 1, 2015 to December 31, 2015.
Evaporated or Condensed Milk	1,097,885 kilograms	January 1, 2015 to December 31, 2015.
Nonfat Dry Milk	524,659 kilograms	January 1, 2015 to December 31, 2015.
Dried Whole Milk	3,293,081 kilograms	January 1, 2015 to December 31, 2015.
Dried Cream	662 kilograms	January 1, 2015 to December 31, 2015.
Dried Whey/Buttermilk	34,560 kilograms	January 1, 2015 to December 31, 2015.
Butter	9,414,976 kilograms	January 1, 2015 to December 31, 2015.
Butter Oil and Butter Substitutes	5,840,777 kilograms	January 1, 2015 to December 31, 2015.
Dairy Mixtures	14,384,611 kilograms	January 1, 2015 to December 31, 2015.
Blue Cheese	4,779,080 kilograms	January 1, 2015 to December 31, 2015.
Cheddar Cheese	9,768,173 kilograms	January 1, 2015 to December 31, 2015.
American-Type Cheese	14,668 kilograms	January 1, 2015 to December 31, 2015.
Edam/Gouda Cheese	7,700,542 kilograms	January 1, 2015 to December 31, 2015.
Italian-Type Cheese	18,291,760 kilograms	January 1, 2015 to December 31, 2015.
Swiss Cheese with Eye Formation	26,807,720 kilograms	January 1, 2015 to December 31, 2015.
Gruyere Process Cheese	3,551,763 kilograms	January 1, 2015 to December 31, 2015.
Lowfat Cheese	149,910 kilograms	January 1, 2015 to December 31, 2015.
NSPF Cheese	50,415,571 kilograms	January 1, 2015 to December 31, 2015.
Peanuts	20,493 mt	April 1, 2014 to March 31, 2015.
	19,037 mt	April 1, 2015 to March 31, 2016.
Peanut Butter/Paste	3,527 mt	January 1, 2015 to December 31, 2015.
Raw Cane Sugar	599,416 mt	October 1, 2014 to September 30, 2015.
	676,944 mt	October 1, 2015 to September 30, 2016.
Refined Sugar and Syrups	198,613 mt	October 1, 2014 to September 30, 2015.
	177,579 mt	October 1, 2015 to September 30, 2016.
Blended Syrups	60 mt	October 1, 2014 to September 30, 2015.
	87 mt	October 1, 2015 to September 30, 2016.
Articles Over 65% Sugar	269 mt	October 1, 2014 to September 30, 2015.
	385 mt	October 1, 2015 to September 30, 2016.
Articles Over 10% Sugar	15,471 mt	October 1, 2014 to September 30, 2015.
	20,158 mt	October 1, 2015 to September 30, 2016.
Sweetened Cocoa Powder	84 mt	October 1, 2014 to September 30, 2015.
	86 mt	October 1, 2015 to September 30, 2016.
Chocolate Crumb	11,646,383 kilograms	January 1, 2015 to December 31, 2015.
Lowfat Chocolate Crumb	478,061 kilograms	January 1, 2015 to December 31, 2015.
Infant Formula Containing Oligosaccharides	210,818 kilograms	January 1, 2015 to December 31, 2015.
Mixes and Doughs	170 mt	October 1, 2014 to September 30, 2015.
	230 mt	October 1, 2015 to September 30, 2016.
Mixed Condiments and Seasonings	653 mt	October 1, 2014 to September 30, 2015.
	961 mt	October 1, 2015 to September 30, 2016.
Ice Cream	2,552,994 liters	January 1, 2015 to December 31, 2015.

QUANTITY-BASED SAFEGUARD TRIGGER—Continued

Product	Trigger level	Period
Animal Feed Containing Milk	53,195 kilograms	January 1, 2015 to December 31, 2015.
Short Staple Cotton	2,899,397 kilograms	September 20, 2014 to September 19, 2015.
	2,330,949 kilograms	September 20, 2015 to September 19, 2016.
Harsh or Rough Cotton	0 kilograms	August 1, 2014 to July 31, 2015.
	0 kilograms	August 1, 2015 to July 31, 2016.
Medium Staple Cotton	57,587 kilograms	August 1, 2014 to July 31, 2015.
	48,783 kilograms	August 1, 2015 to July 31, 2016.
Extra Long Staple Cotton	860,694 kilograms	August 1, 2014 to July 31, 2015.
	1,505,611 kilograms	August 1, 2015 to July 31, 2016.
Cotton Waste	443,246 kilograms	September 20, 2014 to September 19, 2015.
	793,048 kilograms	September 20, 2015 to September 19, 2016.
Cotton, Processed, Not Spun	4,035 kilograms	September 20, 2014 to September 19, 2015.
	2,058 kilograms	September 20, 2015 to September 19, 2016.

[FR Doc. 2015–15880 Filed 6–26–15; 8:45 am]
BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

San Juan Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The San Juan Resource Advisory Committee (RAC) will meet in Durango Colorado. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcvFAAS.*

DATES: The meeting will be held at 9 a.m. on Thursday, July 23, 2015.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the San Juan Public Lands Center, Sonoran Meeting Rooms, 15 Burnett Court, Durango, Colorado.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at San Juan Public Lands Center. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Ann Bond, RAC Coordinator, by phone at 970–385–1219 or via email at *abond@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review previously approved projects, and

2. Review current project proposals to be recommended for funding under the Title II provision of the Secure Rural Schools Act.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by July 20, 2015, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Ann Bond, RAC Coordinator, San Juan Public Lands Center, 15 Burnett Court, Durango, Colorado 81301; by email to *abond@fs.fed.us,* or via facsimile to 970–375–2331.

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: June 23, 2015.

Kara L. Chadwick,

Forest Supervisor, San Juan National Forest.

[FR Doc. 2015–15864 Filed 6–26–15; 8:45 am]
BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Recreation Fee; Federal Lands Recreation Enhancement Act

AGENCY: Forest Service, USDA.

ACTION: Notice of new recreation fee.

SUMMARY: The Tonto National Forest is giving notice of a new recreation fee for an onsite option to purchase the daily Tonto Pass and watercraft sticker. The new onsite fee is $12 for the daily Tonto Pass and $6 for watercraft sticker. The new fee provides an option for people to pay when they arrive at the site, which is not currently unavailable. The fee will be collected using electronic fee machines installed at key recreation sites.

DATES: *Date of Implementation:* This new fee will go into effect no earlier than December 28, 2015.

SUPPLEMENTARY INFORMATION: This new fee is part of a larger fee modification proposal on the Tonto National Forest. The 2014 Recreation Fee Proposal can be found on the Tonto National Forest Web site at: *http://www.fs.usda.gov/detail/tonto/home/?cid=STELPRDB5405154.*

The onsite pass purchase option is being implemented in response to an identified public request to provide a convenient method of purchasing recreation passes within recreation sites.

Onsite fee machines in remote locations have high operations and maintenance costs. Lower priced Tonto passes and watercraft stickers can still

be purchased off-site at over 200 retail vendors or online.

The Federal Lands Recreation Enhancement Act (Title VII, Pub. L. 108–447) directs the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. This new fee, as well as the fee changes proposed in the larger fee proposal, were reviewed and recommended by the BLM Arizona Recreation Resource Advisory Council (R–RAC) on June 4, 2015.

FOR FURTHER INFORMATION CONTACT: Greg Schuster at 620–225–5200 or by email at *tonto_recreation@fs.fed.us.* Information about the 2014 Recreation Fee Proposal can also be found on the Tonto National Forest Web site: *http://www.fs.usda.gov/detail/tonto/home/?cid=STELPRDB5405154.*

Dated: June 17, 2015.

Kerwin Dewberry,

Deputy Forest Supervisor, Tonto National Forest.

[FR Doc. 2015–15596 Filed 6–26–15; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2015–0008]

The Secretary of Agriculture's Determination of the Primary Purpose of the Southwest Florida Water Management District's Facilitating Agricultural Resource Management Systems Program, Mini-FARMS Program, Flow Meter Reimbursement Program, Quality of Water Improvement Program, and Back-Plugging Funding Assistance Initiative

AGENCY: Natural Resources Conservation Service (NRCS), USDA.

ACTION: Notice of determination.

SUMMARY: The Natural Resources Conservation Service is providing public notice that the Secretary of Agriculture has determined that cost-share payments made by the Southwest Florida Water Management District (SWFWMD) through its Facilitating Agricultural Resource Management Systems (FARMS) Program, Mini-FARMS Program, Flow Meter Reimbursement Program, Quality of Water Improvement Program (QWIP), and Back-Plugging Funding Assistance Initiative are primarily for the purpose of conserving soil and water resources or protecting and restoring the environment. SWFWMD is a political subdivision of the State of Florida. NRCS was assigned technical and administrative responsibility for reviewing SWFWMD's FARMS Program, Mini-FARMS Program, Flow Meter Reimbursement Program, QWIP, and Back-Plugging Funding Assistance Initiative, and for making appropriate recommendations for the Secretary's determination of primary purpose. The Secretary made the determination for the State of Florida's Agricultural Best Management Practices Program, which is a counterpart to SWFWMD's FARMS Program (74 FR 49850).

This determination is in accordance with section 126 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 126), and permits recipients of cost-share payments to exclude such payments from gross income to the extent allowed by the Internal Revenue Service.

ADDRESSES: A ''Record of Decision'' for SWFWMD's FARMS Program, Mini-FARMS Program, Flow Meter Reimbursement Program, QWIP, and Back-Plugging Funding Assistance Initiative has been prepared and is available upon request from Mark Rose, Director, Financial Assistance Programs Division, Natural Resources Conservation Service, 1400 Independence Avenue SW., Room 5237 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Robert Beltran, Executive Director, Southwest Florida Water Management District, Phone: (352) 796–7211; or Mark Rose, Director, Financial Assistance Programs Division, Natural Resources Conservation Service. Phone: (202) 720–1844.

SUPPLEMENTARY INFORMATION: Under section 126(a)(10) of the Internal Revenue Code, gross income does not include the ''excludable portion'' of payments received under any program of a State, or a political subdivision of a State, under which payments are made to individuals primarily for the purpose of protecting or restoring the environment. In general, a cost-share payment for selected conservation practices is exempt from Federal taxation if it meets three tests: (1) It was for a capital expense, (2) it does not substantially increase the operator's annual income from the property for which it is made, and (3) the Secretary of Agriculture certified that the payment was made primarily for conserving soil and water resources, protecting or restoring the environment, improving forests, or providing habitat for wildlife.

The Secretary of Agriculture evaluates a conservation program on the basis of criteria set forth in 7 CFR part 14, and makes a ''primary purpose'' determination for the payments made under the program. The objective of the determination made under part 14 is to provide maximum conservation, environmental, forestry improvement, and wildlife benefits to the general public from the operation of applicable programs. Final determinations are made on the basis of program, category of practices, or individual practices. Following a primary purpose determination by the Secretary of Agriculture, the Secretary of the Treasury determines if the payments made under the conservation program substantially increases the annual income derived from the property benefited by the payments.

Determination

As provided for by section 126 of the Internal Revenue Code, the Secretary examined the authorizing legislation, regulations, and operating procedures regarding SWFWMD, a political subdivision of the State of Florida, and its FARMS Program, Mini-FARMS Program, Flow Meter Reimbursement Program, QWIP, and Back-Plugging Funding Assistance Initiative. In accordance with the criteria set out in 7 CFR part 14, the Secretary has determined the primary purpose of cost share payments made under SWFWMD's FARMS Program, Mini-FARMS Program, Flow Meter Reimbursement Program, QWIP, and Back-Plugging Funding Assistance Initiative is conserving soil and water resources, or protecting and restoring the environment. The FARMS and Mini-FARMS programs are implemented through Rule 40D–26 of the Florida Administrative Code. SWFWMD implements the FARMS and Mini-FARMS Programs to provide overall water resource benefits and to protect the environment. SWFWMD provides cost-share reimbursement for select best management practices that have potential water conservation, natural system restoration, and water quality benefits. The objectives of the programs are met through cost-shared construction of specific engineered structures, as well as acquisition of specific equipment to meet water conservation and environmental needs. FARMS is a cost-share program to reduce groundwater use through water conservation best management practices (BMP) in agricultural operations. The Mini-FARMS program reimburse growers for on-farm installation of select agricultural practices that have potential water conservation, sediment control, and water improvement benefits up to a $5,000 per project cap. Projects that

exceed $5,000 would be considered for funding through the FARMS program.

Chapter 40D–2, F.A.C. contains the SWFWMD water use permit regulations that implements the Flow Meter Reimbursement Program. Through its Flow Meter Reimbursement Program, SWFWMD provides cost-share funding for flow meter equipment and installation in the Dover/Plant City Water Use Caution Area. The program provides cost share for flow meter equipment installed on operational withdraw points, inflow lines, catchment facilities, tail water recovery or rainfall capture ponds and storage facilities that have been in existence prior to June 16, 2011.

Flow meters on all withdrawal points are required as a condition of all permits with crops that utilize frost/freeze protection water quantities in the Dover/Plant City Water Use Caution Area to ensure that withdrawals will not cause any unmitigated adverse impacts on the water resources and existing legal users, and that the use continues to be in the public interest.

Chapter 373 of the Florida Statutes enables SWFWMD to implement QWIP. Section 373.206 of the Florida Statute authorizes SWFWMD to implement the Back Plugging Funding Assistance Initiative to identify and plug highly mineralized wells of poor water quality to minimize effects upon an aquifer or water bodies. SWFWMD's QWIP and Back-Plugging Funding Assistance Initiative provide reimbursement for the plugging of groundwater wells that have poor water quality. Properly plugging poor quality groundwater wells enhances water conservation, natural system restoration, and water quality benefits. SWFWMD provides financial assistance to properly plug abandoned and deteriorating artesian wells in order to comply with Chapter 373 of the Florida Statutes. Plugging wells involves filling the abandoned well with cement or bentonite.

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

Jason A. Weller,

Chief, Natural Resources Conservation Service.

[FR Doc. 2015–15937 Filed 6–26–15; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Request for Nominations to the Agricultural Air Quality Task Force

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of Request for Nominations to the Agricultural Air Quality Task Force.

SUMMARY: The Secretary of Agriculture invites nominations of qualified candidates to be considered for a 2-year term on the Agricultural Air Quality Task Force (AAQTF) established by the Federal Agriculture Improvement and Reform Act of 1996 to provide recommendations to the Secretary of Agriculture on agricultural air quality issues. This notice solicits nominations for membership on AAQTF.

DATES: *Effective Date:* This is effective June 29, 2015.

ADDRESSES: Nominations should be postmarked no later than August 13, 2015 to Greg Johnson, Designated Federal Official, Department of Agriculture, Natural Resources Conservation Service, 1201 Northeast Lloyd Boulevard, Suite 1000, Portland, Oregon 97232, or sent by email to *greg.johnson@por.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Greg Johnson, Designated Federal Official, Department of Agriculture, Natural Resources Conservation Service, 1201 Northeast Lloyd Boulevard, Suite 1000, Portland, Oregon 97232; telephone: (503) 273–2424; fax: (503) 273–2401; email: *greg.johnson@por.usda.gov.*

SUPPLEMENTARY INFORMATION:

AAQTF Purpose

Section 391 of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104–127, 7 U.S.C. 5405, requires the Chief of the Natural Resource Conservation Service (NRCS) to establish a task force to address air agricultural quality issues. The task force advises the Secretary of Agriculture on the role of the Secretary for providing oversight and coordination related to agricultural air quality. The requirements of the Federal Advisory Committee Act, 5 U.S.C. App.2, apply to this task force.

The Task Force will:

1. Strengthen vital research efforts related to agricultural air quality;

2. Determine the extent to which agricultural activities contribute to air pollution;

3. Determine cost-effective ways in which the agricultural industry can improve air quality;

4. Coordinate and ensure intergovernmental cooperation on research activities related to agricultural air quality issues to avoid duplication, and ensure data quality and sound interpretation of data; and

5. Advise the Secretary of Agriculture on the role of the Secretary for providing oversight and coordination related to agricultural air quality.

AAQTF Membership

The task force expects to meet two to three times each year, with meetings held at various locations across the United States. A task force member will serve for a term of 2 years, starting with the date of charter establishment for this task force. The Chief of NRCS serves as Chair of the task force. The task force is composed of United States citizens representing a broad spectrum of individuals with interest in agricultural air quality issues. This includes, but is not limited to, representatives from the agricultural production and processing sector, as well as those from academia, agribusiness, regulatory organizations, environmental organizations, and local or State agencies.

Nominees to AAQTF will be evaluated on a number of criteria, including expertise in or experience with agricultural air quality research, agricultural production, and air quality environmental or regulatory issues.

Serving as a task force member will not constitute employment by, or the holding of, an office of the United States for the purpose of any Federal law. Persons selected for membership on the task force will not receive compensation from NRCS for their service as task force members, except that while away from home or regular place of business the member will be eligible for travel expenses paid by NRCS, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the government service, under section 5703 of Title 5, U.S.C. Additional information about AAQTF may be found on the World Wide Web at *http://www.airquality.nrcs.usda.gov/wps/portal/nrcs/detail/national/air/taskforce/.*

Member Nominations

Any interested person or organization may nominate qualified individuals for membership. Interested candidates may nominate themselves. Previous nominees and task force members who wish to be considered for membership on the task force must submit a new nomination with updated information,

including a new background disclosure form (Form AD–755).

Nominations should be typed and include the following:

1. A brief summary, no more than two pages, explaining the nominee's qualifications to serve on AAQTF and addressing the criteria described above.

2. A resume providing the nominee's background, experience, and educational qualifications.

3. A completed background disclosure form (Form AD–755) signed by the nominee (*http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf*).

4. Any recent publications by the nominee relative to air quality (if appropriate).

5. At least two letters of endorsement (optional).

Send written nominations to Greg Johnson, Designated Federal Official, Department of Agriculture, Natural Resources Conservation Service, 1201 Northeast Lloyd Boulevard, Suite 1000, Portland, Oregon 97232; or email: *greg.johnson@por.usda.gov.* The Designated Federal Official will acknowledge receipt of nominations.

Equal Opportunity Statement

To ensure that recommendations of the task force take into account the needs of underserved and diverse communities served by the U.S. Department of Agriculture (USDA), membership will include, to the extent practicable, individuals representing minorities, women, and persons with disabilities. USDA prohibits discrimination in all of its programs and activities on the basis of race, sex, color, national origin, gender, religion, age, sexual orientation, or disability. Additionally, discrimination on the basis of political beliefs and marital status or family status is also prohibited by statutes enforced by USDA (not all prohibited bases apply to all programs). Persons with disabilities who require alternate means for communication of program information (Braille, large print, audio tape, etc.) should contact USDA's Technology and Accessible Resources Give Employment Today Center at (202) 720–2600 (voice and TDD). USDA is an equal opportunity provider and employer.

Signed this 29th day of May 2015, in Washington, DC.

Jason A. Weller,

Chief, Natural Resources Conservation Service.

[FR Doc. 2015–15933 Filed 6–26–15; 8:45 am]

BILLING CODE 3410–16–P

DEPARMENT OF COMMERCE

[Docket No. 150324295–5526–02]

Privacy Act of 1974, New System of Records

AGENCY: U.S. Department of Commerce, Office of the Secretary.

ACTION: Reopening of Public Comment Period for Proposed Action; Notice of New Privacy Act System of Records; ''COMMERCE/DEPT–25, Access Control and Identity Management System.''

SUMMARY: On May 8, 2015, the Department of Commerce (Department) published in the **Federal Register** a proposed new Privacy Act system of records on the Access Control and Identity Management System and requested comment on or before June 8, 2015. The Department is reopening the original public comment period of 30 days for the proposed new Privacy Act system of records for an additional 30 days from the date of publication of this notice. The reopening is necessary because not all interested parties may have been given appropriate notification about this proposed new system of records, as well as time to respond with comments prior to the closing date of the original public comment period of June 8, 2015. All previously submitted comments will be responded to as appropriate, and members of the public who have submitted comments during the prior comment period need not resubmit them at this time.

DATES: The comment period for the proposed new Privacy Act system of records published May 8, 2015 (80 FR 26534), is reopened. To be considered, written comments must be submitted on or before July 29, 2015.

Unless comments are received, the new system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: You may submit written comments by any of the following methods:

Email: nschnare@doc.gov. Include ''COMMERCE/DEPT–25, Access Control and Identity Management System'' in the subtext of the message.

Fax: (202) 482–6089, marked to the attention of Mr. Nicholas Schnare.

Mail: Mr. Nicholas Schnare, Office of Security, U.S. Department of Commerce, 1401 Constitution Ave., Room 1511, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Nicholas Schnare, Office of Security, U.S. Department of Commerce, 1401 Constitution Ave., Room 1511, NW., Washington, DC 20230, (202) 482–8333.

SUPPLEMENTARY INFORMATION: On May 8, 2015, the Department of Commerce (Department) published in the **Federal Register** a proposed new Privacy Act system of records on the Access Control and Identity Management System. See 80 FR 26534, May 8, 2015. In the original proposal, the Department requested comment on or before June 8, 2015. The public comment period is being reopened because not all interested parties may have been given adequate notice, as well as time to respond with comments about the Department's proposal to add this new system of records under the Privacy Act of 1974 for Access and Identity Management System records. This reopening will provide an opportunity for appropriate review and comment of the proposed new system of records now posted in the public docket, Docket ID No. 150324295–5295–01, for 30 days from the date of today's publication.

Dated: June 19, 2015.

Brenda Dolan,

Department of Commerce, Freedom of Information and Privacy Act Officer.

[FR Doc. 2015–15866 Filed 6–26–15; 8:45 am]

BILLING CODE 3510–BX–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–42–2015]

Foreign-Trade Zone 258—Bowie County, Texas; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the TexAmericas Center, grantee of FTZ 258, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on June 22, 2015.

FTZ 258 was approved by the FTZ Board on October 9, 2003 (Board Order 1287, 68 FR 61395, 10/28/2003). The current zone includes the following

sites: *Site 1* (524 acres)—Red River Commerce Park located approximately 18 miles west of Texarkana and the Texas-Arkansas border in Bowie County; and, *Site 2* (160 acres)—City of Nash Industrial Park located approximately 15 miles west of Texarkana and the Texas-Arkansas border in Bowie County.

The grantee's proposed service area under the ASF would be a portion of Bowie County, Texas, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is adjacent to the Shreveport-Bossier City Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone to include all of the existing sites as ''magnet'' sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. No subzones/usage-driven sites are being requested at this time.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 28, 2015. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 14, 2015.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: June 22, 2015.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2015–15797 Filed 6–26–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–11–2015]

Foreign-Trade Zone 168—Dallas/Fort Worth, Texas; Authorization of Production Activity; Samsung Electronics America, Inc.; (Kitting of Mobile Phones and Tablet Computers); Coppell, Texas

On February 20, 2015, the Metroplex International Trade Development Corporation, grantee of FTZ 168, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Samsung Electronics America, Inc, within Site 9, in Coppell, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (80 FR 10456, 2–26–2015). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: June 22, 2015.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2015–15795 Filed 6–26–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–023]

Certain Uncoated Paper From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain uncoated paper (uncoated paper) from the People's Republic of China (PRC). The period of investigation is January 1, 2014, through December 31, 2014. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Patricia Tran or Joy Zhang, Office III, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1503 and (202) 482–1168, respectively.

Alignment of Final Countervailing Duty (CVD) Determination With Final Antidumping Duty (AD) Determination

On the same day that the Department initiated this CVD investigation, the Department also initiated a CVD investigation of uncoated paper from Indonesia and AD investigations of uncoated paper from Australia, Brazil, the PRC, Indonesia, and Portugal.[1] The AD and CVD investigations cover the same merchandise. On June 17, 2015, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.210(b)(4)(i), Petitioners[2] requested alignment of the final CVD determination with the final AD determination of uncoated paper from the PRC.[3] Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), we are aligning the final CVD determination with the final AD determination. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 2, 2015, unless postponed.

Scope of the Investigation

The product covered by this investigation is uncoated paper from the PRC. For a complete description of the scope of the investigation, *see* Appendix 1 to this notice.

Methodology

The Department is conducting this CVD investigation in accordance with section 701 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Issues and Decision

[1] *See Certain Uncoated Paper From the People's Republic of China and Indonesia: Initiation of Countervailing Duty Investigations,* 80 FR 8598 (February 18, 2015); and *Certain Uncoated Paper From Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 8608 (February 18, 2015).

[2] Petitioners are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America (collectively, Petitioners).

[3] *See* Letter from Petitioners regarding ''*Certain Uncoated Paper from People's Republic of China: Request for Alignment''* (June 17, 2015).

Memorandum.[4] The Preliminary Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Issues and Decision Memorandum and the electronic version of the Preliminary Issues and Decision Memorandum are identical in content.

For this preliminary determination, we have relied on facts available for Sun Paper (Hong Kong) Co., Ltd. (Sun Paper HK) and Shandong Sun Paper Industry Joint Stock Co., Ltd. (Shandong Sun Paper) (collectively Sun Paper), and UPM Changshu (UPM), mandatory respondents, because the companies did not act to the best of their ability and respond to the Department's requests for information. Further, we have drawn an adverse inference in selecting from among the facts otherwise available to calculate the *ad valorem* rate for Sun Paper and UPM.[5] We have also relied on facts available, with adverse inferences, with respect to certain information requested of the Government of China. For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

The Department's analysis of program usage by Asia Symbol (Guangdong) Omya Minerals Co., Ltd. (AS Omya), Asia Symbol (Shandong) Pulp & Paper Co., and Greenpoint Global Trading (Macao Commercial Offshore) Limted (Greenpoint) (collectively, the Asia Symbol Companies), a mandatory respondent, is also contained in the Preliminary Decision Memorandum.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a CVD rate for each individually investigated producer/exporter of the subject merchandise. For companies not individually investigated, we calculated an all others rate as described below.

We preliminarily determine the estimated countervailable subsidy rates to be:

Company	Subsidy rate (percent)
Asia Symbol (Guangdong) Omya Minerals Co., Ltd. (AS Omya), Asia Symbol (Shandong) Pulp & Paper Co., and Greenpoint Global Trading (Macao Commercial Offshore) Limted (Greenpoint) (collectively, the Asia Symbol Companies)	5.82
Sun Paper (Hong Kong) Co., Ltd. (Sun Paper HK) and Shandong Sun Paper Industry Joint Stock Co., Ltd. (Shandong Sun Paper) (collectively Sun Paper)	126.42
UPM Changshu (UPM)	126.42
All Others	5.82

We are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of uncoated paper from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of the merchandise in the amounts indicated above.

In accordance with sections 703(d) and 705(c)(5)(A)(i) of the Act, for companies not investigated, we apply an estimated ''all-others'' rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. Thus, pursuant to the statute, we set the all others rate equal to the net subsidy rate of the Asia Symbol Companies.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[6] Interested parties may submit case and rebuttal briefs. For a schedule of the deadlines for filing case briefs, rebuttal briefs, and hearing requests, *see* the Preliminary Issues and Decision Memorandum.

U.S. International Trade Commission (ITC) Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 22, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix 1—Scope of the Investigation

The merchandise covered by these investigations includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level[7] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated groundwood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

[4] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance regarding ''Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Uncoated Ppaer from the People's Republic of China,'' dated concurrently with this notice (Preliminary Issues and Decision Memorandum).

[5] *See* sections 776(a) and (b) of the Act.

[6] *See* 19 CFR 351.224(b).

[7] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. ''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

Appendix 2—List of Topics Discussed in the Preliminary Issues and Decision Memorandum

I. Summary
II. Background
III. Alignment
IV. Scope Comments
V. Scope of the Investigation
VI. Injury Test
VII. Application of Countervailing Duty Law to Imports from the PRC
VIII. Subsidies Valuation
IX. Benchmark and Discount Rates
X. Use of Facts Otherwise Available and Adverse Inferences
XI. Analysis of Programs
XII. ITC Notification
XIII. Disclosure and Public Comment
XIV. Verification
XV. Conclusion
Appendix

[FR Doc. 2015–15891 Filed 6–26–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Rescission of Antidumping Duty New Shipper Reviews; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') published its *Preliminary Rescission* for two new shipper reviews (''NSRs'') of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam (''Vietnam'') on January 28, 2015.[1] The period of review (''POR'') is August 1, 2013, through January 31, 2014. As discussed below, we preliminarily found that the sales made by Nam Phuong Seafood Co., Ltd. (''Nam Phuong'') and NTACO Corporation (''NTACO'') were non-*bona fide,* and announced our preliminary intent to rescind their NSRs. For the final results of this review, we continue to find Nam Phuong's and NTACO's sales to be non-*bona fide.* Therefore, we are rescinding these two NSRs.

DATES: Effective date June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey (Nam Phuong) or Susan Pulongbarit (NTACO), AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2312 or (202) 482–4031, respectively.

SUPPLEMENTARY INFORMATION:

Background

As noted above, on January 28, 2015, the Department published the *Preliminary Rescission* of these NSRs. Thereafter, the Department extended the time period for issuing the final results to June 19, 2015.[2] On February 27, 2015, the Department received case briefs from Nam Phuong and NTACO. On March 12, 2015, the Department received rebuttal briefs from the Catfish Farmers of America and individual U.S. catfish processors (''Petitioners'').

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus.* These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (''HTSUS'').[3] Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

For a full description of the scope, *see* ''Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results of New Shipper Review,'' dated concurrently with this notice (''I&D Memo'').

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties are addressed in the I&D Memo, which is hereby adopted by this Notice.[4] A list of the issues which parties raised is attached to this notice as an Appendix. The I&D Memo is a public document and is on file in the Central Records Unit (''CRU''), Room B8024 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov* and in the CRU. In addition, a complete version of the I&D Memo can be accessed directly on the internet at *http://trade.gov/enforcement/frn/index.html.* The signed I&D Memo and the electronic versions of the I&D Memo are identical in content.

Bona Fide Analysis

For the *Preliminary Rescission,* the Department analyzed the *bona fides* of

[1] *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Intent To Rescind Antidumping Duty New Shipper Reviews; 2013–2014,* 80 FR 4544 (January 28, 2015) (''*Preliminary Rescission*'').

[2] *See* Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Susan S. Pulongbarit, Senior International Trade Analyst, Office V, Antidumping and Countervailing Duty Operations, regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Final Results of Antidumping Duty New Shipper Reviews of Nam Phuong Seafood Co., Ltd. and NTACO Corporation, dated April 6, 2015.

[3] Until July 1, 2004, these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007, these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius,* including basa and tra). On March 2, 2011, the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (''CBP''): 1604.19.2000 and 1604 19.3000. On January 30, 2012, the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

[4] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement & Compliance, from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty New Shipper Reviews: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,'' dated June 19, 2015.

Nam Phuong's and NTACO's sales and preliminarily found them to be non-*bona fide*.[5] Based on the Department's complete analysis of all the information and comments on the record of this review, the Department continues to find their sales to be non-*bona fide.* With respect to both Nam Phuong and NTACO, the Department reached this conclusion based on the totality of circumstances, namely: (a) The atypical nature of their prices; (b) the atypical involvement of other entities in the sale; (c) atypical circumstances surrounding production; (d) late payment; and (e) lack of profit on the resale of subject merchandise.[6] For a complete discussion, *see* the I&D Memo and each company's Final *Bona Fide* Memorandum.[7]

Rescission of New Shipper Review

For the foregoing reasons, the Department finds that Nam Phuong's and NTACO's sales are non-*bona fide* and that these sales do not provide a reasonable or reliable basis for calculating a dumping margin. Because these non-*bona fide* sales were the only sales of subject merchandise during the POR, the Department is rescinding this NSR pursuant to section 19 CFR 351.214(f).

Cash Deposit Rates

The following cash deposit requirements continue to apply for all shipment of subject merchandise from Nam Phuong and NTACO entered, or withdrawn from warehouse: (1) For subject merchandise produced and exported by Nam Phuong or NTACO, the cash deposit rate will continue to be the Vietnam-wide rate (*i.e.,* 2.39 U.S. Dollars/kg); (2) for subject merchandise exported by Nam Phuong or NTACO but not manufactured by Nam Phuong or NTACO, the cash deposit rate will continue to be the Vietnam-wide rate (*i.e.,* 2.39 U.S. Dollars/kg); and (3) for subject merchandise manufactured by Nam Phuong or NTACO, but exported by any other party, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a reminder to parties subject to Administrative Protective Order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in these segments of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.214.

Dated: June 18, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues and Decision Memorandum

Summary
Background
Scope of the Order
Discussion of the Issues
Comment 1: Commerce's *Bona Fide* Analysis for Nam Phuong and NTACO
Comment 2: Surrogate Country Selection Recommendation

[FR Doc. 2015–15894 Filed 6–26–15; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See* ''Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam'' from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated January 20, 2015 (''Preliminary Decision Memorandum''), and hereby adopted by this notice.

[6] *See* I&D Memo.

[7] *See* Memorandum to James Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Matthew Renkey, Senior International Trade Analyst ''New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Analysis for the *Bona Fide* Nature of Nam Phuong Seafood Co., Ltd.'s Sale,'' dated June 19, 2015; *see also* Memorandum to James Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Susan Pulongbarit, Senior International Trade Analyst ''New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Analysis for the *Bona Fide* Nature of NTACO Corporations's Sale,'' dated June 19, 2015.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–829]

Certain Uncoated Paper From Indonesia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and/or exporters of certain uncoated paper from Indonesia. The period of investigation is January 1, 2014, through December 31, 2014. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* June 29, 2015.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Kate Johnson, Office II, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4136 and (202) 482–4929, respectively.

Alignment of Final Countervailing Duty (CVD) Determination With Final Antidumping Duty (AD) Determination

On the same day that the Department initiated this CVD investigation, the Department also initiated a CVD investigation of certain uncoated paper from the People's Republic of China (PRC) and AD investigations of certain uncoated paper from Australia, Brazil, the PRC, Indonesia, and Portugal.[1] The AD and CVD investigations cover the same merchandise. On June 17, 2015, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.210(b)(4)(i), the petitioners [2] requested alignment of the final CVD determination with the final AD determination of certain uncoated

[1] *See Certain Uncoated Paper From the People's Republic of China and Indonesia: Initiation of Countervailing Duty Investigations,* 80 FR 8598 (February 18, 2015); and *Certain Uncoated Paper From Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 8608 (February 18, 2015).

[2] The petitioners are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America.

paper from Indonesia.[3] Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), we are aligning the final CVD determination with the final AD determination. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 2, 2015, unless postponed.

Scope of the Investigation

The product covered by this investigation is certain uncoated paper from Indonesia. For a complete description of the scope of the investigation, *see* Appendix 1 to this notice.

Methodology

The Department is conducting this CVD investigation in accordance with section 701 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix 2 to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

For this preliminary determination, we relied on facts available pursuant to section 776(a) of the Act because certain companies selected for individual examination—Great Champ Trading Limited (Great Champ), Indah Kiat Pulp & Paper TBK (IK), and Pabrik Kertas Tjiwi Kimia (TK)—failed to provide information requested by the Department within the deadlines established and, by refusing to participate as respondents, significantly impeded the investigation.[5] In addition, the Government of Indonesia (GOI) did not provide requested information with respect to certain programs upon which we initiated an investigation, thereby also resulting in the Department's reliance on facts otherwise available, pursuant to section 776(a). Because the GOI did not provide the information requested for certain programs, with respect to those programs, we drew an adverse inference that these programs provide a financial contribution and are specific, pursuant to sections 771(5)(D) and 771(5A) of the Act. Because Great Champ, IK, and TK failed to cooperate by not acting to the best of their ability to respond to the Department's requests for necessary information, pursuant to section 776(b) of the Act, in selecting from among the facts otherwise available, we drew an adverse inference that these programs confer a benefit. Therefore, the Department applied an adverse inference in its calculation of the *ad valorem* estimated countervailable subsidy rate for Great Champ, IK, and TK. For further information, see ''Use of Facts Otherwise Available and Adverse Inferences'' section in the Preliminary Decision Memorandum.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a CVD rate for each individually investigated producer/exporter of the subject merchandise. In accordance with sections 703(d) and 705(c)(5)(A)(i) of the Act, for companies not individually investigated, we apply an ''all-others'' rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. Therefore, we used the rate calculated for our sole cooperating respondent as the all-others rate.

We preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy rate (percent)
APRIL Fine Paper Macao Commercial Offshore Limited, PT Anugrah Kertas Utama, PT Riau Andalan Kertas, PT Intiguna Primatama, PT Riau Andalan Pulp & Paper, PT Esensindo Cipta Cemerlang	43.19
Great Champ Trading Limited	125.97
Indah Kiat Pulp & Paper TBK, Pabrik Kertas Tjiwi Kimia	[6] 131.12
All Others	43.19

Inaccordance with sections 703(d)(1)(B) and (d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of certain uncoated paper from Indonesia that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of merchandise in the amounts indicated above.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondent prior to making our final determination.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[7] Interested parties may submit case and rebuttal briefs. For a schedule of the deadlines for filing case briefs, rebuttal briefs, and hearing requests, *see* the Preliminary Decision Memorandum.

U.S. International Trade Commission (ITC) Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either

[3] *See* Letter from the petitioners regarding ''Petitioners' Request for Alignment of Countervailing Duty Investigation Final Determination Deadline with Antidumping Investigation Final Determination Deadline'' (June 17, 2015).

[4] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance regarding ''Decision Memorandum for the Preliminary Affirmative Countervailing Duty Determination in the Countervailing Duty Investigation of Certain Uncoated Paper from Indonesia,'' dated concurrently with this notice (Preliminary Decision Memorandum).

[5] *See* sections 776(a)(2)(A)(B), and (C) of the Act.

[6] We are also assigning to PT Pindo Deli Pulp and Paper Mills the rate assigned to IK and TK. For further discussion, see the Memorandum to the File, ''Cross-Ownership: Countervailing Duty Investigation of Uncoated Paper from Indonesia,'' dated concurrently with this notice.

[7] *See* 19 CFR 351.224(b).

publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act.

Dated: June 22, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix 1—Scope of the Investigation

The merchandise covered by this investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level [1] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated groundwood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

[1] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. ''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

Appendix 2—List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Alignment
4. Scope Comments
5. Scope of the Investigation
6. Injury Test
7. Use of Facts Otherwise Available and Adverse Inference
8. Subsidies Valuation
9. Analysis of Programs
10. ITC Notification
11. Disclosure and Public Comment
12. Verification
13. Conclusion

[FR Doc. 2015–15901 Filed 6–26–15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–007]

Barium Chloride From the People's Republic of China: Final Results of Expedited Fourth Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 1, 2015, the Department of Commerce (the ''Department'') initiated the fourth five-year (''sunset'') review of the antidumping duty order on barium chloride from the People's Republic of China (''PRC'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act'').[1] As a result of this sunset review, the Department finds that revocation of the antidumping duty order on barium chloride from the PRC would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

DATES: *Effective Date:* June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6905.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2015, the Department received an adequate substantive response from domestic interested party Chemical Products Corporation (''Petitioner'') within the deadline specified in 19 CFR 351.218(d)(3)(i).[2] We received no responses from respondent interested parties. As a result, the Department conducted an expedited (120-day) sunset review of the order, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2).

Analysis of Comments Received

All issues raised in this sunset review are addressed in the ''Issues and Decision Memorandum for the Expedited Fourth Sunset Review of the Antidumping Duty Order on Barium Chloride from the People's Republic of China'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with, and hereby adopted by, this notice (''Decision Memorandum''). The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were to be revoked. Parties may find a complete discussion of all issues raised in the review and the corresponding recommendations in this public memorandum which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (''ACCESS''). Access to ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum is available directly on the Web at *http://enforcement.trade.gov/frn/index.html.* The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by the order is barium chloride, a chemical compound having the formulas BaCl2 or BaCl2–2H2O, currently classifiable under item number 2827.39.45.00 of the

[1] *See Initiation of Five-Year (''Sunset'') Review,* 80 FR 24900 (May 1, 2015).

[2] *See* Petitioner's June 1, 2015, submission, re; ''Substantive Response to the Notice of Initiation of Five-Year Review of Chemical Products Corporation.''

Harmonized Tariff Schedule of the United States (''HTSUS'').[3]

Final Results of Review

Pursuant to section 752(c) of the Act, we determine that revocation of the antidumping duty order on barium chloride from the PRC would be likely to lead to continuation or recurrence of dumping at weighted average margins up to 155.50 percent.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return of destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This sunset review and notice are in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: June 23, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–15903 Filed 6–26–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD969

Stock Status Determination for Atlantic Highly Migratory Atlantic Smooth Dogfish Shark and the Gulf of Mexico Smoothhound Sharks Complex

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

ACTION: Notice.

SUMMARY: This action serves as a notice that NMFS, on behalf of the Secretary of Commerce (Secretary), has determined that the Atlantic smooth dogfish shark (*Mustelus canis*) and the Gulf of Mexico smoothhound shark complex, which is comprised of Atlantic smooth dogfish, Florida smoothhound (*M. norrisi*), and Gulf smoothhound (*M. sinusmexicanus*), are not overfished and overfishing is not occurring.

[3] The scope reflects the HTSUS item number currently in effect. The full scope of the order is provided in the Decision Memorandum.

FOR FURTHER INFORMATION CONTACT: Andrew Rubin or Karyl Brewster-Geisz by phone at 301–427–8503.

SUPPLEMENTARY INFORMATION:

Background

Atlantic smooth dogfish, Florida smoothhound, and Gulf smoothhound sharks are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. NMFS manages all shark species, except for spiny dogfish (*Squalus acanthias*), under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments.

NMFS recently assessed the status of these species for the first time using the Southeast Data, Assessment, and Review (SEDAR) process. The final stock assessment (SEDAR 39) was finalized and peer reviewed in March 2015.

Data from tagging and genetic research in SEDAR 39 support the existence of two distinct Atlantic and Gulf of Mexico stocks of smooth dogfish separated by peninsular Florida. Therefore, smooth dogfish was treated as two separate stocks, one in the Atlantic region and one in the Gulf of Mexico region.

Additionally, because smooth dogfish are the only species of smoothhound sharks occurring in the Atlantic region, the scientists conducted a stock assessment for only this species in the Atlantic region. However, because all three species occur in the Gulf of Mexico, and given the difficulty with distinguishing among and identifying the individual species of smoothhound sharks occurring in the Gulf of Mexico region, the scientists treated all three smoothhound species (smooth dogfish, Florida smoothhound, and Gulf smoothhound) as a single smoothhound shark complex within the Gulf of Mexico region.

All documents and information regarding SEDAR 39 can be found on the SEDAR Web page at *http://sedarweb.org/sedar-39.*

Atlantic Region

For Atlantic smooth dogfish, the scientists used a length-based age-structured stock assessment model. This was the first HMS shark stock assessment conducted within the SEDAR process to utilize this type of modeling framework. The Atlantic smooth dogfish assessment implemented spawning stock fecundity (SSF), which was used as a proxy for biomass, natural mortality (M), steepness of the Beverton-Holt stock-recruitment relationship, and the selectivity patterns using the same methods as in previous HMS shark assessment.

Two selectivity patterns were explored for the main targeted gillnet fishery (dome-shaped and asymptotic). The use of these two selectivity patterns resulted in two alternative base model configurations being evaluated. Based on diagnostic results, the scientists recommended that the dome-shaped functional form be selected as the base model. The peer reviewers found this base model to be an appropriate methodology.

For this base model, the stock assessment scientists explored seven sensitivity scenarios. All seven model runs found that SSF in 2012 (SSF_{2012}), was greater than SSF_{MSY} (SSF_{2012}/SSF_{MSY} ranged from 1.96 to 2.81 vs. 2.29 in the base model) and that F_{2012} was less than F_{MSY} (F_{2012}/F_{MSY} ranged from 0.61 to 0.99 vs. 0.79 in the base model). Projection results for the base model configuration indicated that levels of fixed removals less than or equal to 550 (1000s of sharks) resulted in at least a 70 percent probability of maintaining SSF above SSF_{MSY} during the years 2013–2022. Projections for the seven sensitivity scenarios resulted in a range of fixed removals from 350 to 850 (1000s of sharks) with at least a 70 percent probability of maintaining SSF above SSF_{MSY} during the years 2013–2022.

The peer reviewers found it is likely that the Atlantic smooth dogfish stock is not overfished, and overfishing is not occurring based on the base model and range of associated sensitivities. The peer reviewers indicated that the range of sensitivities appropriately captured the uncertainty regarding the states of nature and the potential implications for the reference points. However they cautioned about inferences drawn about stock status because of the level of uncertainty associated with the stock-recruitment relationship and uncertainty in the catches, and noted that the fishing level for the most recent year is close to FMSY for some sensitivity runs. Overall, the peer reviewers determined the stock assessment to be based on the best scientific information available. Based on these results, NMFS determined that the status of smooth dogfish is not overfished and overfishing is not occurring.

Gulf of Mexico Region

The model structure for the Gulf of Mexico smoothhound shark complex was different than the Atlantic stock of smooth dogfish because of the need to combine life history data for all three

species. The scientists combined this data using a life table to calculate the mid-point biological values between the species. They then used a state-space Bayesian surplus production model that implemented a Schaefer production model in a Bayesian framework. The peer reviewers found this model to be appropriate and robust. The reviewers noted issues could occur if the biology and population dynamics differed significantly but they did not believe this was an issue for the current assessment.

In addition to the base model, the assessment scientists ran a number of sensitivities. All sensitivities found that the number of sharks in 2012 (N_{2012}), which was the proxy used for biomass for this model, was greater than N_{MSY} (N_{2012}/N_{MSY} ranged from 1.68 to 1.83 vs. 1.78 in the base model) and the exploitation rate in 2012 (H_{2012}), which was the proxy used for fishing mortality in this model, was less than H_{MSY} (H_{2012}/H_{MSY} ranged from 0.07 to 0.35 vs. 0.18 in the base model). Projections under varying catch levels conducted with the base model and sensitivities reflecting plausible states of nature, except the low catch scenario which was not deemed plausible, indicated that the 2012 catch could be increased by a factor of 4 and still allow for less than a 30 percent probability of the stock being overfished during any of the 10 years in the projection horizon. Similarly, the projected scenarios indicated that the 2012 catch could be increased by a factor of 2, 3, or 4 and still allow for less than a 30 percent probability of overfishing occurring during any of the 10 years in the projection horizon.

The peer reviewers found the Gulf of Mexico smoothhound complex is most likely neither overfished, nor undergoing overfishing. The peer reviewers noted that the reliability of the stock status determination is dependent on the accuracy of the shrimp trawl bycatch estimates for these species and suggested that NMFS explore alternative catch streams to help assess this uncertainty. Nonetheless, the review panel believed that the model and associated sensitivities captured the main uncertainties associated with the assessment. The review panel considered the base model and corresponding sensitivity runs the best scientific information available. Based on these results, NMFS determined that the status of the Gulf of Mexico smoothhound shark complex is not overfished and overfishing is not occurring.

Dated: June 23, 2015.

Jennifer M. Wallace,

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

[FR Doc. 2015–15809 Filed 6–26–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC632

Marine Mammals; File No. 14809

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that Douglas Nowacek, Ph.D., Duke University—Marine Laboratory, 135 Duke Marine Lab Rd., Beaufort, NC 28516, has applied for an amendment to Scientific Research Permit No. 14809–01.

DATES: Written, telefaxed, or email comments must be received on or before July 29, 2015.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 14809 Modification #5 from the list of available applications.

These documents are also available 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.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Courtney Smith, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 14809–01 is requested 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 (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 14809, issued on March 24, 2014 (79 FR 18526), authorizes the permit holder to conduct comparative research on 34 species/stocks of cetaceans in the North Atlantic, North Pacific and Southern Oceans. Authorized activities include suction cup tagging, acoustic playbacks, passive acoustics, biopsy sampling, photo-identification, behavioral observations, and incidental harassment during vessel surveys. The research objectives are to: (1) Document baseline foraging and social behavior of cetacean species under different ecological conditions; (2) place these behaviors in a population-level context; and (3) determine how these species respond to various natural sound sources. The permit is valid through March 31, 2019. A minor amendment (–01) was issued on December 4, 2014 to the permit to authorize another type of suction cup tag. The permit holder is requesting the permit be amended to authorize the use of dart/barb tags during authorized tagging efforts on Cuvier's beaked whales (*Ziphius cavirostris*), short-finned pilot whales (*Globicephala macrorhynchus*), Risso's dolphins (*Grampus griseus*), Arnoux's beaked whales (*Berardius arnuxii*), Antarctic minke whales (*Balaenoptera bonaerensis*) and endangered humpback whales (*Megaptera novaeangliae*) during vessel surveys. No other changes to the permit are requested.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 23, 2015.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–15803 Filed 6–26–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–C–2015–0036]

2015 Application Period for the Patents for Humanity Program

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: Patents for Humanity is an annual program through which the United States Patent and Trademark Office (USPTO) recognizes patent holders who use their technology for humanitarian purposes. This year, the USPTO will accept applications for recognition under the program from July 1, 2015, to December 4, 2015. All other program terms remain the same as the terms of the 2014 program.

DATES: *Effective Date:* June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Office of Policy and International Affairs, by telephone at (571) 272–9300; by mail addressed to: Patents for Humanity Program, Office of Policy and International Affairs, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; or by email to *patentsforhumanity@uspto.gov.*

SUPPLEMENTARY INFORMATION: Patents for Humanity is a program through which the USPTO recognizes patent owners who use their technology for humanitarian purposes. *See Patents for Humanity Program,* 79 FR 18670 (Apr. 3, 2014), for a description of the program.

In 2015, the USPTO will accept applications for recognition under the program from July 1, 2015, through December 4, 2015. The USPTO accepted applications for awards under the previous year's program from April 15, 2014, to September 15, 2014. This year's schedule will allow the USPTO to conduct outreach during the fall months and to administer the selection process during the winter. The USPTO expects to announce awards in the spring of 2016.

All other terms of the program remain as published in the **Federal Register** in 2014. *See Patents for Humanity Program,* 79 FR 18670 (Apr. 3, 2014), or visit *http://www.uspto.gov/patentsforhumanity* for details.

Dated: June 22, 2015.

Michelle K. Lee,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2015–15854 Filed 6–26–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2015–ICCD–0084]

Agency Information Collection Activities; Comment Request; Annual State Application Under Part B of the Individuals With Disabilities Education Act

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 [insert one of the following: An extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 28, 2015.

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–2015–ICCD–0084 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 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Rebecca Walawender, (202) 245–7399.

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: Annual State Application Under Part B of the Individuals with Disabilities Education Act.

OMB Control Number: 1820–0030.

Type of Review: an extension of an existing information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 60.

Total Estimated Number of Annual Burden Hours: 840.

Abstract: The Individuals with Disabilities Education Act, signed on December 3, 2004, became Public Law 108–446. In accordance with 20 U.S.C. 1412(a) a State is eligible for assistance under Part B for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the conditions found in 20 U.S.C. 1412. States will provide assurances that it either has or does not have in effect policies and procedures to meet the eligibility requirements of Part B of the Act as found in Public Law 108–446. Information Collection 1820–0030 corresponds with 34 CFR 300.100–176; 300.199; 300.640–645; and 300.705. These sections include the requirement that the Secretary and local educational agencies located in the State be notified of any State-imposed rule, regulation, or policy that is not required by this title and Federal regulations.

Dated: June 24, 2015.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–15857 Filed 6–26–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED2015–ICCD–0083]

Agency Information Collection Activities; Comment Request; Paul Douglas Teacher Scholarship Performance Report Form

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before August 28, 2015.

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–2015–ICCD–0083 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 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Darryl Davis, 202–502–7657.

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: Paul Douglas Teacher Scholarship Performance Report Form.

OMB Control Number: 1840–0787.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: State, Local, and Tribal Government.

Total Estimated Number of Annual Responses: 15.

Total Estimated Number of Annual Burden Hours: 180.

Abstract: The Paul Douglas Teacher Scholarship program was designed to issue grants to the states to provide scholarships to outstanding secondary school graduates who demonstrated an interest in teaching careers at the preschool, elementary, or secondary level. Although the program is no longer funded, the annual performance report is necessary to monitor and evaluate the compliance of the remaining state education agencies.

Dated: June 24, 2015.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–15834 Filed 6–26–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 15–25–LNG]

Venture Global Calcasieu Pass, LLC; Application for Long-Term, Multi-Contract Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations for a 25-Year Period

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on February 9, 2015, by Venture Global Calcasieu Pass, LLC (Calcasieu Pass), requesting long-term, multi-contract authorization to export liquefied natural gas (LNG) produced from domestic sources in a volume equivalent to approximately 132.8 billion cubic feet per year (Bcf/yr) of natural gas (0.36 Bcf/day). Calcasieu Pass seeks authorization to export the LNG by vessel from the proposed Venture Global Calcasieu Pass Project, a natural gas liquefaction and LNG export terminal to be located on the Calcasieu Ship Channel in Cameron Parish, Louisiana (Project). Calcasieu Pass requests authorization to export this LNG to any country with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries).[1] Calcasieu Pass states that the requested export volume (132.8 Bcf/yr) is incremental and therefore additive to the volume of LNG requested for export in its two non-FTA export applications currently pending in DOE/FE Docket Nos. 13–69–LNG and 14–88–LNG

[1] In the Application, Calcasieu Pass also requests authorization to export the same volume of LNG to any nation that currently has, or in the future may enter into, a FTA requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries). On June 17, 2015, DOE/FE granted that request in Order No. 3662 pursuant to NGA § 3(c), 15 U.S.C. 717b(c). *See Venture Global Calcasieu Pass, LLC,* DOE/FE Order No. 3662, FE Docket No. 15–25–LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Proposed Venture Global Calcasieu Pass LNG Project in Cameron Parish, Louisiana, to Free Trade Agreement Nations (June 17, 2015). Calcasieu Pass also holds two other long-term FTA export authorizations from DOE/FE, originally granted to Calcasieu Pass's predecessor, Venture Global LNG, LLC (Venture Global). In a notice issued on December 3, 2014, DOE/FE recognized that all rights and obligations under those orders transferred from Venture Global to Calcasieu Pass, following a corporate reorganization. *See id.* at 2–3.

(originally filed by Venture Global).[2] In the current Application, Calcasieu Pass requests the authorization for a 25-year term to commence on the earlier of the date of first export or seven years from the date the authorization is granted. Calcasieu Pass seeks to export this LNG on its own behalf and as agent for other entities who hold title to the LNG at the time of export. The Application was filed under section 3 of the Natural Gas Act (NGA). Additional details can be found in Calcasieu Pass's Application, posted on the DOE/FE Web site at: *http://energy.gov/sites/prod/files/2015/06/f23/15_25_lng.pdf.*

Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, August 28, 2015.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Larine Moore or Marc Talbert, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–7991

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9793

SUPPLEMENTARY INFORMATION:

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation, the U.S. balance of trade, and international considerations; and whether the authorization is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Additionally, DOE will consider the following environmental documents:

• *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014); [3] and

• *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014).[4]

Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Due to the complexity of the issues raised by the Applicant, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 15–25–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 15–25–LNG. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket

[2] Specifically, Calcasieu Pass asserts that the requested volume represents the difference between the potential peak liquefaction output of the Project (620 Bcf/yr of natural gas) and the total export quantity of LNG sought in its two pending non-FTA export applications (collectively, 487.2 Bcf/yr of natural gas).

[3] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[4] The Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on June 23, 2015.

John A. Anderson,

Director, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2015–15883 Filed 6–26–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 14–206–LNG]

Air Flow North America Corp.; Application for Long-Term, Multi-Contract Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Countries

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed by Air Flow North America Corp. (Air Flow), on December 16, 2014, and subsequently amended. In the Application, Air Flow requests long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) by use of approved ISO IMO7–TVAC–ASME LNG (ISO) containers transported on ocean-going carriers to any country located within South America, Central America, the Caribbean, or Africa with which the United States does not have a free trade agreement (FTA) that requires national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries). Air Flow seeks authorization to export the LNG on its own behalf in a volume equivalent to approximately 0.67 billion cubic feet (Bcf) per year of natural gas, or 0.002 Bcf per day. Air Flow states that it will obtain its LNG supplies from Clean Energy Fuel Corp. (Clean Energy), and seeks authorization to export the LNG by vessel from Clean Energy's existing LNG production facility located in Willis, Texas, which Air Flow states has the capability to load LNG onto trucks and ISO containers.[1] Air Flow states that the LNG would be loaded into its ISO containers; transported via trucks to a seaport in Houston, Texas; then exported by ocean-going cargo vessel from one or more ports in the Southeastern United States (including ports in Texas, Florida, and Louisiana). Air Flow also requests authorization to load at any other U.S. port that is now or in the future will be capable of loading ISO containers. Air Flow asks for the requested authorization to be effective on the date when the order is signed, and to extend until July 31, 2021.[2] The Application was filed under section 3(a) of the Natural Gas Act (NGA). Additional details can be found in Air Flow's Application, posted on the DOE/FE Web site at: *http://energy.gov/fe/downloads/air-flow-north-america-corp-fe-dkt-no-14-206-lng.*

Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, August 28, 2015.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Marc Talbert, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–7991.

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–9793.

SUPPLEMENTARY INFORMATION:

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation, the U.S. balance of trade, and international considerations; and whether the authorization is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Additionally, DOE will consider the following environmental document: *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014).[3] Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Due to the complexity of the issues raised by the Applicant, interested persons will be

[1] In an amendment to the Application filed on May 28, 2015, Air Flow provided additional information about the Clean Energy facility in Willis, Texas (also known as the Pickens Plant). According to Air Flow, the facility, built in 1994, produces 100,000 gallons of LNG per day, and is able to store 1 million gallons of LNG on site. It has one loading rack, allowing one truck to be loaded with LNG at a time, and up to 12 trucks loaded with LNG per day. *See* Air Flow North America Corp., Amendment, FE Docket No. 14–206–LNG (May 28, 2015) [Second Amendment].

[2] Air Flow requested this authorization period in an amendment to the Application filed on April 30, 2015, to ensure that the Application accurately reflects Air Flow's contract with Clean Energy. It supersedes the authorization period requested in the Application. *See* Air Flow North America Corp., Amendment, FE Docket No. 14–206–LNG (April 30, 2015) [First Amendment].

[3] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 14–206–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 14–206–LNG. **Please Note:** If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on June 23, 2015.

John A. Anderson,

Director, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2015–15882 Filed 6–26–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2492–013–Maine]

Woodland Pulp LLC; Notice of Availability of Draft Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for license for the Vanceboro Dam Storage Project, located on the East Branch of the St. Croix River Washington County, Maine, and has prepared a draft Environmental Assessment (EA) for the project. The project does not occupy any federal land.

The draft EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the draft EA is on file with the Commission and is available for public inspection. The draft EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice. Comments may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail comments to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2492–013.

FOR FURTHER INFORMATION CONTACT: Michael Watts at (202) 502–6123 or *michael.watts@ferc.gov.*

Dated: June 22, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15876 Filed 6–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR15–29–000]

Phillips 66 Carrier LLC; Notice of Petiton for Declaratory Order

Take notice that on June 19, 2015, pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(2)(2014), Phillips 66 Carrier LLC (Phillips 66) filed a petition requesting a declaratory order approving the overall tariff and service structure for the Cross-Channel Connector Project (The Project). The Project will reactivate, expand, and reconfigure existing assets to provide capacity to transport refined petroleum products across the Houston Ship Channel, which is part of the Port of Houston in Texas, all as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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 July 10, 2015.

Dated: June 23, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15875 Filed 6–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR15–28–000]

Kinder Morgan Cochin LLC., Notice of Petiton for Declaratory Order

Take notice that on June 19, 2015, pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(2)(2014), Kinder Morgan Cochin LLC (Kinder Morgan) filed a petition requesting a declaratory order approving the overall tariff and service structure for its proposed Utopia East system. The Utopia East system will transport ethane and ethane-propane mixtures from Harrison County, Ohio to the U.S.-Canada border near Detroit Michigan, to an interconnection with a Kinder Morgan affiliate, for ultimate delivery to Windsor, Ontario, all as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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 July 17, 2015.

Dated: June 23, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15874 Filed 6–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1952–000]

Pavant Solar LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Pavant Solar LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 13, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's

Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 23, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15872 Filed 6–26–15; 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 rate filings:

Docket Numbers: ER12–2250–001.

Applicants: Public Power & Utility of New Jersey, LL.

Description: Compliance filing per 35: Notice of Succession and Revised Market Based Rate Tariff to be effective 5/22/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5133.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER13–1928–005.

Applicants: Duke Energy Progress, Inc., Duke Energy Carolinas, LLC.

Description: Compliance filing per 35: Order No. 1000 Interregional—SERTP & MISO to be effective 1/1/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5071.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER13–1930–005.

Applicants: Louisville Gas and Electric Company.

Description: Compliance filing per 35: Order No 1000 Interregional Compliance Filing SERTP & MISO to be effective 1/1/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5137.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER13–1940–006.

Applicants: Ohio Valley Electric Corporation.

Description: Compliance filing per 35: M–2 Compliance Filing to be effective 1/1/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5155.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER13–1941–005.

Applicants: Alabama Power Company.

Description: Compliance filing per 35: Order No. 1000 Second Interregional Compliance Filing—SERTP–MISO Seam to be effective 1/1/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5149.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER14–1594–002; ER14–1596–002.

Applicants: Lone Valley Solar Park I LLC, Lone Valley Solar Park II LLC.

Description: Notice of Non-Material Change in Status of Lone Valley Solar Park I LLC, et. al.

Filed Date: 6/22/15.

Accession Number: 20150622–5128.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER15–1954–000.

Applicants: UNS Electric, Inc.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Concurrence to Gila River Ownership Agreement to be effective 11/25/2014.

Filed Date: 6/19/15.

Accession Number: 20150619–5169.

Comments Due: 5 p.m. ET 7/10/15.

Docket Numbers: ER15–1955–000.

Applicants: UNS Electric, Inc.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Concurrence to Interconnection Agreement to be effective 11/11/2013.

Filed Date: 6/19/15.

Accession Number: 20150619–5171.

Comments Due: 5 p.m. ET 7/10/15.

Docket Numbers: ER15–1956–000.

Applicants: PJM Interconnection, L.L.C., Pennsylvania Electric Company.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Penelec submits Engineering & Construction Service Agreement No. 4154 to be effective 6/11/2015.

Filed Date: 6/19/15.

Accession Number: 20150619–5186.

Comments Due: 5 p.m. ET 7/10/15.

Docket Numbers: ER15–1957–000.

Applicants: PJM Interconnection, L.L.C.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Original Service Agreement No. 4157; Queue No. #V1–024/025 to be effective 5/21/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5076.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER15–1958–000.

Applicants: Dynegy Resources Management, LLC.

Description: Baseline eTariff Filing per 35.1: Baseline Refile of Market-Based Rate Tariff to be effective 4/29/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5086.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER15–1959–000.

Applicants: New England Power Pool Participants Committee.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): June 22 2015 Membership Filing to be effective 6/23/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5126.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER15–1960–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–06–22_SA 2447 ITC Transmission-Detroit Edison 1st Rev GIA (J122/J325) to be effective 6/23/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5141.

Comments Due: 5 p.m. ET 7/13/15.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES15–36–000.

Applicants: Golden Spread Electric Cooperative, Inc.

Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of Golden Spread Electric Cooperative, Inc.

Filed Date: 6/19/15.

Accession Number: 20150619–5230.

Comments Due: 5 p.m. ET 7/10/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 22, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15868 Filed 6–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. Cp15–514–000; Pf14–23–000]

Columbia Gas Transmission, LLC; Notice of Application

Take notice that on June 8, 2015, Columbia Gas Transmission, LLC (Columbia), 5151 San Felipe, Suite 2500, Houston, Texas 77056, filed an application under sections 7(c) and 7(b) of the Natural Gas Act and Part 157 of the Commission's regulations requesting authorization to install construct, operate and abandon certain natural gas pipeline facilities for its Leach Xpress project consisting of: (1) Two natural gas greenfield pipelines; (ii) two natural gas pipeline loops; (iii) the abandonment in place of a segment of one existing natural gas pipeline; (iv) the construction of three greenfield compressor stations; (v) the construction of three compressor units and the abandonment of one compressor unit at an existing compressor station; and (vi) various appurtenant and auxiliary facilities. The proposed Leach Xpress project's pipeline facilities would total approximately 160.5 miles of pipe and add approximately 143,000 horsepower of compression to transport up to 1.5 Billion cubic feet per day of natural gas. Facilities to be constructed are located in Marshall and Wayne Counties, West Virginia, Greene County, Pennsylvania, and Monroe, Noble, Muskingum, Morgan, Perry Fairfield, Hocking, Jackson, Lawrence and Vinton Counties, Ohio, all as more fully described in the application.

The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, (202) 502–8659.

Any questions regarding the proposed project should be directed to Tyler R. Brown, Senior Counsel, Columbia Gas Transmission, LLC, 5151 San Felipe, Suite 2500, Houston, Texas 77056; telephone: 713–386–3797.

On October 9, 2014, the Commission staff granted Columbia's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF14–23–000 to staff activities involving the project. Now, as of the filing of this application on June 8, 2015, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP15–514–000, as noted in the caption of this Notice.

It appears that an expansion project which Columbia indicates may be proposed by its affiliate, Columbia Gulf Transmission, LLC, in the fall of 2015, the Rayne Xpress Certificated Capacity Increase Project (Rayne Express) may have some connection to Columbia's Leach Xpress Project. Until the details of the Rayne Xpress project are filed and more fully understood, the Commission cannot begin preparation of the Environmental Impact Statement (EIS) to comply with the NEPA of 1969. Within 90 days after the Commission issues a Notice of Application for the Rayne Xpress project, the Commission staff will issue a Notice of Schedule for Environmental Review that will indicate the anticipated date for the Commission's staff issuance of the final EIS analyzing both the Leach Xpress and Rayne XPress proposals. The issuance of a Notice of Schedule for Environmental Review will also serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's final EIS.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: July 13, 2015.

Dated: June 22, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15870 Filed 6–26–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–98–000.

Applicants: North Star Solar, LLC.

Description: Self-Certification of EG or FC of North Star Solar, LLC.

Filed Date: 6/23/15.

Accession Number: 20150623–5076.

Comments Due: 5 p.m. ET 7/14/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2331–031; ER14–630–008; ER10–2326–029; ER10–2330–030.

Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, Cedar Brakes I, L.L.C., Utility Contract Funding, L.L.C.

Description: Updated market power analysis for the Central Region of the JPMorgan Sellers.

Filed Date: 6/23/15.

Accession Number: 20150623–5061.

Comments Due: 5 p.m. ET 8/24/15.

Docket Numbers: ER13–1371–001.

Applicants: GP Big Island, LLC.

Description: Compliance filing per 35: compliance to 8202016 to be effective 6/24/2015.

Filed Date: 6/23/15.

Accession Number: 20150623–5007.

Comments Due: 5 p.m. ET 7/14/15.

Docket Numbers: ER13–1923–002.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing per 35: 2015–06–22_MISO_SERTP Order 1000 Compliance to be effective 1/1/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5185.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER15–1841–001.

Applicants: Panda Liberty LLC.

Description: Tariff Amendment per 35.17(b): Supplement to Market-Based Rate Application to be effective 7/17/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5195.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER15–1905–001.

Applicants: AZ721 LLC.

Description: Tariff Amendment per 35.17(b): Amendment to Market Based Rate to be effective 8/11/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5177.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER15–1961–000.

Applicants: L'Anse Warden Electric Company.

Description: Tariff Withdrawal per 35.15: Notice of Cancellation to be effective 6/23/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5188.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER15–1962–000.

Applicants: 67RK 8me LLC.

Description: Initial rate filing per 35.12 SFA to be effective 7/16/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5194.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER15–1963–000.

Applicants: 65HK 8me LLC.

Description: Initial rate filing per 35.12 SFA to be effective 7/16/2015.

Filed Date: 6/22/15.

Accession Number: 20150622–5199.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: ER15–1964–000.

Applicants: 87RL 8me LLC.

Description: Initial rate filing per 35.12 SFA to be effective 7/16/2015.

Filed Date: 6/23/15.

Accession Number: 20150623–5001.

Comments Due: 5 p.m. ET 7/14/15.

Docket Numbers: ER15–1965–000.

Applicants: Southwest Power Pool, Inc.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 1276R8 KCP&L NITSA NOA and Cancellation of 1765R11 KCPL–GMO to be effective 6/1/2015.

Filed Date: 6/23/15.

Accession Number: 20150623–5039.

Comments Due: 5 p.m. ET 7/14/15.

Docket Numbers: ER15–1966–000.

Applicants: PJM Interconnection, L.L.C.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Revisions to OATT Att K-Appendix and OA Schedule 1 re Lost Opportunity Cost to be effective 9/1/2015.

Filed Date: 6/23/15.

Accession Number: 20150623–5102.

Comments Due: 5 p.m. ET 7/14/15.

Docket Numbers: ER15–1967–000.

Applicants: Renaissance Power, L.L.C.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Reactive Rate Filing to be effective 1/21/2015.

Filed Date: 6/23/15.

Accession Number: 20150623–5106.

Comments Due: 5 p.m. ET 7/14/15.

Docket Numbers: ER15–1968–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–06–23_SA 2707 NSP-Odell Wind Farm 2nd Rev GIA (G826) to be effective 6/24/2015.

Filed Date: 6/23/15.

Accession Number: 20150623–5111.

Comments Due: 5 p.m. ET 7/14/15.

Docket Numbers: ER15–1969–000.

Applicants: NorthWestern Corporation.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Revised Rate Schedule 188—Colstrip 1 and 2 Transmission Agreement to be effective 9/1/2015.

Filed Date: 6/23/15.

Accession Number: 20150623–5112.

Comments Due: 5 p.m. ET 7/14/15.

Docket Numbers: ER15–1970–000.

Applicants: San Diego Gas & Electric Company.

Description: Initial rate filing per 35.12 System Impact Study Agreement, Service Agreement No. 51 to be effective 6/24/2015.

Filed Date: 6/23/15.

Accession Number: 20150623–5133.

Comments Due: 5 p.m. ET 7/14/15.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES15–37–000.

Applicants: Michigan Electric Transmission Company, LLC.

Description: Application under Section 204 of Michigan Electric Transmission Company, LLC.

Filed Date: 6/22/15.

Accession Number: 20150622–5200.

Comments Due: 5 p.m. ET 7/13/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 23, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15869 Filed 6–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–516–000]

El Paso Natural Gas Company, L.L.C.; Notice of Application

Take notice that on June 11, 2015, El Paso Natural Gas Company, L.L.C. (El Paso), filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations, for a certificate of public convenience and necessity to increase the certificated maximum reservoir pressure at its Washington Ranch Storage Field, located in Eddy County, New Mexico. This proposed higher

pressure will increase operational flexibility and allow El Paso to more fully use the existing certificated capacity of Washington Ranch. Further, El Paso is not proposing to change any other certificated physical parameters of its storage field and this proposal will not require any physical modifications to the Washington Ranch storage field facilities. The filing may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Francisco Tarin, Director, Regulatory Affairs Department, El Paso Natural Gas Company, L.L.C., P.O. Box 1087, Colorado Springs, Colorado 90944, call at (719) 667–7517, or email *EPNGregulatoryaffairs@elpaso.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: July 13, 2015.

Dated: June 22, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15871 Filed 6–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of NorthWestern Corporation, Deseret Generation & Transmission Cooperative, Inc., Portland General Electric Company, Idaho Power Company, and PacifiCorp:

Northern Tier Transmission Group Quarter 6 Stakeholder Meeting

June 30, 2015, 10:30 a.m.–2:30 p.m. (MDT)

The above-referenced meeting will be held at: Boise Airport Conference Center, 3201 Airport Way #1000, Boise, ID 83705.

The above-referenced meeting is open to stakeholders.

Further information may be found at *http://www.nttg.biz/site/.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. ER13–1448, *NorthWestern Corporation*

Docket No. ER13–1457, *Deseret Generation & Transmission Cooperative, Inc.*

Docket No. ER13–1463, *Portland General Electric Company*

Docket No. ER13–1467, *Idaho Power Company*

Docket No. ER13–1473, *PacifiCorp*

For more information, contact Natalie Propst, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8896 or *natalie.propst@ferc.gov.*

Dated: June 23, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15873 Filed 6–26–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0064; FRL–9929–77–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Steel Pickling, HCl Process Facilities and Hydrochloric Acid Regeneration Plants (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Steel Pickling, HCl Process Facilities and Hydrochloric Acid Regeneration Plants (40 CFR part 63, subpart CCC) (Renewal)'' (EPA ICR No. 1821.08, OMB Control No. 2060–0419) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through June 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before July 29, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0064, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: This rule applies to all facilities that pickle steel using hydrochloric acid or regenerate hydrochloric acid, and are major sources or are part of a facility that is a major source.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

Any owner/operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the United States Environmental Protection Agency (EPA) regional office.

Form Numbers: None.

Respondents/affected entities: Steel pickling, hydrochloric acid process and regeneration facilities.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 100 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 35,100 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $3,530,000 (per year), includes $10,600 annualized capital or operation & maintenance costs.

Changes in the Estimates: The increase in burden and cost from the most recently approved ICR is due to an adjustment. It is not due to any program changes. During the 2012 RTR, EPA did not add additional requirements, other than reporting performance test results through the WebFIRE interface if the test methods used are those supported by the Electronic Reporting Tool (ERT). However, we updated the estimated number of average number of respondents subject to Subpart CCC from 72 to 100. The increase in the number of facilities results in an overall increase in the respondent and Agency burden and in O&M costs.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–15796 Filed 6–26–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2014–0135; FRL–9929–85–OW]

Final Updated Ambient Water Quality Criteria for the Protection of Human Health

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) announces the final updated recommended ambient water quality criteria for the protection of human health for ninety-four chemical pollutants to reflect the latest scientific information and implementation of existing EPA policies found in *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (2000).* The EPA issued the draft updated human health criteria on May 13, 2014 and accepted written views from the public until August 13, 2014. The EPA prepared responses to those public comments. The EPA's recommended ambient water quality criteria for the protection of human health provide technical information for states and authorized tribes to establish water quality standards (*i.e.,* criteria) to protect human health under the Clean Water Act. These final 2015 updated section 304(a) human health criteria recommendations supersede EPA's previous recommendations.

FOR FURTHER INFORMATION CONTACT: Jamie Strong, Office of Water, Health

and Ecological Criteria Division (4304T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 566–0056; email address: *strong.jamie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How can I get copies of this document and other related information?

1. *Docket.* EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2014–0135; FRL–9929–85–OW. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically from the Government Publishing Office under the ''**Federal Register**'' listings at FDSys (*http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR).* EPA's final criteria documents for the ninety-four chemical pollutants, the response to views from the public on the draft criteria, and supporting information are also available on EPA's Web site *http://water.epa.gov/scitech/swguidance/standards/criteria/health/.*

II. What are EPA's recommended water quality criteria?

EPA's recommended water quality criteria are scientifically derived numeric values that EPA determines will generally protect aquatic life or human health from the adverse effects of pollutants in ambient water.

Section 304(a)(1) of the Clean Water Act (CWA) requires EPA to develop and publish and, from time to time, revise criteria for protection of water quality and human health that accurately reflect the latest scientific knowledge. Water quality criteria developed under section 304(a) are based solely on data and scientific judgments on the relationship between pollutant concentrations and environmental and human health effects. Section 304(a) criteria do not reflect consideration of economic impacts or the technological feasibility of meeting pollutant concentrations in ambient water.

EPA's recommended Section 304(a) criteria provide technical information for states and authorized tribes to consider and use in adopting water quality standards that ultimately provide the basis for assessing water body health and controlling discharges of pollutants into waters of the United States. Under the CWA and its implementing regulations, states and authorized tribes are required to adopt water quality criteria to protect designated uses (*e.g.,* public water supply, aquatic life, recreational use, or industrial use) and that are based on sound scientific rationale. EPA's recommended criteria do not substitute for the CWA or regulations, nor are they regulations themselves. Thus, EPA's recommended criteria do not impose legally binding requirements. States and authorized tribes have the discretion to adopt, where appropriate, other scientifically defensible water quality criteria that differ from these recommendations. Ultimately, however, such criteria must protect the designated use and be based on sound scientific rationale.

III. Information on EPA's 2015 final updated human health criteria

EPA announces the availability of final updated national recommended water quality criteria for the protection of human health for ninety-four chemical pollutants. These revisions are based on EPA's existing methodology for deriving human health criteria in *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health* (2000) (EPA–822–B–00–004, October 2000). The methodology describes EPA's approach for deriving national recommended water quality criteria for the protection of human health. Table 1 presents the updated human health criteria for ninety-four chemical pollutants.

TABLE 1—REVISED HUMAN HEALTH WATER QUALITY CRITERIA

Pollutant	CAS No.	Human health water quality criteria for the consumption of	
		Water + organism (μg/L)	Organism only (μg/L)
1,1,1-Trichloroethane	71–55–6	10,000	200,000
1,1,2,2-Tetrachloroethane	79–34–5	0.2	3
1,1,2-Trichloroethane	79–00–5	0.55	8.9
1,1-Dichloroethylene	75–35–4	300	20,000
1,2,4,5-Tetrachlorobenzene	95–94–3	0.03	0.03
1,2,4-Trichlorobenzene	120–82–1	0.071	0.076
1,2-Dichlorobenzene	95–50–1	1,000	3,000
1,2-Dichloroethane	107–06–2	9.9	650
1,2-Dichloropropane	78–87–5	0.90	31
1,2-Diphenylhydrazine	122–66–7	0.03	0.2
1,3-Dichlorobenzene	541–73–1	7	10
1,3-Dichloropropene	542–75–6	0.27	12
1,4-Dichlorobenzene	106–46–7	300	900
2,4,5-Trichlorophenol	95–95–4	300	600
2,4,6-Trichlorophenol	88–06–2	1.5	2.8
2,4-Dichlorophenol	120–83–2	10	60
2,4-Dimethylphenol	105–67–9	100	3,000
2,4-Dinitrophenol	51–28–5	10	300
2,4-Dinitrotoluene	121–14–2	0.049	1.7
2-Chloronaphthalene	91–58–7	800	1,000
2-Chlorophenol	95–57–8	30	800
2-Methyl-4,6-Dinitrophenol	534–52–1	2	30

TABLE 1—REVISED HUMAN HEALTH WATER QUALITY CRITERIA—Continued

Pollutant	CAS No.	Human health water quality criteria for the consumption of	
		Water + organism (μg/L)	Organism only (μg/L)
3,3′-Dichlorobenzidine	91–94–1	0.049	0.15
3-Methyl-4-Chlorophenol	59–50–7	500	2,000
Acenaphthene	83–32–9	70	90
Acrolein	107–02–8	3	400
Acrylonitrile	107–13–1	0.061	7.0
Aldrin	309–00–2	0.00000077	0.00000077
alpha-Hexachlorocyclohexane (HCH)	319–84–6	0.00036	0.00039
alpha-Endosulfan	959–98–8	20	30
Anthracene	120–12–7	300	400
Benzene	71–43–2	0.58–2.1	16–58
Benzidine	92–87–5	0.00014	0.011
Benzo(a)anthracene	56–55–3	0.0012	0.0013
Benzo(a)pyrene	50–32–8	0.00012	0.00013
Benzo(b)fluoranthene	205–99–2	0.0012	0.0013
Benzo(k)fluoranthene	207–08–9	0.012	0.013
beta-Hexachlorocyclohexane (HCH)	319–85–7	0.0080	0.014
beta-Endosulfan	33213–65–9	20	40
Bis(2-Chloro-1-Methylethyl) Ether	108–60–1	200	4,000
Bis(2-Chloroethyl) Ether	111–44–4	0.030	2.2
Bis(2-Ethylhexyl) Phthalate	117–81–7	0.32	0.37
Bis(Chloromethyl) Ether	542–88–1	0.00015	0.017
Bromoform	75–25–2	7.0	120
Butylbenzyl Phthalate	85–68–7	0.10	0.10
Carbon Tetrachloride	56–23–5	0.4	5
Chlordane	57–74–9	0.00031	0.00032
Chlorobenzene	108–90–7	100	800
Chlorodibromomethane	124–48–1	0.80	21
Chloroform	67–66–3	60	2,000
Chlorophenoxy Herbicide (2,4–D)	94–75–7	1,300	12,000
Chlorophenoxy Herbicide (2,4,5–TP) [Silvex]	93–72–1	100	400
Chrysene	218–01–9	0.12	0.13
Cyanide	57–12–5	4	400
Dibenzo(a,h)anthracene	53–70–3	0.00012	0.00013
Dichlorobromomethane	75–27–4	0.95	27
Dieldrin	60–57–1	0.0000012	0.0000012
Diethyl Phthalate	84–66–2	600	600
Dimethyl Phthalate	131–11–3	2,000	2,000
Di-n-Butyl Phthalate	84–74–2	20	30
Dinitrophenols	25550–58–7	10	1,000
Endosulfan Sulfate	1031–07–8	20	40
Endrin	72–20–8	0.03	0.03
Endrin Aldehyde	7421–93–4	1	1
Ethylbenzene	100–41–4	68	130
Fluoranthene	206–44–0	20	20
Fluorene	86–73–7	50	70
gamma-Hexachlorocyclohexane (HCH)	58–89–9	4.2	4.4
Heptachlor	76–44–8	0.0000059	0.0000059
Heptachlor Epoxide	1024–57–3	0.000032	0.000032
Hexachlorobenzene	118–74–1	0.000079	0.000079
Hexachlorobutadiene	87–68–3	0.01	0.01
Hexachlorocyclohexane (HCH)-Technical	608–73–1	0.0066	0.010
Hexachlorocyclopentadiene	77–47–4	4	4
Hexachloroethane	67–72–1	0.1	0.1
Indeno(1,2,3-cd)pyrene	193–39–5	0.0012	0.0013
Isophorone	78–59–1	34	1,800
Methoxychlor	72–43–5	0.02	0.02
Methyl Bromide	74–83–9	100	10,000
Methylene Chloride	75–09–2	20	1,000
Nitrobenzene	98–95–3	10	600
Pentachlorobenzene	608–93–5	0.1	0.1
Pentachlorophenol	87–86–5	0.03	0.04
Phenol	108–95–2	4,000	300,000
p,p′-Dichlorodiphenyldichloroethane (DDD)	72–54–8	0.00012	0.00012
p,p′-Dichlorodiphenyldichloroethylene (DDE)	72–55–9	0.000018	0.000018
p,p′-Dichlorodiphenyltrichloroethane (DDT)	50–29–3	0.000030	0.000030
Pyrene	129–00–0	20	30
Tetrachloroethylene (Perchloroethylene)	127–18–4	10	29
Toluene	108–88–3	57	520

TABLE 1—REVISED HUMAN HEALTH WATER QUALITY CRITERIA—Continued

Pollutant	CAS No.	Human health water quality criteria for the consumption of	
		Water + organism (μg/L)	Organism only (μg/L)
Toxaphene	8001–35–2	0.00070	0.00071
trans-1,2-Dichloroethylene (DCE)	156–60–5	100	4,000
Trichloroethylene (TCE)	79–01–6	0.6	7
Vinyl Chloride	75–01–4	0.022	1.6

The revision of these criteria is a systematic update of EPA's national recommended human health criteria. EPA previously described its process for publishing revised criteria [see National Recommended Water Quality Criteria—Correction (64 FR 19781; or EPA–822–Z–99–001) or the **Federal Register** Notice for EPA's 2000 Methodology (65 FR 66444)]. EPA updated the human health criteria using externally peer-reviewed information sources.

On May 13, 2014, EPA announced the availability of the draft updated human health criteria in the **Federal Register** notice ''Updated National Recommended Water Quality Criteria for the Protection of Human Health'' (79 FR 27303) and announced that written views would be accepted from the public until July 14, 2014. In response to stakeholder requests, on June 23, 2014, EPA announced in the **Federal Register** (79 FR 35545) an extension of the public comment period for an additional 30 days, until August 13, 2014. EPA reviewed and considered all public comments received and prepared responses to those comments.

EPA developed chemical-specific science documents for each of the ninety-four chemical pollutants. These documents detail the latest scientific information supporting the final human health criteria, particularly the updated toxicity and exposure input values. A fact sheet and a summary of updated input parameters (*e.g.,* health toxicity values, bioaccumulation factors) used to derive the final updated criteria are provided. All these documents, including EPA's responses to views received during the comment period, are available on EPA's Web site at *http://water.epa.gov/scitech/swguidance/standards/criteria/health/.*

IV. What is the relationship between EPA's 2015 final updated human health criteria and state or tribal water quality standards?

Section 303(a)–(c) of the CWA requires states and authorized tribes to adopt water quality standards for their waters. As part of the water quality standards triennial review process set forth in section 303(c) of the CWA, states and authorized tribes are required to review and revise, if appropriate, their water quality standards at least once every three years.

States and authorized tribes must adopt water quality criteria that protect designated uses. 40 CFR 131.11(a)(1). Criteria must be based on a sound scientific rationale and contain sufficient parameters or constituents to protect the designated uses. Id. Criteria may be expressed in either narrative or numeric form. EPA's regulations provide that states and authorized tribes should adopt numeric water quality criteria based on:

(1) EPA's recommended section 304(a) criteria; or

(2) EPA's recommended section 304(a) criteria modified to reflect site-specific conditions; or

(3) Other scientifically defensible methods. (40 CFR 131.11(b)).

It is important for states and authorized tribes to consider any new or updated section 304(a) recommended criteria as part of their triennial review process to ensure that state or tribal water quality criteria reflect sound science and protect applicable designated uses. EPA recently proposed revisions to its water quality standards regulations that would, if finalized without substantive change, require states during their triennial reviews to consider new or updated section 304(a) recommended criteria and, if they do not adopt new or revised criteria for such pollutants, provide an explanation to EPA and the public as to why the state did not do so. These final updated section 304(a) human health criteria recommendations supersede EPA's previous recommendations.

Dated: June 22, 2015.

Kenneth J. Kopocis,

Deputy Assistant Administrator, Office of Water.

[FR Doc. 2015–15912 Filed 6–26–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

June 25, 2015.

TIME AND DATE: 10:00 a.m., Thursday, July 9, 2015.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Newtown Energy, Inc.,* Docket No. WEVA 2011–283 (Issues include whether the Administrative Law Judge erred by concluding that the violation in question was not significant and substantial and was not the result of an unwarrantable failure to comply.).

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Sarah Stewart,

Deputy General Counsel.

[FR Doc. 2015–16049 Filed 6–25–15; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the

notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 8, 2015.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Bobbi Lynn Blanton-Wilson, Bronston, Kentucky;* to join the previously approved Wilson family control group and acting in concert with the group, to control more than 10 percent of First Bancorp, Inc., and thereby control the Frist National Bank of Russell Springs, both of Russell Springs, Kentucky. The Wilson family control group consists of Ms. Blanton-Wilson, James Terill Wilson, Bronston, Kentucky; James T. Wilson, Jr., Sarah Wilson, James Terill Wilson IRA, James T. Wilson, Jr. Trust, Sarah Wilson Trust, James T. Wilson, Jr. Investment Trust, Sarah Wilson Investment Trust, all of Bronston, Kentucky, and Terry S. Wilson, Russell Springs, Kentucky.

Board of Governors of the Federal Reserve System, June 19, 2015.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2015–15830 Filed 6–26–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 14, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Athens Bancshares Corporation,* Athens, Tennessee; a savings and loan holding company, to become a bank holding company upon the conversion of its savings and loan subsidiary, Athens Federal Community Bank, Athens, Tennessee, to a commercial bank.

Board of Governors of the Federal Reserve System, June 18, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–15829 Filed 6–26–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 23, 2015.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Olympic Bancorp, Inc.,* Port Orchard, Washington; to merge with Puget Sound Financial Services, Inc., and thereby indirectly acquire Fife Commercial Bank, both of Fife, Washington.

Board of Governors of the Federal Reserve System, June 23, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–15798 Filed 6–26–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 13, 2015.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Gerald Lee Reiter, New London, Stanley Glenn Lilleberg, Atwater; Keith Gerard Bangasser, Spicer; Andrew Joseph Steil, St. Cloud, Dennis Alvin Kamstra Nisswa, Joseph Leo Reiter, Willmar; Kristen Janet Nelson, Spicer; and Thomas J. Nelson, Woodbury, all of Minnesota as a group acting in concert to acquire voting common stock of First BancShares, Inc. of Cold Spring, Cold*

Spring, MN (''Company''), and thereby indirectly acquire control of Granite Community Bank, Cold Spring, Minnesota. In addition, Gerald Lee Reiter and Stanley Glenn Lilleberg; each intend to individually acquire voting common stock of Company.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *David J. Warnemunde and David D. Warnemunde,* both of Madison, Nebraska; as members of the Warnemunde family group acting in concert, to acquire control of Madison County Financial, Inc., parent of Madison County Bank, both in Madison, Nebraska.

Board of Governors of the Federal Reserve System, June 23, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–15799 Filed 6–26–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 24, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Hamilton State Bancshares, Inc.,* Hoschton, Georgia; to merge with Highland Financial Services, Inc., and thereby indirectly acquire Highland Commercial Bank, both in Marietta, Georgia.

Board of Governors of the Federal Reserve System, June 24, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–15839 Filed 6–26–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer, Nuha Elmaghrabi, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer, Shagufta Ahmed, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW.,Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:

1. Report title: Recordkeeping Requirements Associated with Changes in Foreign Investments (Made Pursuant to Regulation K).

Agency form number: FR 2064.

OMB Control number: 7100–0109.

Frequency: On-occasion.

Reporters: State member banks, Edge Act and agreement corporations, and bank holding companies.

Estimated annual reporting hours: 160 hours.

Estimated average hours per response: 2 hours.

Number of respondents: 20.

General description of report: The recordkeeping requirements of this information collection are mandatory under section 5(c) of the BHC Act (12 U.S.C. 1844(c)); sections 7 and 13(a) of the International Banking Act of 1978 (12 U.S.C. 3105 and 3108(a)); section 25 of the Federal Reserve Act (FRA) (12 U.S.C. 601–604a); section 25A of the FRA (12 U.S.C. 611–631); and Regulation K (12 CFR 211.8(c)–211.10(a)). Since the Federal Reserve does not collect any records, no issue of confidentiality under the Freedom of Information Act (FOIA) arises. FOIA will only be implicated if the Federal Reserve's examiners retain a copy of the records in their examination or supervision of the institution, and would be exempt from disclosure pursuant to FOIA (5 U.S.C. 552(b)(4), (b)(6), and (b)(8)).

Abstract: Internationally active U.S banking organizations are required to maintain adequate internal records that demonstrate compliance with the investment provisions contained in subpart A of International Banking Operations (Regulation K). For each investment made under subpart A of Regulation K, internal records should be maintained regarding the type of investment, for example, equity (voting shares, nonvoting shares, partnerships, interests conferring ownership rights, participating loans), binding commitments, capital contributions, and subordinated debt; the amount of the investment; the percentage ownership; activities conducted by the company and the legal authority for such activities; and whether the investment was made under general consent, prior notice, or specific consent authority. With respect to investments made under general consent authority, information also must be maintained that demonstrates compliance with the various limits set out in section 211.9 of Regulation K.

2. Report title: Microeconomic Survey.

Agency form number: FR 3051.

OMB control number: 7100–0321.

Frequency: Annually and monthly, as needed.

Reporters: Individuals, households, and financial and non-financial businesses.

Estimated annual reporting hours: Annual survey, 6,000 hours; Monthly survey, 18,000 hours.

Estimated average hours per response: Annual survey, 60 minutes; Monthly survey, 30 minutes.

Number of respondents: Annual survey, 6,000; Monthly survey, 3,000.

General description of report: This information collection is voluntary and is authorized by sections 2A and 12A of the Federal Reserve Act (12 U.S.C. 225A and 263). If needed, the Federal Reserve can make this survey mandatory for Federal Reserve regulated institutions under section 9 of the Federal Reserve Act (12 U.S.C. 324) for state member banks; section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) for bank holding companies and their subsidiaries; sections 25 and 25(A) of the Federal Reserve Act (12 U.S.C. 602 and 625) for Edge and agreement corporations; and section 7(c)(2) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(2)) for U.S. branches and agencies of foreign banks.

If the FR 3051 survey information is collected with a pledge of confidentiality for exclusively statistical purposes under Confidential Information Protection and Statistical Efficiency Act (CIPSEA), the information may not be disclosed by the Federal Reserve (or its contractor) in identifiable form, except with the informed consent of the respondent (CIPSEA 512(b), codified in notes to 44 U.S.C. 3501). Such information is therefore protected from disclosure under exemption 3 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(3)). If a CIPSEA pledge is made, either by the Federal Reserve or by its contractor, the Federal Reserve must safeguard the information as required by CIPSEA and OMB guidance.

If the FR 3051 survey information is not being collected under CIPSEA, the ability of the Federal Reserve to maintain the confidentiality of information provided by respondents will have to be determined on a case-by-case basis and depends on the type of information provided for a particular survey. In circumstances where identifying information is provided to the Federal Reserve, such information could possibly be protected from disclosure by FOIA exemptions 4 and 6.

Abstract: The Federal Reserve implemented this event-driven survey in 2009 and uses it to obtain information specifically tailored to the Federal Reserve's supervisory, regulatory, operational, and other responsibilities. The Federal Reserve can conduct the FR 3051 up to 13 times per year (annual survey and another survey on a monthly basis). The frequency and content of the questions depend on changing economic, regulatory, or legislative developments.

3. Report title: Recordkeeping and Disclosure Provisions associated with Stress Testing Guidance.

Agency form number: FR 4202.

OMB control number: 7100–0348.

Frequency: On-occasion.

Reporters: State member banks, bank holding companies, and all other institutions for which the Federal Reserve is the primary federal supervisor.

Estimated annual reporting hours: Recordkeeping, 18,000 hours; Disclosure, 8,000 hours.

Estimated average hours per response: Recordkeeping, 180 hours; Disclosure, 80 hours.

Number of respondents: Recordkeeping, 100; Disclosure, 100.

General description of report: This information collection is voluntary and is authorized pursuant to sections 11(a), 11(i), 25, and 25A of the Federal Reserve Act (12 U.S.C. 248(a), 248(i), 602, and 611), section 5 of the Bank Holding Company Act (12 U.S.C. 1844), and section 7(c) of the International Banking Act (12 U.S.C. 3105(c)). To the extent the Federal Reserve collects information during an examination of a banking organization, confidential treatment may be afforded to the records under exemptions 4 and 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4) and (8)).

Abstract: The interagency guidance outlines high-level principles for stress testing practices, applicable to all Federal Reserve-supervised, FDIC-supervised, and OCC-supervised banking organizations [1] with more than $10 billion in total consolidated assets. In developing a stress testing framework and in carrying out stress tests, banking organizations [2] should understand and clearly document all assumptions, uncertainties, and limitations, and provide that information to users of the stress testing results. To ensure proper governance over the stress testing framework, banking organizations should develop and maintain written policies and procedures.

Board of Governors of the Federal Reserve System, June 24, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–15843 Filed 6–26–15; 8:45 am]

BILLING CODE 6210–01–P

[1] The agencies that were party to the rulemaking were the Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

[2] For purposes of this guidance, the term ''banking organization'' means national banks and Federal branches and agencies supervised by the OCC; state member banks, bank holding companies, and all other institutions for which the Federal Reserve is the primary federal supervisor; and state nonmember insured banks and other institutions supervised by the FDIC.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–15PI]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or

by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Extended Evaluation of the National Tobacco Prevention and Control Public Education Campaign—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In 2012, the Centers for Disease Control and Prevention (CDC) launched the first federally funded, national mass media campaign to educate consumers about the adverse health consequences of tobacco use (the National Tobacco Prevention and Control Public Education Campaign, or ''The Campaign''). The Campaign continued in 2013 and 2014 with advertisements known as ''Tips From Former Smokers.'' Activities for Phase 3 of the campaign are ongoing. To assess the impact of The Campaign in Phases 1–3, CDC obtained OMB approval to conduct a series of longitudinal surveys for smokers and nonsmokers (OMB No. 0920–0923, exp. 3/31/2017).

New media activities for Phase 4 of The Campaign launched in March 2015. To support evaluation of Phase 4 of The Campaign, CDC plans to field 4 new waves of information collection. The surveys will be fielded in English and Spanish and will occur during late 2015 and throughout 2016. Once enrolled in the first wave of data collection, all participants will be re-contacted for follow-up.

The sample for the data collection will originate from two sources: (1) An online longitudinal cohort of smokers and nonsmokers, sampled randomly from postal mailing addresses in the United States (address-based sample, or ABS); and (2) the existing GfK KnowledgePanel, an established long-term online panel of U.S. adults. The ABS-sourced longitudinal cohort will consist of smokers and nonsmokers who have not previously participated in any established online panels to reduce potential panel conditioning bias from previous participation. The new cohort will be recruited by GfK, utilizing similar recruitment methods that are used in the recruitment of KnowledgePanel. The GfK KnowledgePanel will be used in combination with the new ABS-sourced cohort to support larger sample sizes that will allow for more in-depth subgroup analysis, which is a key objective for CDC. All online surveys, regardless of sample source, will be conducted via the GfK KnowledgePanel Web portal for self-administered surveys.

Information will be collected through Web surveys to be self-administered on computers in the respondent's home or in another convenient location. Information will be collected about smokers' and nonsmokers' awareness of and exposure to specific campaign advertisements; knowledge, attitudes, beliefs related to smoking and secondhand smoke; and other marketing exposure. The surveys will also measure behaviors related to smoking cessation (among the smokers in the sample) and behaviors related to nonsmokers' encouragement of smokers to quit smoking, recommendations of cessation services, and attitudes about other tobacco and nicotine products.

It is important to evaluate The Campaign in a context that assesses the dynamic nature of tobacco product marketing and uptake of various tobacco products, particularly since these may affect successful cessation rates. Survey instruments may be updated to include new or revised items on relevant topics, including cigars, noncombustible tobacco products, and other emerging trends in tobacco use.

Participation is voluntary and there are no costs to respondents other than their time. The total estimated annualized burden hours are 15,584.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
General Population	Screening & Consent Questionnaire	25,000	1	5/60
Adults Smokers and Nonsmokers, ages 18–54, in the United States.	Smoker Survey (Wave A)	6,500	1	30/60
	Smoker Survey (Wave B)	4,000	1	30/60
	Smoker Survey (Wave C)	4,000	1	30/60
	Smoker Survey (Wave D)	4,000	1	30/60
	Nonsmoker Survey (Wave A)	2,500	1	30/60
	Nonsmoker Survey (Wave B)	2,000	1	30/60
	Nonsmoker Survey (Wave C)	2,000	1	30/60
	Nonsmoker Survey (Wave D)	2,000	1	30/60

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–15831 Filed 6–26–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–15UX]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the

burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Surveillance Data Collections for Ebola Virus Disease in West Africa—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The outbreak of Ebola virus disease (EVD) in West Africa began March 10, 2014. The initial cases were from southern Guinea, near its rural border with Liberia and Sierra Leone. Highly mobile populations contributed to increasing waves of person-to-person transmission of EVD that occurred in multiple countries in West Africa. The Centers for Disease Control and Prevention (CDC) Emergency Operations Center (EOC) was activated on July 9, 2014, to help coordinate technical assistance and control activities and to deploy teams of public health experts to the affected countries. CDC established key public health surveillance and medical treatment objectives in collaboration with West African Ministries of Health, the World Health Organization (WHO), and other key partners.

CDC information collections for EVD case and contact surveillance were previously approved under ''2014 Emergency Response to Ebola in West Africa'' (OMB Control No. 0920–1033, expiration date 4/30/2015). The CDC used such expedited and emergency Paperwork Reduction Act (PRA) clearance procedures to initiate urgently needed information collections in affected countries. These procedures allowed the agency to accomplish its mission on many fronts to quickly prevent public harm, illness, and death from the uncontrolled spread of EVD. As new knowledge about potential routes of Ebola transmission was encountered during case surveillance activities, forms for sexual transmission were developed and are included as part of this information collection effort.

The main goal of this information collection request (ICR) is to receive and maintain Paperwork Reduction Act (PRA) clearance in advance of any Ebola outbreak in West Africa. The CDC seeks to gain a three-year approval to continue the current, and to initiate any new Ebola surveillance data collections without delay. Because it is impossible to predict when and where a new Ebola outbreak may occur, we estimate time burden based on population estimates of 21 countries in the West Africa region. Therefore, CDC provides data collection forms that will be readily available in English, French, Portuguese, and Arabic translations.

There are no costs to the respondents other than their time. The total annualized time burden requested is 428,750 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
General Public	Viral Hemorrhagic Fever Case Investigation Short Form (English).	15,476	1	10/60
General Public	Viral Hemorrhagic Fever Case Investigation Short Form (French).	10,122	1	10/60
General Public	Viral Hemorrhagic Fever Case Investigation Short Form (Portuguese).	176	1	10/60
General Public	Viral Hemorrhagic Fever Case Investigation Short Form (Arabic).	1,226	1	10/60
General Public	Viral Hemorrhagic Fever Case Investigation Form (English)	1,720	1	20/60
General Public	Viral Hemorrhagic Fever Case Investigation Form (French)	1,125	1	20/60
General Public	Viral Hemorrhagic Fever Case Investigation Form (Portuguese).	19	1	20/60
General Public	Viral Hemorrhagic Fever Case Investigation Form (Arabic) ..	136	1	20/60
General Public	Viral Hemorrhagic Fever Contact Listing Form (English)	171,960	1	15/60
General Public	Viral Hemorrhagic Fever Contact Listing Form (French)	112,470	1	15/60
General Public	Viral Hemorrhagic Fever Contact Listing Form (Portuguese)	1,950	1	15/60
General Public	Viral Hemorrhagic Fever Contact Listing Form (Arabic)	13,620	1	15/60
General Public	Viral Hemorrhagic Fever Contact Tracing Follow-Up Form (English).	171,960	1	63/60
General Public	Viral Hemorrhagic Fever Contact Tracing Follow-Up Form (French).	112,470	1	63/60
General Public	Viral Hemorrhagic Fever Contact Tracing Follow-Up Form (Portuguese).	1,950	1	63/60
General Public	Viral Hemorrhagic Fever Contact Tracing Follow-Up Form (Arabic).	13,620	1	63/60
General Public	Ebola Virus Disease Case Contact Questionnaire (English)	171,960	1	5/60
General Public	Ebola Virus Disease Case Contact Questionnaire (French)	112,470	1	5/60
General Public	Ebola Virus Disease Case Contact Questionnaire (Portuguese).	1,950	1	5/60
General Public	Ebola Virus Disease Case Contact Questionnaire (Arabic) ..	13,620	1	5/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
General Public	Ebola Outbreak Response Sexual Transmission Adult Case Investigation Form (English).	3,439	1	30/60
General Public	Ebola Outbreak Response Sexual Transmission Adult Case Investigation Form (French).	2,249	1	30/60
General Public	Ebola Outbreak Response Sexual Transmission Adult Case Investigation Form (Portuguese).	39	1	30/60
General Public	Ebola Outbreak Response Sexual Transmission Adult Case Investigation Form (Arabic).	273	1	30/60
Healthcare Workers or Proxy	Healthcare Worker Ebola Virus Disease Exposure Report—West Africa (CDC–WHO) (English).	2,455	1	30/60
Healthcare Workers or Proxy	Healthcare Worker Ebola Virus Disease Exposure Report—West Africa (CDC–WHO) (French).	1,687	1	30/60
Healthcare Workers or Proxy	Healthcare Worker Ebola Virus Disease Exposure Report—West Africa (CDC–WHO) (Portuguese).	29	1	30/60
Healthcare Workers or Proxy	Healthcare Worker Ebola Virus Disease Exposure Report—West Africa (CDC–WHO) (Arabic).	204	1	30/60
Healthcare Workers or Proxy	Healthcare Worker Ebola Virus Investigation Questionnaire (Liberia).	52	1	30/60
Healthcare Workers or Proxy	Healthcare Worker Ebola Virus Disease Exposure Report (Sierra Leone).	73	1	30/60
Healthcare Workers or Proxy	Health Facility Assessment and Case Finding Survey (English).	3,439	1	30/60
Healthcare Workers or Proxy	Health Facility Assessment and Case Finding Survey (French).	2,249	1	30/60
Healthcare Workers or Proxy	Health Facility Assessment and Case Finding Survey (Portuguese).	39	1	30/60
Healthcare Workers or Proxy	Health Facility Assessment and Case Finding Survey (Arabic).	273	1	30/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–15832 Filed 6–26–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.568]

Reallotment of Federal Fiscal Year 2014 Funds for the Low Income Home Energy Assistance Program (LIHEAP)

AGENCY: Office of Community Services, ACF, HHS.

ACTION: Notice of determination concerning funds available for reallotment.

SUMMARY: Notice is hereby given of a preliminary determination that funds from the Federal Fiscal Year (FY) 2014 Low Income Home Energy Assistance Program (LIHEAP) are available for reallotment to states, territories, tribes, and tribal organizations that receive FY 2015 direct LIHEAP grants. No subgrantees or other entities may apply for these funds. Section 2607(b)(1) of the Low Income Home Energy Assistance Act (the Act), (42 U.S.C. 8626(b)(1)) requires that, if the Secretary of the U.S. Department of Health and Human Services (HHS) determines that, as of September 1 of any fiscal year, an amount in excess of 10 percent of the amount awarded to a grantee for that fiscal year (excluding Leveraging, REACH, and reallotted funds) will not be used by the grantee during that fiscal year, then the Secretary must notify the grantee and publish a notice in the **Federal Register** that such funds may be reallotted to LIHEAP grantees during the following fiscal year. If reallotted, the LIHEAP block grant allocation formula will be used to distribute the funds. No funds may be allotted to entities that are not direct LIHEAP grantees during FY 2015.

DATES: The comment period expires July 29, 2015.

FOR FURTHER INFORMATION CONTACT: Lauren Christopher, Director, Division of Energy Assistance, Office of Community Services, 370 L'Enfant Promenade SW., Washington, DC 20447; telephone (202) 401–4870; email: *lauren.christopher@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: It has been determined that $4,352,881 may be available for reallotment during FY 2015. This determination is based on carryover and reallotment reports from West Virginia; Pueblo of Laguna; Delaware Tribe of Indians; Colorado River Indian Tribes of the Colorado River Indian Reservation; Five Sandoval Indian Pueblos, Inc.; and Kodiak Area Native Association, which were submitted to the Office of Community Services (OCS) as required by regulations applicable to LIHEAP at 45 CFR 96.82.

The statute allows grantees who have funds unobligated at the end of the fiscal year for which they are awarded to request that they be allowed to carry over up to 10 percent of their allotments to the next fiscal year. Funds in excess of this amount must be returned to HHS and are subject to reallotment under section 2607(b)(1) of the Act (42 U.S.C. 8626(b)(1)). The amount described in this notice was reported as unobligated FY 2014 funds in excess of the amount that these grantees could carry over to FY 2015.

OCS notified each of the grantees and confirmed that the FY 2014 funds indicated in the chart may be reallotted. In accordance with section 2607(b)(3) of the Act (42 U.S.C. 8626(b)(3)), comments will be accepted for a period of 30 days from the date of publication

of this notice. Comments may be submitted to: Jeannie L. Chaffin, Director, Office of Community Services, 370 L'Enfant Promenade SW., 5th Floor—West, Washington, DC 20447.

After considering any comments submitted, the Chief Executive Officers will be notified of the final reallotment amount. This decision will be published in the **Federal Register**.

If funds are reallotted, they will be allocated in accordance with section 2604 of the Act (42 U.S.C. 8623) and must be treated by LIHEAP grantees receiving them as an amount appropriated for FY 2015. As FY 2015 funds, they will be subject to all requirements of the Act, including section 2607(b)(2) (42 U.S.C. 8626(b)(2)), which requires that a grantee obligate at least 90 percent of its total block grant allocation for a fiscal year by the end of the fiscal year for which the funds are appropriated, that is, by September 30, 2015.

ESTIMATED REALLOTMENT AMOUNTS OF FY 2014 LIHEAP FUNDS

Grantee name	FY 2014 reallotment amount
Pueblo of Laguna	$27,708
Delaware Tribe of Indians	8,841
Colorado River Indian Tribes of the Colorado River Indian Reservation	12,667
Five Sandoval Indian Pueblos, Inc	13,243
Kodiak Area Native Association	1,070
West Virginia	4,289,352
Total	4,352,881

Statutory Authority: 42 U.S.C. 8626.

Mary M. Wayland,

Senior Grants Policy Specialist, Office of Administration, Division of Grants Policy.

[FR Doc. 2015–15859 Filed 6–26–15; 8:45 am]

BILLING CODE 4184–80–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Grants to States for Access and Visitation.

OMB No.: 0970–0204.

Description: On an annual basis, States must provide OCSE with data on programs that the Grants to States for Access and Visitation Program has funded. These program reporting requirements include, but are not limited to, the collection of data on the number of parents served, types of services delivered, program outcomes, client socio economic data, referrals sources, and other relevant data.

Respondents: State Child Access and Visitation Programs and State and/or Local Service Providers.

ANNUAL BURDEN ESTIMATES

Instrument: State and Local Child Access Program Survey	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Part I: 54 states/jurisdictions	54	1	16	864
Part II: 300 local service grantees (estimated)	331	1	16	5296

Estimated Total Annual Burden Hours: 6,160.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–15889 Filed 6–26–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–2104]

Assessment of Radiofrequency-Induced Heating in the Magnetic Resonance Environment for Multi-Configuration Passive Medical Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Assessment of Radiofrequency-Induced Heating in the Magnetic Resonance (MR) Environment for Multi-Configuration Passive Medical Devices.'' The purpose of this guidance is to provide an assessment paradigm for radiofrequency (RF)-induced heating on, or near, multi-component, or multi-configuration, passive medical devices in the magnetic resonance environment. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by August 28, 2015.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Assessment of Radiofrequency-Induced Heating in the Magnetic Resonance (MR) Environment for Multi-Configuration Passive Medical Devices'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug

Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Wolfgang Kainz, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 62, Rm. 1129, Silver Spring, MD 20993–0002, 301–661–7595.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance to provide an assessment paradigm for RF-induced heating on or near multi-component or multi-configuration passive medical devices in the MR environment. During MR scanning, applied RF excitation pulses induce currents that can cause heating of electrically conductive materials. RF-induced heating of medical devices made with conductive materials may lead to patient burns. To minimize the risk of patient burns during MR scanning, sponsors should comprehensively assess devices in all configurations and combinations. However, multi-component passive devices, such as orthopedic fixation devices, may permit a very large number of possible device configurations and combinations of individual components. Testing all possibilities may be impracticable and unnecessary. This draft guidance provides an approach to identify a manageable number of device configurations or combinations for the testing of RF-induced heating in the MR environment. Additionally, this draft guidance provides recommendations on how to assess RF-induced device heating for multi-configuration passive medical devices.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the assessment of RF-induced heating of multi-component, or multi-configuration, passive medical devices in the MR environment. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Assessment of Radiofrequency-Induced Heating in the Magnetic Resonance (MR) Environment for Multi-Configuration Passive Medical Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500001 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231.

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: June 23, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–15833 Filed 6–26–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Publication of the Revised Guidebook for the National Practitioner Data Bank (NPDB)

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice.

SUMMARY: The National Practitioner Data Bank (NPDB) announces the release of the revised user Guidebook. The NPDB is a confidential information clearinghouse created by Congress and intended to facilitate a comprehensive review of the professional credentials of health care practitioners, entities, and suppliers. The Guidebook is the primary policy document explaining the statutes and regulations behind and operation of the NPDB. It serves as an essential reference for NPDB users, offering reporting and querying examples, explanations, definitions, and frequently asked questions. The new Guidebook incorporates legislative and regulatory changes adopted since its last edition, including the NPDB's merger with the Healthcare Integrity and Protection Data Bank.

In November 2013, the Health Resources and Services Administration (HRSA) released a draft Guidebook to the public for review and comment by NPDB stakeholders and other interested parties. It announced the draft Guidebook's availability in the **Federal Register**. HRSA received more than 360 separate comments, consisting of analyses of issues raised by the draft Guidebook. The NPDB carefully studied all comments received, and many led to detailed analyses of how NPDB explains its policies to its audiences. The final Guidebook is now available at *www.npdb.hrsa.gov* and replaces previous Guidebooks.

FOR FURTHER INFORMATION CONTACT: Ernia P. Hughes, MBA, Director of the Division of Practitioner Data Bank, Bureau of Health Workforce, Health Resources and Services Administration at: *NPDBPolicy@hrsa.gov* or 301–443–2300.

Dated: June 18, 2015.

James Macrae,

Acting Administrator.

[FR Doc. 2015–15802 Filed 6–26–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 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 Child Health and Human Development Special Emphasis Panel; ''IDDRC''.

Date: July 16–17, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Marita R. Hopmann, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–9304, (301) 435–6911, *hopmannm@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 23, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15817 Filed 6–26–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public 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 Environmental Health Sciences, 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, NIEHS.

Date: July 26–28, 2015.

Closed: July 26, 2015, 7:00 p.m. to 10:00 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: July 27, 2015, 8:30 a.m. to 11:50 a.m.

Agenda: Scientific Presentations.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: July 27, 2015, 11:50 a.m. to 1:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Open: July 27, 2015, 1:30 p.m. to 3:00 p.m.

Agenda: Poster Session.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: July 27, 2015, 3:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Open: July 27, 2015, 3:45 p.m. to 5:25 p.m.

Agenda: Scientific Presentations.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: July 27, 2015, 5:25 p.m. to 5:55 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: July 27, 2015, 6:15 p.m. to 10:00 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: July 28, 2015, 8:30 a.m. to 10:10 a.m.

Agenda: Scientific Presentations.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: July 28, 2015, 10:10 a.m. to 10:40 a.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Open: July 28, 2015, 10:55 a.m. to 11:45 a.m.

Agenda: Scientific Presentations.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: July 28, 2015, 11:45 a.m. to 1:00 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Open: July 28, 2015, 1:00 p.m. to 2:30 p.m.

Agenda: Poster Session.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: July 28, 2015, 2:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Open: July 28, 2015, 3:15 p.m. to 4:00 p.m.

Agenda: Scientific Presentations.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: July 28, 2015, 4:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Darryl C. Zeldin, Scientific Director & Principal Investigator, Division of Intramural Research, National Institute of Environmental Health Sciences, NIH, 111 T.W. Alexander Drive, Maildrop A2–09, Research Triangle Park, NC 27709, 919–541–1169, *zeldin@niehs.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: June 23, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15818 Filed 6–26–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Anti Infective Therapeutics.

Date: July 20–21, 2015.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Alexandria, 1900 Diagonal Road, Alexandria-Old Town, VA 22314.

Contact Person: Neerja Kaushik-Basu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198 MSC 7808, Bethesda, MD 20892, (301) 435–2306, *kaushikbasun@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Diabetes and Obesity Topics.

Date: July 20, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Antonello Pileggi, MD, Scientific Review Officer, Center for Scientific Review, National Institute of Heath, 6701 Rockledge Drive, Room 6166, Bethesda, MD 20892–7892, (301) 402–6297, *pileggia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering Sciences and Technologies: AREA Review.

Date: July 23, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Nancy Templeton, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7849, Bethesda, MD 20892, 301–408–9694, *templetonns@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Developing Paradigm-Shifting Innovations for in vivo Human Placental Assessment in Response to Environmental Influences.

Date: July 27–28, 2015.

Time: 10:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, Genes, Genomes, and Genetics IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, MSC 7890, Bethesda, MD 20892, 301–435–2514, *riverase@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR15–041: Targeting Persistent HIV Reservoirs (TAPHIR).

Date: July 28, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Oral and Dental Sciences.

Date: July 28, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maria Nurminskaya, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–1222, *nurminskayam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Basic Research on HIV Persistence.

Date: July 29, 2015.

Date: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Kenneth A Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR13–038: Opportunities for Collaborative Research at the NIH Clinical Center (U01).

Date: July 29, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodegeneration, Aging and Aging-Related Processes.

Date: July 29, 2015.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jay Joshi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 408–9135, *joshij@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 23, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15819 Filed 6–26–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 07, 2015, 12:00 p.m. to July 09, 2015, 05:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on June 10, 2015, 80 FR 111 pg. 32968.

The meeting date has changed to July 8–9, 2015 starting at 8:00 a.m. and ending at 6:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: June 23, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15820 Filed 6–26–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 16, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Alabama:					
Montgomery (FEMA Docket No.: B–1468).	City of Montgomery (15–04–0121P).	The Honorable Todd Strange, Mayor, City of Montgomery, P.O. Box 1111, Montgomery, AL 36104.	City Hall, 103 North Perry Street, Montgomery, AL 36104.	April 6, 2015	010174
Shelby (FEMA Docket No.: B–1468).	City of Pelham (14–04–9726P).	The Honorable Gary Waters, Mayor, City of Pelham, 3162 Pelham Parkway, Pelham, AL 35124.	City Hall, 3162 Pelham Parkway, Pelham, AL 35124.	April 9, 2015	010193
California:					
Colusa (FEMA Docket No.: B–1468).	Unincorporated areas of Colusa County (14–09–4391P).	The Honorable Kimberly Dolbow Vann, Chair, Colusa County Board of Supervisors, 546 Jay Street, Colusa, CA 95932.	Colusa County Department of Public Works, 1215 Market Street, Colusa, CA 95932.	April 9, 2015	060022
Sacramento (FEMA Docket No.: B–1468).	Unincorporated areas of Sacramento County (14–09–1646P).	The Honorable Jimmie R. Yee, Chairman, Sacramento County Board of Supervisors, 700 H Street, Suite 2450, Sacramento, CA 95814.	Sacramento County Department of Water Resources, 827 7th Street, Suite 301, Sacramento, CA 95814.	April 2, 2015	060262

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Santa Clara (FEMA Docket No.: B–1468).	Town of Los Altos Hills (15–09–0041P).	The Honorable John Radford, Mayor, Town of Los Altos Hills, 26379 Fremont Road, Los Altos Hills, CA 94022.	Public Works Department, 26379 Fremont Road, Los Altos Hills, CA 94022.	April 2, 2015	060342
Florida:					
Charlotte (FEMA Docket No.: B–1468).	Unincorporated areas of Charlotte County (14–04–A501P).	The Honorable Ken Doherty, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Suite 536, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18500 Murdock Circle, Port Charlotte, FL 33948.	April 13, 2015	120061
Miami-Dade (FEMA Docket No.: B–1468).	City of Sunny Isles Beach (14–04–A336P).	The Honorable Norman S. Edelcup, Mayor, City of Sunny Isles Beach, 18070 Collins Avenue, Sunny Isles Beach, FL 33160.	City Hall, 18070 Collins Avenue, Sunny Isles Beach, FL 33160.	April 13, 2015	120688
Sarasota (FEMA Docket No.: B–1468).	Unincorporated areas of Sarasota County (14–04–7975P).	The Honorable Charles D. Hines, Chairman, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Zoning Administration Center, 400 South Tamiami Trail, Venice, FL 34293.	April 6, 2015	125144
Georgia: Columbia (FEMA Docket No.: B–1468).	Unincorporated areas of Columbia County (14–04–A219P).	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Columbia County Stormwater Utility Department, 630 Ronald Reagan Drive, Building B, 2nd Floor, Evans, GA 30809.	April 9, 2015	130059
New Jersey: Somerset (FEMA Docket No.: B–1468).	Township of Bridgewater (14–02–2373P).	The Honorable Daniel J. Hayes, Mayor, Township of Bridgewater, 100 Commons Way, Bridgewater, NJ 08807.	Department of Code Enforcement, 700 Garretson Road, Bridgewater, NJ 08807.	April 9, 2015	340432
North Carolina:					
Henderson (FEMA Docket No.: B–1474).	City of Hendersonville (14–04–A582P).	The Honorable Barbara Volk, Mayor, City of Hendersonville, 145 5th Avenue East, Hendersonville, NC 28792.	Zoning Department, 100 North King Street, Hendersonville, NC 28792.	April 22, 2015	370128
Transylvania (FEMA Docket No.: B–1474).	City of Brevard (14–04–A625P).	The Honorable Jimmy Harris, Mayor, City of Brevard, 95 West Main Street, Brevard, NC 28712.	Planning Department, 95 West Main Street, Brevard, NC 28712.	April 7, 2015	370231
Union (FEMA Docket No.: B–1468).	Town of Indian Trail (14–04–A516P).	The Honorable Michael Alvarez, Mayor, Town of Indian Trail, P.O. Box 2430, Indian Trail, NC 28079.	Engineering Department, 130 Blythe Drive, Indian Trail, NC 28079.	Mar. 30, 2015	370235
Union (FEMA Docket No.: B–1468).	Unincorporated Areas of Union County (14–04–A516P).	The Honorable Richard Helms, Chairman, Union County Board of Commissioners, 500 North Main Street, Room 921, Monroe, NC 28112.	Union County Planning Department, 500 North Main Street, Monroe, NC 28112.	Mar. 30, 2015	370234
South Carolina: Beaufort (FEMA Docket No.: B–1468).	Town of Bluffton (14–04–5124P).	The Honorable Lisa Sulka, Mayor, Town of Bluffton, 20 Bridge Street, Bluffton, SC 29910.	Growth Management Customer Service Center, 20 Bridge Street, Bluffton, SC 29910.	April 13, 2015	450251

[FR Doc. 2015–15807 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown

and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 16, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Connecticut: New Haven, (FEMA Docket No.: B–1439).	Town of Branford (14–01–0158P)	The Honorable James B. Cosgrove, First Selectman, Town of Branford, 10919 Main Street, Branford, CT 06405.	Town Hall, 1019 Main Street, Branford, CT 06405.	December 12, 2014	090073
Illinois: Adams, (FEMA Docket No.: B–1439).	City of Quincy (14–05–4520P)	The Honorable Kyle Moore, Mayor, City of Quincy, 730 Maine Street, Quincy, IL 62301.	City Hall, 730 Maine Street, Quincy, IL 62301.	December 19, 2014	170003
Illinois: Adams, (FEMA Docket No.: B–1439).	Unincorporated Areas of Adams County (14–05–4520P)	The Honorable Les Post, Chairman, Adams County, 101 North 54th Street, Quincy, IL 62305.	Adams County Highway Department, 101 North 54th Street, Quincy, IL 62305.	December 19, 2014	170001
Maine: Hancock, (FEMA Docket No.: B–1439).	Town of Deer Isle (14–01–1320P)	The Honorable Neville Hardy, First Selectman, Town of Deer Isle, 70 Church Street, Deer Isle, ME 04627.	Town Hall, 70 Church Street, Deer Isle, ME 04627.	November 20, 2014	230280
Massachusetts: Bristol, (FEMA Docket No.: B–1439).	Town of Dartmouth (14–01–1022P)	The Honorable Shawn D. McDonald, Select Board Member, Town of Dartmouth, 400 Slocum Road, Dartmouth, MA 02747.	400 Slocum Road, Dartmouth, MA 02747.	December 19, 2014	250051
Washington: King, (FEMA Docket No.: B–1439).	City of Shoreline (14–10–0909P)	The Honorable Keith McGlashan, Mayor, City of Shoreline, 17500 Midvale Avenue North, Shoreline, WA 98133.	17500 Midvale Avenue North, Shoreline, WA 98133.	December 15, 2014	530327
Wisconsin:					
Brown, (FEMA Docket No.: B–1439).	Unincorporated Areas of Brown County (14–05–2566P)	Mr. Troy Streckenbach, County Executive, Brown County, 305 East Walnut Street, Green Bay, WI 54305.	305 East Walnut Street, Green Bay, WI 54305.	December 10, 2014	550020
Brown, (FEMA Docket No.: B–1439).	Unincorporated Areas of Brown County (14–05–3376P)	Mr. Troy Streckenbach, County Executive, Brown County, 305 East Walnut Street, Green Bay, WI 54305.	305 East Walnut Street, Green Bay, WI 54305.	December 5, 2014	550020
Brown, (FEMA Docket No.: B–1439).	Village of Wrightstown (14–05–3375P)	Mr. Dean Erickson, Village President, Village of Wrightstown, 352 High Street, Wrightstown, WI 54180.	Village Hall, 352 High Street, Wrightstown, WI 54180.	December 5, 2014	550025
Outagamie, (FEMA Docket No.: B–1439).	Unincorporated Areas of Outagamie County (14–05–3375P)	Mr. Thomas M. Nelson, County Executive, Outagamie County, 410 South Walnut Street, Appleton, WI 54911.	410 South Walnut Street, Appleton, WI 54911.	December 5, 2014	550302

[FR Doc. 2015–15823 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2015–0009; OMB No. 1660–0083]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Application for Community Disaster Loan (CDL) Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before July 29, 2015.

ADDRESSES: 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 Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472–3100, or email address *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Application for Community Disaster Loan (CDL) Program.

Type of information collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0083.

Form Titles and Numbers: FEMA Form 090–0–1, Certification of Eligibility for Community Disaster Loans; FEMA Form 116–0–1, Promissory Note; FEMA Form 085–0–1, Local Government Resolution—Collateral Security; FEMA Form 090–0–2, Application for Community Disaster Loan.

Abstract: The loan package for the CDL Program provides Local and Tribal governments that have suffered substantial loss of tax or other revenues as a result of a major disaster or emergency, the opportunity to obtain financial assistance in order to perform their governmental functions. The loan must be justified on the basis of need and actual expenses.

Affected Public: State, local or Tribal Government.

Estimated Number of Respondents: 50.

Estimated Total Annual Burden Hours: 975 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $61,705.00. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $1,010,692.92.

Dated: June 19, 2015.

Janice Waller,

Acting Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2015–15810 Filed 6–26–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 16, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Alaska: Fairbanks-North Star Borough, (FEMA Docket No.: B–1465).	Fairbanks-North Star Borough, (14–10–1677P).	The Honorable Luke Hopkins, Mayor, Fairbanks-North Star Borough, 809 Pioneer Road, Fairbanks, AK 99701.	809 Pioneer Road, Fairbanks, AK 99701	April 15, 2015	025009
Indiana: Lake, (FEMA Docket No.: B–1465).	City of Hammond (15–05–0234P).	The Honorable Thomas M. McDermott, Jr., Mayor, City of Hammond, 5925 Calumet Avenue, Hammond, IN 46320.	5925 Calumet Avenue, Hammond, IN 46320.	April 1, 2015	180134
Iowa: Washington, (FEMA Docket No.: B–1465).	City of Kalona (14–07–2178P).	The Honorable Ken Herington, Mayor, City of Kalona, 511 C Avenue, Kalona, IA 52247.	511 C Avenue, Kalona, IA 52247	April 10, 2015	190601
Kansas:					
Harvey, (FEMA Docket No.: B–1465).	City of Sedgwick (14–07–2492P).	The Honorable Rodney Eggleston, Mayor, City of Sedwick, 511 North Commercial, Sedgwick, KS 67135.	511 North Commercial, Sedgwick, KS 67135.	April 10, 2015	200134
Harvey, (FEMA Docket No.: B–1465).	Unincorporated Areas of Harvey County (14–07–2492P).	The Honorable Ron Krehbiel, 3rd District Commissioner, Harvey County, 800 North Main Street, Newton, KS 67114.	800 North Main Street, Newton, KS 67114.	April 10, 2015	200585
Sedgwick., (FEMA Docket No.: B–1465).	Unincorporated Areas of Sedgwick County (14–07–2492P).	The Honorable James Skelton, 5th District Commissioner Sedgwick County, 525 North Main #320, Wichita, KS 67203.	525 North Main #320, Wichita, KS 67203	April 10, 2015	200321
Wyandotte, (FEMA Docket No.: B–1465).	City of Kansas City (14–07–2400P).	The Honorable Mark R. Holland, Mayor, City of Kansas City, 701 North 7th Street, Suite 926, Kansas City, KS 66101.	701 North 7th Street, Suite 926, Kansas City, KS 66101.	April 21, 2015	200363
Washington:					
Whitman, (FEMA Docket No.: B–1465).	Town of Oakesdale (14–10–0693P).	The Honorable Dennis Palmer, Mayor, Town of Oakesdale, 105 North First Street, Oakesdale, WA 99158.	105 North First Street, Oakesdale, WA 99158.	April 3, 2015	530210
Washington: Whitman, (FEMA Docket No.: B–1465).	Unincorporated Areas of Whitman County (14–10–0693P).	The Honorable Art Swannack, Whitman County District 1 Commissioner, 400 North Main Street, Colfax, WA 99111.	400 North Main Street, Colfax, WA 99111	April 3, 2015	530205
Wisconsin:					
Dane, (FEMA Docket No.: B–1465).	Unincorporated Areas of Dane County (14–05–6985P).	The Honorable Joe Parisi, Executive, Dane County, 210 Martin Luther King Jr. Boulevard, Madison, WI 53703.	210 Martin Luther King Jr. Boulevard, Madison, WI 53703.	April 16, 2015	550077
Dane, (FEMA Docket No.: B–1465).	Village of Cross Plains (14–05–6985P).	The Honorable Pat Andreoni, President, Village Of Cross Plains, 3041 Creekside Way, Cross Plains, WI 53528.	3041 Creekside Way, Cross Plains, WI 53528.	April 16, 2015	550081

[FR Doc. 2015–15813 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0029]

Public Assistance Policy on Insurance, FP 206–086–1

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This document provides notice of the availability of the final policy *Public Assistance Policy on Insurance.* The Federal Emergency Management Agency (FEMA) published a notice of availability and request for comment for the proposed policy on October 8, 2014 at 79 FR 60861.

DATES: This policy is effective June 29, 2015.

ADDRESSES: The final policy is available online at *http://www.regulations.gov* and on FEMA's Web site at *http://www.fema.gov.* The proposed and final policy, all related **Federal Register** notices, and all public comments received during the comment period are available at *http://regulations.gov* under Docket ID FEMA–2014–0029. You may also view a hard copy of the final policy at the Office of Chief Counsel, FEMA, 8NE, 500 C St. SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Deana Platt, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472–3160, 202–646–3642.

SUPPLEMENTARY INFORMATION: This policy addresses insurance under FEMA's Public Assistance program. FEMA has revised the policy based on public comments received, and is now issuing a final policy. The policy does not have the force or effect of law.

Authority: 42 U.S.C. 4012a, 4106, 5154, 5155, 5172, 5189, and 5189f; 44 CFR 206.250, 206.251, 206.252, 206.253.

Dated: June 23, 2015.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–15835 Filed 6–26–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 16, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
California: San Bernardino, (FEMA Docket No.: B–1425).	City of Chino (14–09–2136P)	The Honorable Dennis Yates, Mayor, City of Chino, 13220 Central Avenue, Chino, CA 91710.	13220 Central Avenue, Chino, CA 91710.	November 3, 2014	060272
Iowa:					
Bremer, (FEMA Docket No.: B–1425).	City of Waverly (13–07–0864P)	The Honorable Bob Brunkhorst, Mayor, City of Waverly, 200 First Street NE., P.O. Box 616, Waverly, IA 50677.	200 First Street NE., Waverly, IA 50677.	October 24, 2014	190030
Bremer, (FEMA Docket No.: B–1425).	Unincorporated Areas of Bremer County (13–07–0864P)	The Honorable Tim Niel, Chairman, Bremer County Board of Supervisors, 415 East Bremer Avenue, Waverly, IA 50677.	415 East Bremer Avenue, Waverly, IA 50677.	October 24, 2014	190847
Missouri: Jefferson, (FEMA Docket No.: B–1425).	Unincorporated Areas of Jefferson County (14–07–1157P)	Mr. Ken Walker, County Executive, Jefferson County, 729 Maple Street, Suite G30, Hillsboro, MO 63050.	Jefferson County Administration Center, 729 Maple Street, Hillsboro, MO 63050.	October 24, 2014	290808
Pennsylvania:					
Susquehanna, (FEMA Docket No.: B–1425).	Borough of Thompson (13–03–2723P)	Mr. Mark Carmody, President of Council, Borough of Thompson, P.O. Box 89, Thompson, PA 18465.	P.O. Box 89, Thompson, PA 18465.	October 30, 2014	422582
Pennsylvania:					
Susquehanna, (FEMA Docket No.: B–1425).	Township of Thompson (13–03–2723P)	Mr. Richard Wademan, Supervisor, Township of Thompson, P.O. Box 89, Thompson, PA 18465.	P.O. Box 89, Thompson, PA 18465.	October 30, 2014	422583

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Wisconsin: Pierce, (FEMA Docket No.: B–1425).	Unincorporated Areas of Pierce County (14–05–2976P)	Mr. Jeff Holst, Chair, Pierce County Board of Supervisors, 414 West Main Street, Ellsworth, WI 54011.	414 West Main Street, Ellsworth, WI 54011.	October 23, 2014	555571

[FR Doc. 2015–15812 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1522]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 16, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Florida: Bay	Unincorporated areas of Bay County (15–04–1287P).	The Honorable Robert Majka, Jr., Bay County Manager, 840 West 11th Street, Panama City, FL 32401.	Bay County Government Offices, 707 Jenks Avenue, Suite B, Panama City, FL 32401.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	120004

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Charlotte	Unincorporated areas of Charlotte County (15–04–3689P).	The Honorable Bill Truex, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18500 Murdock Circle, Port Charlotte, FL 33948.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	120061
Collier	City of Naples (15–04–4054P).	The Honorable John Sorrey, III, 735 Eighth Street South, Naples, FL 34102.	City Hall, 735 Eighth Street South, Naples, FL 34102.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	125130
Lee	Unincorporated areas of Lee County (14–04–5866P).	The Honorable Brian Hamman, Chairman, Lee County, Board of Commissioners, P.O. Box 398, Fort Myers, FL 33902.	Lee County Community Development Department, 1500 Monroe Street, 2nd Floor, Fort Myers, FL 33901.	*http://www.msc.fema.gov/lomc.*	August 20, 2015	125124
Monroe	City of Key West (15–04–1481P).	The Honorable Craig Cates, Mayor, City of Key West, 3126 Flagler Avenue, Key West, FL 33040.	Planning Department, 605A Simonton Street, Key West, FL 33040.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	120168
Monroe	Unincorporated Areas of Monroe County (15–04–2314P).	The Honorable Danny Kolhage, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Department of Planning & Environmental Resources, 2798 Overseas Highway, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc.*	August 21, 2015	125129
Monroe	Unincorporated Areas of Monroe County (15–04–2332P).	The Honorable Danny Kolhage, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Department of Planning & Environmental Resources, 2798 Overseas Highway, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	125129
Monroe	Unincorporated Areas of Monroe County (15–04–2377P).	The Honorable Danny Kolhage, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Department of Planning & Environmental Resources, 2798 Overseas Highway, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	125129
Monroe	Unincorporated Areas of Monroe County (15–04–2859P).	The Honorable Danny Kolhage, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Department of Planning & Environmental Resources, 2798 Overseas Highway, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	125129
Orange	City of Orlando (15–04–1669P).	The Honorable Buddy Dyer, Mayor, City of Orlando, City Hall, 400 South Orange Avenue, Orlando, FL 32802.	City Hall, 400 South Orange Avenue, Orlando, FL 32802.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	120186
Orange	City of Orlando (15–04–4657X).	The Honorable Buddy Dyer, Mayor, City of Orlando, City Hall, 400 South Orange Avenue, Orlando, FL 32802.	City Hall, 400 South Orange Avenue, Orlando, FL 32802.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	120186
St. Johns	Unincorporated areas of St. Johns County (15–04–2346P).	The Honorable Rachael L. Bennett, Chair, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	Administration Building, 4040 Lewis Speedway, St. Augustine, FL 32084.	*http://www.msc.fema.gov/lomc.*	August 25, 2015	125147
South Carolina: Oconee.	Unincorporated areas of Oconee County (15–04–2201P).	Mr. T. Scott Moulder, Oconee County Administrator, 415 South Pine Street, Walhalla, SC 29691.	Oconee County Administrator, 415 South Pine Street, Walhalla, SC 29691.	*http://www.msc.fema.gov/lomc.*	August 21, 2015	450157
Texas:						
Dallas	City of Carrollton (15–06–1351P).	Mr. Leonard Martin, Manager, City of Carrollton, 1945 East Jackson Road, Carrollton, TX 75006.	Engineering Department, 1945 East Jackson Road, Carrollton, TX 75006.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	480167
Harris	Unincorporated areas of Harris County (15–06–0175P).	The Honorable Edward M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*http://www.msc.fema.gov/lomc.*	August 26, 2015	480287
Tarrant	City of Fort Worth (14–06–3506P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	City Hall, 1000 Throckmorton Street, Fort Worth, TX 76102.	*http://www.msc.fema.gov/lomc.*	August 3, 2015 ..	480596

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Walker	City of Huntsville (14–06–3819P).	The Honorable Mac Woodward, Mayor, City of Huntsville, 1212 Avenue M, Huntsville, TX 77340.	Engineering Department, 448 State Highway 75 North, Huntsville, TX 77340.	*http://www.msc.fema.gov/lomc.*	August 27, 2015	480639
Utah:						
Salt Lake	City of West Jordan (14–08–1329P).	The Honorable Kim V. Rolfe, Mayor, City of West Jordan, 8000 South Redwood Road, West Jordan, UT 84088.	City Hall, 8000 South Redwood Road, West Jordan, UT 84088.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	490108
Weber	City of North Ogden (14–08–1297P).	The Honorable Brent Taylor, Mayor, City of North Ogden, 505 East 2600 North, North Ogden, UT 84414.	City Hall, 505 East 2600 North, North Ogden, UT 84414.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	490214
Weber	Unincorporated areas of Weber County (14–08–1297P).	The Honorable Kerry Gibson, Chairman, Weber County Commission, 2380 Washington Boulevard, Suite 360, Ogden, UT 84401.	Weber County Government Building, 2380 Washington Boulevard, Ogden, UT 84401.	*http://www.msc.fema.gov/lomc.*	August 24, 2015	490187

[FR Doc. 2015–15822 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 16, 2015.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
California:					
Orange, (FEMA Docket No.: B–1430).	City of Seal Beach (14–09–2974P)	The Honorable Gordon A. Shanks, Mayor, City of Seal Beach, 211 8th Street, Seal Beach, CA 90740.	211 8th Street, Seal Beach, CA 90740.	November 28, 2014	060233
Orange, (FEMA Docket No.: B–1430).	Unincorporated Areas of Orange County (14–09–2974)	Mr. Michael B. Giancola, Executive Officer, Orange County, 333 West Santa Ana Boulevard, Santa Ana, CA 92701.	300 North Flower St., Santa Ana, CA 92703.	November 28, 2014	060212
Connecticut: Litchfield, (FEMA Docket No.: B–1430).	Town of New Milford (14–01–0106P)	The Honorable Patricia A. Murphy, Mayor, Town of New Milford, 10 Main Street, New Milford, CT 06776.	Town Hall, 10 Main Street, New Milford, CT 06776.	November 24, 2014	090049
Indiana:					
Adams, (FEMA Docket No.: B–1430).	Town of Geneva (13–05–6773P)	The Honorable Richard Clutters, Town Council President, Town of Geneva, 411 East Line Street, Geneva, IN 46740.	411 East Line Street, Geneva, IN 46740.	November 20, 2014	180002
Adams, (FEMA Docket No.: B–1430).	Unincorporated Areas of Adams County (13–05–6773P)	The Honorable Doug Bauman, Commissioner, Adams County, 2510 West State Road 116, Geneva, IN 46740.	112 South Second Street, Decatur, IN 46733.	November 20, 2014	180424
Boone, (FEMA Docket No.: B–1430).	Town of Zionsville (14–05–3105P)	Mr. Jeff Papa, Town Council President, Town of Zionsville, 1100 West Oak Street, Zionsville, IN 46077.	Town Hall, 1100 West Oak Street, Zionsville, IN 46077.	December 4, 2014	180016
Minnesota: Polk, (FEMA Docket No.: B–1430).	City of Crookston (13–05–7394P)	The Honorable David W. Genereux, Mayor, City of Crookston, 124 North Broadway, Crookston, MN 56716.	City Hall, 124 North Broadway, Crookston, MN 56716.	November 14, 2014	270364
Wisconsin:					
Kenosha, (FEMA Docket No.: B–1430).	City of Kenosha (14–05–2047P)	The Honorable Keith G. Bosman, Mayor, City of Kenosha, 625 52nd Street, Room 300, Kenosha, WI 53140.	625 52nd Street, Room 308, Kenosha, WI 53140.	November 4, 2014	550209
Ozaukee, (FEMA Docket No.: B–1430).	City of Mequon (14–05–4216P)	The Honorable Dan Abendroth, Mayor, City of Mequon, 11333 North Cedarburg Road, Mequon, WI 53092.	11333 North Cedarburg Road, Mequon, WI 53092.	November 28, 2014	555564

[FR Doc. 2015–15811 Filed 6–26–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–34]

30-Day Notice of Proposed Information Collection: Home Equity Conversion Mortgage (HECM) Counseling Standardization and Roster

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: July 29, 2015.*

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 March 25, 2015 at 80 FR 15804.

A. Overview of Information Collection

Title of Information Collection: Home Equity Conversion Mortgage (HECM) Counseling Standardization and Roster.

OMB Approval Number: 2502–0586.

Type of Request: Extension without change of a currently approved collection.

Form Numbers: HUD–92904.

Description of the need for the information and proposed use: Extension of currently approved collection to maintain current HUD approved HECM counselor roster in FHA Connection. Counseling is required for all borrowers seeking to obtain an HUD insured Home Equity Conversion Mortgage.

Respondents: Individual or household.

Estimated Number of Respondents: 205.

Estimated Number of Responses: 605.

Frequency of Response: On occasion.

Average Hours per Response: 1.4.

Total Estimated Burdens: 851.

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: June 24, 2015.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–15900 Filed 6–26–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[156D0102DM DLSN00000.000000 DS61200000 DX61201]

Agency Information Collection Activities: Renewal; Comment Request; OMB ID 1090–0011—DOI Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Department of the Interior.

ACTION: 30-Day notice of submission of information collection to the Office of Management and Budget and request for public comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, the U.S. Department of the Interior has submitted a Generic Information Collection Request (Generic ICR): ''DOI Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et. seq.).

DATES: Comments must be submitted by July 29, 2015.

ADDRESSES: Written comments may be submitted to the Desk Officer for the Department of the Interior (OMB control #1090–0011) at the Office of Management and Budget (OMB) via email to *OIRA_Submission@omb.eop.gov* or via facsimile (202) 395–5806. Please also send a copy of your comments to Don Bieniewicz at DOI via email at *Donald_Bieniewicz@ios.doi.gov* or via facsimile (202) 208–4867. Reference ''DOI Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' in your email subject line. Include your name and return address in your email message and mark your message for return receipt.

FOR FURTHER INFORMATION CONTACT: Don Bieniewicz (202) 208–4915. You may also review the generic ICR online at *http://www.reginfo.gov/public/do/PRAMain.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

II. Data

Title: DOI Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1090–0011.

Type of Review: Information Collection Renewal.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Expected Annual Number of Activities: 100.

Annual Respondents: 11,000 for surveys, 6,000 for comment cards, 500 for focus groups.

Frequency of Response: Once per request.

Annual Responses: 11,000 for surveys, 6,000 for comment cards, 500 for focus groups.

Estimated Average Time per Response: 15 minutes for surveys, 2 minutes for comment cards, 2 hours for focus groups.

Estimated Total Annual Burden Hours: 3,950.

III. Request for Comments

No comments were received in response to the 60-day notice published in the **Federal Register** on March 18, 2015 (80 FR 14158). We again request public comments on this proposed information collection. Your comments should address: (a) The necessity of the information collection for the proper performance of the agency, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection on the respondents, such as through the use of automated collection techniques or other information technology.

A federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: June 23, 2015.

Benjamin Simon,

Assistant Director, Office of Policy Analysis, U.S. Department of the Interior.

[FR Doc. 2015–15827 Filed 6–26–15; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[15X L1109AF LLUTW01100 L12320000.FU0000 LVRDUT240000 24 1A]

Notice of Intent To Collect Fees on Public Land in Tooele and Rich Counties, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to applicable provisions of the Federal Lands Recreation Enhancement Act (REA), the Salt Lake Field Office of the Bureau of Land Management (BLM) is proposing to begin collecting fees for overnight camping within two developed campgrounds.

DATES: Effective six months after the publication of this notice, the BLM-Utah, Salt Lake Field Office would initiate fee collection at the Simpson Springs Campground Group Site and at the Little Creek Campground for both single occupancy campsites and group sites, unless the BLM publishes a **Federal Register** notice to the contrary.

FOR FURTHER INFORMATION CONTACT: Ray Kelsey, Outdoor Recreation Planner, BLM-Salt Lake Field Office, 2370 South Decker Lake Blvd., West Valley City, Utah 84119, Phone: 801–977–4333, Email: *rkelsey@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, 7 days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The Utah Resource Advisory Council (RAC), functioning as a Recreation Resource Advisory Committee (RRAC), will review the proposal to charge fees at the two campgrounds. Future adjustments in the fee amount will be made in accordance with the Salt Lake Field Office's publicly-reviewed recreation fee business plan covering the campgrounds. Fee adjustments will be made after consultation with the Utah RRAC and general public support for the proposed fees are documented in conformance with section 6803(c) of the REA.

The two developed camping areas discussed in this notice are: Simpson Springs Campground (T. 9 S., R. 8 W, Sec. 18, SLM) and the Little Creek Campground (T. 11 N., R. 6 E., Sec. 24, SLM). Under section 6802(g)(2) of the REA, the campgrounds listed above qualify as sites wherein visitors can be charged an ''Expanded Amenity Recreation Fee.''

Visitors wishing to use the expanded amenities the BLM has developed at Simpson Springs and Little Creek Campgrounds would purchase a Recreation Use Permit as described at 43 CFR 2933. Pursuant to REA and implementing regulations at 43 CFR 2933, fees may be charged for overnight camping and group use reservations where specific amenities and services are provided. Specific visitor fees will be identified and posted at the developed campgrounds. Fees for individual sites at Little Creek Campground must be paid at the self-service pay station located at the camping areas. Fees for the Simpson Springs and Little Creek group sites must be paid for in advance with the Salt Lake Field Office. People holding the ''America the Beautiful—The National Parks and Federal Recreational Lands Senior Pass'' or an Annual Access Pass would be entitled to a 50 percent discount on all expanded amenity fees except those associated with group reservations. Fees charged for use of the group sites would include a non-refundable site reservation fee.

The Simpson Springs Campground is located within the Pony Express Special Recreation Management Area (SRMA). Individual campsite fees have been charged at Simpson Springs for several decades, but a group camping site has not been established until now. Simpson Springs Campground offers a public water system, a toilet, an access road, regular patrols, fire rings, tent spaces, and picnic tables.

The Little Creek Campground has existed with individual sites and a group picnic pavilion since the mid-1990s, but BLM has not proposed fees at this location until now. Little Creek Campground offers a public water system, a toilet, an access road, regular patrols, fire rings, tent spaces, refuse containers, and picnic tables.

The BLM is committed to providing and receiving fair market value for the use of developed recreation facilities and services in a manner that meets public use demands, provides quality experiences and protects important resources. The BLM's policy is to collect fees at all specialized recreation sites, or where the BLM provides facilities, equipment or services at Federal expense, in connection with outdoor use as authorized by REA. In an effort to meet increasing demands for services and increased maintenance of developed facilities, the BLM would implement a fee program for the campgrounds. The BLM's mission for the campgrounds is to ensure that funding is available to maintain facilities and recreational opportunities, to provide for law enforcement presence, and to protect public health and safety and public land resources. This mission entails communication with those who will be most directly affected by the campgrounds such as recreationists, other recreation providers, partners, neighbors, elected officials, and other agencies.

Camping and group use fees would be consistent with other established fee sites in the area including other BLM-administered sites and those managed by the United States Forest Service, National Park Service, and Utah State Parks and Recreation. Future adjustments in the fee amount will be made following the Salt Lake Field Office's recreation fee business plan covering the sites, in consultation with the Utah RRAC and other public stakeholders prior to a fee adjustment.

In December 2004, the REA was signed into law. The REA provides authority for the Secretaries of the Interior and Agriculture to establish, modify, charge, and collect recreation fees for the use of some Federal recreation lands and waters, and contains specific provisions addressing public involvement in the establishment of recreation fees, including a requirement that RRACs or Councils have the opportunity to make recommendations regarding establishment of such fees. The REA also directed the Secretaries of the Interior and Agriculture to publish advance notice in the **Federal Register** whenever new recreation fee areas are established under their respective jurisdictions. In accordance with the BLM recreation fee program policy, the Salt Lake Field Office's draft Business Plan for Salt Lake Field Office Campgrounds explains the proposal to collect fees at the two campgrounds, the fee collection process, and how the fees will be used at the two campgrounds. The BLM provided the public an opportunity to comment on the draft Business Plan for Salt Lake Field Office Campgrounds from November 10, 2014 through January 12, 2015. The Utah RRAC will review the fee proposals at its next meeting, following REA guidelines. Fee amounts will be posted on-site, on the BLM-Salt Lake Field Office Web site and at the Salt Lake Field Office.

Copies of the business plan will be available at Salt Lake Field Office and the BLM-Utah State Office.

Authority: 16 U.S.C. 6803(b).

Jenna Whitlock,

Acting State Director.

[FR Doc. 2015–15793 Filed 6–26–15; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC05000 L14400000.KD0000 15XL1109AF]

Notice of Intent To Amend the Resource Management Plan and Prepare an Associated Environmental Assessment for the Ukiah Field Office, California, To Modify the Boundary of the Knoxville Area of Critical Environmental Concern and Identify Public Lands for Disposal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Ukiah Field Office, Ukiah, California intends to prepare a Resource Management Plan (RMP) amendment with an associated Environmental Assessment (EA) to modify the boundary of the Knoxville Area of Environmental Concern (ACEC) and identify public lands for exchange in Lake, Napa and Yolo Counties. By this notice, the BLM is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the RMP amendment and associated EA. Comments on issues may be submitted in writing until 30 days after the date of this notice in the **Federal Register**. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through the local news media, newspapers and the BLM Web site at: *www.blm.gov/ca/ukiah.* In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. Additional opportunities for public participation will be provided as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the RMP amendment EA by any of the following methods:

- *Mail:* Bureau of Land Management, Ukiah Field Office, 2550 North State Street, Ukiah, CA 95482
- *Fax:* 707–468–4027
- *Email: blm_ca_ukiah_fo_web@blm.gov*

FOR FURTHER INFORMATION CONTACT: The BLM Ukiah Field Office, telephone: 707–468–4000; address: Bureau of Land Management, Ukiah Field Office, 2550 North State Street, Ukiah, CA 95482; or email: *blm_ca_ukiah_fo_web@blm.gov.* Contact Ms. Jonna Hildenbrand to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Ukiah Field Office, Ukiah, California, intends to prepare an RMP amendment with an associated EA to modify the boundary of the Knoxville Area of Critical Environmental Concern and identify public lands for exchange. This notice announces the beginning of the scoping process, and seeks public input on issues and planning criteria. The planning area is located in Lake, Napa, and Yolo counties and encompasses approximately 170 acres of public land.

In 1999, the BLM Ukiah Field Office was approached by Homestake Mining Company of California, about a proposed land exchange. The proposal stated that the BLM would dispose of four non-contiguous, scattered, and mostly non-accessible federal parcels comprising 170 acres in Lake, Napa, and Yolo counties. The BLM would acquire portions of two private parcels comprising approximately 345 acres in Napa County, California.

The BLM initiated the exchange feasibility process in 2000 as required by the BLM's lands and realty policy and regulations. A feasibility analysis report was finalized for the proposed exchange and approved by the BLM California State Director with written concurrence and approval by the BLM Washington Office in 2007. The Record of Decision (ROD) for the Ukiah RMP was signed on September 25, 2006. During preparation of the Ukiah RMP, the BLM lands identified for disposal as part of the land exchange were not clearly depicted on the map. As a result, some of the parcels were mistakenly included within an ACEC.

Accordingly, the BLM is preparing to identify lands that were in the process of disposal prior to, during and after the ROD was signed. The RMP amendment will incorporate new relevant information and program guidance and policies developed since the 2006 ROD.

The proposed exchange would assist in meeting the goals and objectives of the RMP by acquiring willingly offered private lands to consolidate land ownership while also disposing of scattered tracts where federal management for recreation and resource enhancement is impractical. Additionally, this will satisfy agreements created prior to the RMP between all the parties involved in the exchange.

The purpose of the exchange is to acquire private lands to enhance legal public access primarily for recreational opportunities and values which include off highway vehicle use, camping, hunting, hiking, backpacking, mountain biking, and scenic and wildlife viewing within the Knoxville Recreation Area.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. Preliminary issues for the plan amendment area have been identified by BLM personnel; Federal, State, and local agencies; and other stakeholders. The issues include recreation management, fire management, and the designation and management of special areas such as ACECs and public lands identified as suitable for disposal through land exchange under section 206 of FLPMA. Preliminary planning criteria include:

1. Compliance with FLPMA, NEPA, and all other applicable laws;

2. Coordination with local and county governments for analysis of economic and social impacts;

3. Government-to-government consultation with federally recognized Tribes;

4. Consideration of cost effectiveness of proposed actions and alternatives; and

5. Consideration of impacts to visitors and resources.

You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. You should submit comments by the close of the 30-day scoping period or within 15 days after the last public meeting, whichever is later.

The BLM will provide opportunities for public participation as required by NEPA and the National Historic

Preservation Act (NHPA). Information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources in the context of NEPA and NHPA.

The BLM will utilize and coordinate the NEPA scoping process to help fulfill the public involvement process under NHPA (54 U.S.C. 306108) as provided by 36 CFR 800.2(d)(e). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Indian Tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with Tribes and other stakeholders that may be interested in or affected by the proposed action the BLM is evaluating are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. The BLM will evaluate identified issues and will place them into one of three categories:

1. Issues to be resolved in the plan amendment;

2. Issues to be resolved through policy or administrative action; or

3. Issues beyond the scope of this plan amendment.

The BLM will provide an explanation in the EA as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The BLM will use an interdisciplinary approach to develop the plan amendment in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: Rangeland management, minerals and geology, outdoor recreation, archaeology, paleontology, wildlife and fisheries, lands and realty, hydrology, soils, and sociology and economics.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2

Rich Burns,

Ukiah Field Manager.

[FR Doc. 2015–15794 Filed 6–26–15; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ931000–15X–L13100000–FI0000–P; AZA36181, AZA36182]

Notice of Proposed Reinstatement of Terminated Oil and Gas Leases AZA36181 and AZA36182, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per the Mineral Leasing Act of 1920, Vanterra Energy, Inc., timely filed a petition for a Class II reinstatement of competitive oil and gas leases AZA36181 and AZA36182, in Mohave County, Arizona. The lessee paid the required rentals accruing from the date of termination. No leases were issued that affect these lands.

FOR FURTHER INFORMATION CONTACT: Amy Thrower, Supervisory Land Law Examiner, Lands and Minerals Division, Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427, Phone: 602–417–9334, email: *athrower@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessees agree to new lease terms for rentals and royalties of $10 per acre, or fraction thereof, per year, and 16⅔ percent, respectively. The lessees paid the $500 administration fee for the reinstatement of the lease and the $163 cost for publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920. We are proposing to reinstate the lease, effective from the date of termination and subject to the:

- Original terms and conditions of the lease;
- Increased rental of $10 per acre;
- Increased royalty of 16⅔ percent; and
- $163 cost of publishing this notice.

Rebecca Heick,

Acting Deputy State Director, Lands and Minerals Division.

[FR Doc. 2015–15791 Filed 6–26–15; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAKA02000.L14300000.NJ0000]

Notice of Realty Action: Proposed Non-Competitive (Direct) Sale of Public Land in Slana, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing a non-competitive (direct) sale of 15 acres of public land in Slana, Alaska, to the adjacent private landowner, Mr. Joseph G. Riley. The sale would take place under the provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), at no less than the appraised fair market of value (FMV) of $12,000, to resolve an unauthorized use of public lands as a result of a failed trade and manufacturing claim.

DATES: The BLM must receive written comments regarding the proposed sale on or before August 13, 2015.

ADDRESSES: You may submit comments concerning this notice to BLM Glennallen Field Office, Attn: Dennis Teitzel, Field Manager, P.O. Box 147, Glennallen, AK 99588–0147.

FOR FURTHER INFORMATION CONTACT: Joseph Hart, Realty Specialist, phone 907–822–3217, at the above address. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, 7 days a week. You will receive a reply during the normal business hours.

SUPPLEMENTARY INFORMATION: The BLM will conduct a direct sale for the following parcel and is subject to the applicable provisions of Sections 203 and 209 of FLPMA and 43 CFR parts 2711 and 2720:

Copper River Meridian, Alaska

T. 12 N., R. 9 E.,
Sec. 26, SW¼NE¼NE¼NW¼,
SE¼NW¼NE¼NW¼,
E½NW¼SE¼NE¼NW¼,
W½NE¼SE¼NE¼NW¼,
NW¼NE¼NW¼NW¼,
NE¼NE¼NW¼NW¼, and
NE¼NW¼NW¼NW¼.

The area described contains 15 acres.

The sale is in conformance with the East Alaska Resource Management Plan, approved September 2007, decision I–3–b–1, which allows the BLM to enter into a direct sale of public land at FMV to a failed claimant where improvements exist that are still owned, occupied, or used by the claimant. The BLM will offer the lands to Mr. Joseph G. Riley on a non-competitive basis pursuant to 43 CFR 2711.3–3(a)(5), because a direct sale would best serve the public interest in order to resolve the unauthorized use or occupancy of these lands.

The BLM has completed a mineral potential report that concludes there are no locatable mineral values. The BLM proposes that conveyance of the Federal mineral interests would occur simultaneously with the sale of the land.

Upon publication of this Notice in the **Federal Register**, the above-described lands will be segregated from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA.

Until completion of the sale, the BLM will no longer accept land use applications affecting the identified public lands, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The land would not be sold until at least August 28, 2015. The segregation terminates upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or on June 29, 2017, unless extended by the BLM Alaska State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date. Mr. Riley would be required to pay a $50 nonrefundable filing fee for processing the conveyance of the mineral interests. Conveyance of the identified public land will be subject to valid existing rights and encumbrances of record, including but not limited to, rights-of-way for roads, and public utilities. The patent, if issued, would be subject to the following terms, conditions, and reservations:

1. A reservation of a right-of-way to the United States for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

2. A condition that the conveyance be subject to valid existing rights of record, including right-of-way AA–87119 to the Suslositna Homeowners Association and right-of-way AA–093265 to the BLM;

3. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the patented lands; and

4. Additional terms and conditions that the authorized officer deems appropriate.

Detailed information concerning the proposed land sale including an appraisal, a mineral report, and planning and environmental documents, are available for review at the BLM Glennallen Field Office at the above address or by calling 907–822–3217 during normal business hours of 8 a.m.–4:30 p.m., Monday through Friday, except for Federal holidays.

You may submit public comments regarding the sale in writing to the attention of the BLM Glennallen Field Manager (see **ADDRESSES** above) on or before August 13, 2015. The BLM will not consider comments received in electronic form, such as email or facsimile.

Any adverse comments regarding this sale will be reviewed by the BLM State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2710 and 2711.

Callie Webber,

Acting District Manager, Anchorage District.

[FR Doc. 2015–15792 Filed 6–26–15; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–19155–16; LLAK940100–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: The Bureau of Land Management (BLM) will issue an appealable decision approving conveyance of the surface and subsurface estates in the lands described below to Doyon, Limited, pursuant to the Alaska Native Claims Settlement Act.

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4. Please see the **SUPPLEMENTARY INFORMATION** section for the time limits for appealing the decision.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960 or by email at *blm_ak_akso_public_room@blm.gov.* Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the BLM during normal business hours. In addition, the FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

SUPPLEMENTARY INFORMATION: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision will be issued by the BLM to Doyon, Limited. The decision approves conveyance of the surface and subsurface estates in the lands described below pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq*). The lands are in the vicinity of Nulato and Kaltag, Alaska, and are described as:

Kateel River Meridian, Alaska

T. 8 S., R. 2 E.,
Secs. 3 and 4;
Secs. 9 and 10;
Secs. 15 to 22, inclusive;
Secs. 27 to 32, inclusive.
Containing 11,361.28 acres.
T. 12 S., R. 2 E.,
Secs. 1, 2, and 3;

Secs. 10 to 15, inclusive;
Secs. 21 and 22.
Containing 4,828.66 acres.
T. 10 S., R. 4 E.,
Secs. 7 and 18.
Containing 1,039.04 acres
Aggregating 17,228.98 acres.

Notice of the decision will also be published once a week for four consecutive weeks in the *Fairbanks Daily News-Miner.*

Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until July 29, 2015 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4 shall be deemed to have waived their rights. Notices of appeal transmitted by electronic means, such as facsimile or email, will not be accepted as timely filed.

Richard Thwaites,

Land Transfer Resolution Specialist, Division of Lands and Cadastral.

[FR Doc. 2015–15950 Filed 6–26–15; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L63340000.DV0000 LLOR9360000: OROR–68370]

Notice of Proposed Withdrawal and Notification of Public Meetings; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On behalf of the Bureau of Land Management (BLM) and the United States Forest Service (USFS), the Assistant Secretary for Land and Minerals Management proposes to withdraw, subject to valid existing rights, approximately 5,216.18 acres of BLM-managed public domain and Revested Oregon California Railroad lands (O&C) and 95,805.53 acres of National Forest System lands for 5 years to preserve the status quo while Congress considers legislation to permanently withdraw those areas. Such legislation is currently pending in the 114th Congress as S. 346 and H.R. 682 and identified as the ''Southwestern Oregon Watershed and Salmon Protection Act of 2015.'' Subject to valid existing rights, this notice segregates the lands described below for 2 years from settlement, sale, location, and entry under the public land laws, location and entry under the United States mining laws, and operation of the mineral and geothermal leasing laws. This notice gives the public an opportunity to comment on the application and also provides notification of future public meetings.

DATES: Comments must be made by September 28, 2015. A notice of public meetings will be announced at a later date as described in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: Written comments should be sent to the Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208–2965.

FOR FURTHER INFORMATION CONTACT: Michael L. Barnes, Oregon State Office, Bureau of Land Management, at 503–808–6155 or by email *m1barnes@blm.gov* or Candice Polisky, USFS Pacific Northwest Region, at 503–808–2479. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to reach either of the above individuals. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The applicant is the Bureau of Land Management and its petition/application requests the Secretary to withdraw, subject to valid existing rights, the following described public domain, O&C, and National Forest System lands from settlement, sale, location, and entry under the public land laws, location and entry under the United States mining laws, and operation of the mineral and geothermal leasing laws for 5 years to preserve the status quo while Congress considers legislation to permanently withdraw those areas:

Public Domain Lands

Willamette Meridian

T. 36 S., R. 14 W.,
Sec. 24, E½SE¼;
Sec. 25, SE¼SE¼.
T. 37 S., R. 14 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 2, lots 1 and 2, S½NE¼, and E½SE¼;
Sec. 11, E½;
Sec. 12, E½, E½NW¼, NE¼SW¼, and S½SW¼;
Sec. 13, N½N½ and SE¼;
Sec. 14, NE¼NE¼ and SE¼NW¼;
Sec. 23, SE¼NE¼;
Sec. 24, NE¼NE¼, S½NE¼, NW¼NW¼, S½NW¼, and S½.
T. 40 S., R. 8 W.,
Sec. 18, SW¼NE¼NE¼, W½NE¼, SE¼NE¼, W½, and W½SE¼;
Sec. 19, NW¼NE¼;
Sec. 20, NW¼NW¼.
T. 41 S., R. 9 W.,
Sec. 3, lots 2, 3, and 4, and S½NW¼;
Sec. 9.

Revested Oregon California Railroad Grant Lands (O&C)

Willamette Meridian

T. 39 S., R. 8 W.,
Sec. 31, un-numbered lots in the W½NW¼ and W½SW¼, E½NW¼, and NE¼SW¼.
T. 40 S., R. 8 W.,
Sec. 7, lots 1 and 2, E½SW¼, SW¼SW¼, and SW¼SE¼;
Sec. 17, W½NE¼, SE¼NE¼, W½, and NW¼SE¼.

The areas described aggregate approximately 5,216.18 acres, more or less, in Curry and Josephine Counties.

Siskiyou National Forest

Willamette Meridian

T. 36 S., R. 13 W.,
Sec. 19, lots 2 to 6, 12, 13, 15, and 16, inclusive;
Sec. 20, SW¼NE¼, NW¼, and SW¼SE¼;
Sec. 21, E½ and SE¼SW¼;
Sec. 29, NW¼;
Sec. 30 and 31;
Protraction Blocks 43 to 46, inclusive.
T. 37 S., R. 13 W.,
Secs. 8, 9, 10, 16, 17, 20, 21, 28, and 29;
Protraction Blocks 39 thru 51, inclusive.
T. 38 S., R. 13 W.,
Sec. 5, SW¼;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, and 5, NE¼, E½NW¼, NE¼SW¼, NE¼SW¼SW¼, NE¼SE¼SW¼, and SE¼SE¼SW¼.
Sec. 8, N½.
T. 39 S., R. 9 W.,
Sec 19;
Sec. 20, SW¼NE¼, NW¼, SW¼, and W½SE¼;
Sec. 29 to 32, inclusive;
Sec. 35, NE¼NE¼, S½NE¼, SW¼, and SE¼.
T. 39 S., R. 10 W.,
Protraction Block 46.
T. 40 S., R. 9 W.,
Sec. 1, unnumbered lots in the N½NE¼ and N½NW¼, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 2, lots 1 to 7, inclusive, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 3, lots 1 and 2, S½NE¼, S½NW¼, and S½;
Sec. 4, S½NE¼, S½NW¼, and S½;

Sec. 5, lots 2, 3, and 4, S½NE¼, S½NW¼, and S½;
Secs. 6 to 11, inclusive;
Sec. 13, NE¼, S½NE¼NW¼, S½NW¼, and S½;
Sec. 14, NE¼, N½NW¼, N½SW¼NW¼, SE¼SW¼NW¼, SE¼NW¼, N½NE¼SW¼, SW¼NW¼SW¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Secs. 15 to 22, inclusive;
Sec. 23, W½NE¼NW¼, W½NW¼, NW¼SE¼NW¼, and W½SW¼;
Secs. 27 to 33, inclusive;
Sec. 34, lots 1 to 8, inclusive, N½NE¼, SW¼NE¼, and NW¼SE¼.
T. 40 S., R. 10 W.,
Sec. 2, lot 1, SW¼NE¼, SE¼SW¼, E½SE¼, and SW¼SE¼;
Sec. 3, SW¼SW¼;
Sec. 4, SE¼SE¼;
Sec. 8, SE¼;
Sec. 9, NE¼, S½NW¼, and S½;
Sec. 10;
Sec. 11, NE¼, E½NW¼, S½NW¼NW¼, S½NW¼, SW¼, and SE¼;
Secs. 14, 15, and 16;
Sec. 17, E½NE¼, SW¼NE¼, E½SW¼, SW¼SW¼, and SE¼;
Sec. 19, S½NE¼NE¼, S½NE¼, E½SW¼, and SE¼;
Secs. 20 to 23, and 26 to 30, inclusive;
Protraction Blocks 37 to 47, inclusive.
T. 40 S., R. 11 W.,
Sec. 4, lots 3 and 4, and SW¼NW¼;
Secs. 5 and 8;
Sec. 9, SW¼NW¼, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 16;
Sec. 17, E½NE¼, NE¼SE¼, SE¼SW¼, and S½SE¼;
Sec. 20, E½, E½NW¼, and SW¼;
Sec. 21;
Sec. 27, W½;
Sec. 28;
Sec. 29, NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
Protraction Blocks 39, 40, 41, and 43.
T. 41 S., R. 9 W.,
Secs. 4 to 8, inclusive, and 17 and 18.
T. 41 S, R. 10 W.,
Secs. 1 to 18, inclusive.
T. 41 S., R. 11 W.,
Sec. 1;
Sec. 2, E½NE¼, SW¼NE¼, W½SW¼NW¼, W½NW¼SW¼, and SE¼;
Secs. 3 and 4;
Sec. 5, NE¼, E½SW¼, E½SW¼SW¼, and SE¼;
Sec. 8, E½, E½NW¼, E½NW¼NW¼, E½SW¼NW¼, E½NE¼SW¼, and E½SE¼SW¼;
Secs. 9 to 15, inclusive;
Sec. 17, lots 1 to 4, inclusive, NE¼, and N½S½;
Sec. 18, lots 9, 10, 11, NE¼SW¼, and N½SE¼.

The areas described aggregate 95,805.53 acres of National Forest System lands in Josephine and Curry Counties.

The following described non-Federal lands are within the exterior boundaries of the Southwestern Oregon Watershed and Salmon Protection Areas. If title to these non-Federal lands is subsequently acquired by the United States, the application requests that such lands become subject to the terms and conditions of the withdrawal.

Willamette Meridian

T. 37 S., R. 14 W.,
Sec. 1, SW¼SW¼;
Sec. 12, W½NW¼ and NW¼SW¼;
Sec. 13, S½N½;
Sec. 24, NW¼NE¼ and NE¼NW¼.
T. 39 S., R. 9 W.,
Sec. 36.
T. 41 S., R. 11 W.,
Sec. 16.

The areas described aggregate 1,680.00 acres in Josephine and Curry Counties.

The Assistant Secretary for Land and Minerals Management approved the BLM's petition/application. Therefore, the petition/application constitutes a withdrawal proposal of the Secretary of the Interior (43 CFR 2310.1–3(e)).

The use of a right-of-way, interagency, or cooperative agreement would not adequately constrain non-discretionary uses that may result in disturbance of the lands embraced within the Southwestern Oregon Watershed and Salmon Protection Areas.

There are no suitable alternative sites as the described lands contain the resource values to be protected.

No water rights will be needed to fulfill the purpose of the proposed withdrawal.

Records relating to the application may be examined by contacting the BLM at the above address and phone number.

For a period until September 28, 2015, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal application may present their views in writing to the Oregon State Director, BLM, at the above address. Information regarding the withdrawal application will be available for public review at the BLM Oregon State Office during regular business hours, 8:45 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays. 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. Individuals who submit written comments may request confidentiality by asking us in your comment to withhold your personal identifying information from public review; however, we cannot guarantee that we will be able to do so.

Notice is hereby given that there will be several public meetings held in connection with the proposed withdrawal. A notice of the times and places of the public meetings will be announced at least 30 days in advance in the **Federal Register** and through local media, newspapers, and the BLM and the USFS Web sites.

For a period until *June 29, 2017,* subject to valid existing rights, the public and National Forest System lands described in this notice will be segregated from settlement, sale, location, and entry under the public land laws, location and entry under the United States mining laws, and operation of the mineral and geothermal leasing laws, unless the application is denied or canceled or the withdrawal is approved prior to that date.

Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature that will not significantly impact the values to be protected by the withdrawal may be allowed with the approval of the authorized officer of the BLM or the USFS during the temporary segregation period.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

Fred O'Ferrall,

Chief, Branch of Land, Minerals, and Energy Resources.

[FR Doc. 2015–15954 Filed 6–26–15; 8:45 am]

BILLING CODE 3111–15–P

DEPARTMENT OF JUSTICE

Notice of Filing Proposed Bankruptcy Settlement Agreement Under the Resource Conservation and Recovery Act

On June 22, 2015, the Debtors filed a proposed Settlement Agreement with the United States Bankruptcy Court for the Southern District of Mississippi in the bankruptcy proceedings of Mississippi Phosphates Corporation (''MPC''), et al., Chap. 11, Bankruptcy Case No. 14–51667—KMS (USBC S.D. Miss.).

The Settlement Agreement provides for a covenant not to sue by EPA and the Mississippi Department of Environmental Quality (referred to collectively as ''Environmental Agencies'') under the Resource Conservation and Recovery Act (''RCRA''), the Clean Air Act (''CAA''), the Clean Water Act (''CWA''), and the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') against MPC, its subsidiaries, Ammonia Tank Subsidiary, Inc. and Sulfuric Acid tank

Subsidiary, Inc, (collectively ''Debtors''), MPC's non-debtor parent Phosphate Holdings Inc. (''PHI''), and the Lenders of the Debtors for environmental conditions at MPC's Facility in Pascagoula, Mississippi (the ''Facility''), and for possible related causes of action against the Lenders for fraud, equitable subordination and debt recharacterization.

The Settlement Agreement, in general terms, provides: (a) Either (i) a sales process for all or substantially all of the assets of the bankruptcy estates, which will result in the assumption of environmental liabilities to the Environmental Agencies related to the Debtors' assets, including satisfaction of the financial assurance requirements of the Environmental Agencies under non-bankruptcy law or, (ii) in the alternative, a transfer of the assets of the bankruptcy estates to two trusts (the Liquidation Trust and Environmental Trust) one of which, the Liquidation Trust, receives substantially all assets other than the phosphogypsum stacks (''Gyp Stacks'') to market for sale with a distribution structure for sales proceeds for payment of the claims of the Lenders, and for funding environmental actions taken by the Environmental Trust (which takes ownership of the Gyp Stacks), and for distribution to the bankruptcy estates.

The publication of this notice opens a period for public comment on the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to In re Mississippi Phosphates Corporation, D.J. Ref. No. 90–7–1–08388/18. All comments must be submitted no later than fifteen (15) 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.

Under section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Settlement Agreement 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 $19.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–15808 Filed 6–26–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Brookwood-Sago Mine Safety Grants

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Solicitation for Grant Applications (SGA).

Announcement Type: New.

Funding Opportunity Number: SGA 15–3BS.

Catalog of Federal Domestic Assistance (CFDA) Number: 17.603.

SUMMARY: The U.S. Department of Labor (DOL), Mine Safety and Health Administration (MSHA), is making $1,000,000 available in grant funds for education and training programs to help identify, avoid, and prevent unsafe working conditions in and around mines. The focus of these grants for Fiscal Year (FY) 2015 will be on training and training materials for mine emergency preparedness and mine emergency prevention for all underground mines. Applicants for the grants may be States and nonprofit (private or public) entities, including U.S. territories, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, and Native Hawaiian organizations. MSHA will award no more than 20 grants. The amount of each individual grant will be at least $50,000.00 and the maximum individual award will be $250,000. This notice contains all of the information needed to apply for grant funding.

DATES: The closing date for applications will be August 29, 2015, (no later than 11:59 p.m. EDST). MSHA will award grants on or before September 30, 2015.

ADDRESSES: Grant applications for this competition must be submitted electronically through the Grants.gov site at *www.grants.gov.* If applying online poses a hardship to any applicant, the MSHA Directorate of Educational Policy and Development will provide assistance to help applicants submit online.

FOR FURTHER INFORMATION CONTACT: Any questions regarding this solicitation for grant applications (SGA 15–3BS) should be directed to Janice Oates at *Oates.Janice@dol.gov* or 202–693–9573 (this is not a toll-free number) or Teresa Rivera at *Rivera.Teresa@dol.gov* or 202–693–9581 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This solicitation provides background information and the requirements for projects funded under the solicitation. This solicitation consists of eight parts:

- Part I provides background information on the Brookwood-Sago grants.
- Part II describes the size and nature of the anticipated awards.
- Part III describes the qualifications of an eligible applicant.
- Part IV provides information on the application and submission process.
- Part V explains the review process and rating criteria that will be used to evaluate the applications.
- Part VI provides award administration information.
- Part VII contains MSHA contact information.
- Part VIII addresses Office of Management and Budget (OMB) information collection requirements.

I. Program Description

A. Overview of the Brookwood-Sago Mine Safety Grant Program

Responding to several coal mine disasters, Congress enacted the Mine Improvement and New Emergency Response Act of 2006 (MINER Act). When Congress passed the MINER Act, it expected that requirements for new and advanced technology, *e.g.,* fire-resistant lifelines and increased breathable air availability in escapeways, would increase safety in mines. The MINER Act also required that every underground coal mine have persons trained in emergency response. Congress emphasized its commitment to training for mine emergencies when it strengthened the requirements for the training of mine rescue teams. Recent events demonstrate that training is the key for proper and safe emergency response and that all miners working in underground mines should be trained in emergency response.

Under Section 14 of the MINER Act, the Secretary of Labor (Secretary) is required to establish a competitive grant program called the ''Brookwood-Sago Mine Safety Grants'' (Brookwood-Sago grants). This program provides funding for education and training programs to

better identify, avoid, and prevent unsafe working conditions in and around mines. This program will use grant funds to establish and implement education and training programs or to create training materials and programs. The MINER Act requires the Secretary to give priority to mine safety demonstrations and pilot projects with broad applicability. It also mandates that the Secretary emphasize programs and materials that target miners in smaller mines, including training mine operators and miners on new MSHA standards, high-risk activities, and other identified safety priorities.

B. Education and Training Program Priorities

MSHA priorities for the FY 2015 funding of the annual Brookwood-Sago grants will focus on training or training materials for mine emergency preparedness and mine emergency prevention for all underground mines. MSHA expects Brookwood-Sago grantees to develop training materials or to develop and provide mine safety training or educational programs, recruit mine operators and miners for the training, and conduct and evaluate the training.

MSHA expects Brookwood-Sago grantees to conduct follow-up evaluations with the people who received training in their programs to measure how the training promotes the Secretary's goal to ''lmprove workplace safety and health'' and MSHA's goal to ''Prevent death, disease and injury from mining and promote safe and healthful workplaces for the Nation's miners.'' Evaluations will focus on determining how effective their training was in either reducing hazards, improving skills for the selected training topics, or in improving the conditions in mines. Grantees must also cooperate fully with MSHA evaluators of their programs.

II. Federal Award Information

A. Award Amount for FY 2015

MSHA is providing $1,000,000 for the 2015 Brookwood-Sago grant program which could be awarded in a maximum of 20 separate grants of no less than $50,000 each. Applicants requesting less than $50,000 or more than $250,000 for a 12-month performance period will not be considered for funding.

B. Period of Performance

MSHA may approve a request for a one time no-cost extension to grantees for an additional period from the expiration date of the annual award based on the success of the project and other relevant factors. See 2 CFR 200.308(d)(2).

III. Eligibility Information

A. Eligible Applicants

Applicants for the grants may be States and nonprofit (private or public) entities, including U.S. territories, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, and Native Hawaiian organizations. Eligible entities may apply for funding independently or in partnership with other eligible organizations. For partnerships, a lead organization must be identified.

Applicants other than States (including U.S. territories) and State-supported or local government-supported institutions of higher education will be required to submit evidence of nonprofit status, preferably from the Internal Revenue Service (IRS). A nonprofit entity as described in 26 U.S.C. 501(c)(4), which engages in lobbying activities, is not eligible for a grant award. See 2 U.S.C. 1611.

Legal Rules Pertaining to Inherently Religious Activities by Organizations that Receive Federal Financial Assistance.

The government generally is prohibited from providing direct Federal financial assistance for inherently religious activities. See 29 CFR part 2, subpart D. Grants under this solicitation may not be used for religious instruction, worship, prayer, proselytizing, or other inherently religious activities. Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of grant recipients and must be employed by grantees in the selection of contractors and subcontractors.

B. Cost-Sharing or Matching

Cost-sharing or matching of funds is not required for eligibility.

IV. Application and Submission Information

A. Application Forms

This announcement includes all information and links needed to apply for this funding opportunity. The full application is available through the Grants.gov Web site, *www.grants.gov*. Click the ''Applicants'' tab, then click ''Apply for Grants''. The Catalog of Federal Domestic Assistance (CFDA) number needed to locate the appropriate application for this opportunity is 17.603. If an applicant has problems downloading the application package from Grants.gov, contact the Grants.gov Contact Center at 1–800–518–4726 or by email at *support@grants.gov*.

The full application package is also available online at *www.msha.gov*: Select ''Education & Training Resources,'' click on ''Courses,'' select ''Brookwood-Sago Mine Safety Grants,'' then select ''SGA 15–3BS.'' This Web site also includes all forms and all regulations that are referenced in this SGA. Applicants, however, must apply for this funding opportunity through the Grants.gov Web site. You may request paper copies of the material by contacting the Directorate of Educational Policy and Development at 202–693–9570.

B. Content and Form of the FY 2015 Application

Each grant application must address mine emergency preparedness or mine emergency prevention for underground mines. The application must consist of three separate and distinct sections. The three required sections are:

- Section 1—Project Forms and Financial Plan (No page limit).
- Section 2—Executive Summary (Not to exceed two pages).
- Section 3—Technical Proposal (Not to exceed 12 pages). Illustrative material can be submitted as an attachment.

The following are mandatory requirements for each section.

1. Project Forms and Financial Plan

This section contains the forms and budget section of the application. The Project Financial Plan will not count against the application page limits. A person with authority to bind the applicant must sign the grant application and forms. Applications submitted electronically through Grants.gov do not need to be signed manually; electronic signatures will be accepted.

(a) Completed SF–424, ''Application for Federal Assistance,'' (OMB No. 4040–0004, expiration: 8/31/2016). This form is part of the application package on Grants.gov and is also available at *www.msha.gov*. The SF–424 must identify the applicant clearly and be signed by an individual with authority to enter into a grant agreement. Upon confirmation of an award, the individual signing the SF–424 on behalf of the applicant shall be considered the representative of the applicant.

(b) Completed SF–424A, ''Budget Information for Non-Construction Programs,'' (OMB No. 4040–0006, expiration: 6/30/2014). The project budget should demonstrate clearly that the total amount and distribution of funds is sufficient to cover the cost of all major project activities identified by

the applicant in its proposal, and must comply with the Federal cost principles and the administrative requirements set forth in this SGA. (Copies of all regulations that are referenced in this SGA are available online at *www.msha.gov*. Select ''Education & Training Resources,'' click on ''Courses,'' then select ''Brookwood-Sago Mine Safety Grants.'')

(c) Budget Narrative. The applicant must provide a concise narrative explaining the request for funds. The budget narrative should separately attribute the Federal funds to each of the activities specified in the technical proposal and it should discuss precisely how any administrative costs support the project goals. Indirect administrative costs for these grants may not exceed 15%. These charges must be supported with a copy of an approved Indirect Cost Rate Agreement. Indirect costs are those that are not readily identifiable with a particular cost objective but nevertheless are necessary to the general operation of an organization.

If applicable, the applicant must provide a statement about its program income. See 2 CFR 200.80 and 200.307 and this SGA, Part IV.F.1(a) and (b).

The amount of Federal funding requested for the entire period of performance must be shown on the SF–424 and SF–424A forms.

(d) Completed SF–424B, ''Assurances for Non-Construction Programs,'' (OMB No. 4040–0007, expiration: 6/30/2014). Each applicant for these grants must certify compliance with a list of assurances. This form is part of the application package on *www.grants.gov* and also is available at *www.msha.gov*.

(e) Supplemental Certification Regarding Lobbying Activities Form. If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of a grant or cooperative agreement, the applicant shall complete and submit SF–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. This form is part of the application package on *www.grants.gov* and is also available at *www.msha.gov*. Select ''Education & Training Resources,'' click on ''Courses,'' then select ''Brookwood-Sago Mine Safety Grants.''

(f) Non-profit status. Applicants must provide evidence of non-profit status, preferably from the IRS, if applicable.

(g) Accounting System Certification. Under the authority of 2 CFR 200.207, MSHA requires that a new applicant that receives less than $1 million annually in Federal grants attach a certification stating that the organization (directly or through a designated qualified entity) has a functioning accounting system that meets the criteria below. The certification should attest that the organization's accounting system provides for the following:

(1) Accurate, current, and complete disclosure of the financial results of each federally sponsored project.

(2) Records that adequately identify the source and application of funds for federally sponsored activities.

(3) Effective control over and accountability for all funds, property, and other assets.

(4) Comparison of outlays with budget amounts.

(5) Written procedures to minimize the time elapsing between transfers of funds.

(6) Written procedures for determining the reasonableness, allocability, and allowability of costs.

(7) Accounting records, including cost accounting records that are supported by source documentation.

(h) Attachments. The application may include attachments such as resumes of key personnel or position descriptions, exhibits, information on prior government grants, and signed letters of commitment to the project.

2. Executive Summary

The executive summary is a short one-to-two page abstract that succinctly summarizes the proposed project. MSHA will publish, as submitted, all grantees' executive summaries on the DOL Web site. The executive summary must include the following information:

(a) Applicant. Provide the organization's full legal name and address.

(b) Funding requested. List how much Federal funding is being requested.

(c) Grant Topic. List the grant topic and the location and number of mine operators and miners that the organization has selected to train or describe the training materials or equipment to be created with these funds.

(d) Program Structure. Identify the type of grant as ''annual.''

(e) Summary of the Proposed Project. Write a brief summary of the proposed project. This summary must identify the key points of the proposal, including an introduction describing the project activities and the expected results.

3. Technical Proposal

The technical proposal must demonstrate the applicant's capabilities to plan and implement a project or create educational materials to meet the objectives of this solicitation. MSHA's focus for these grants is on training mine operators and miners and developing training materials for mine emergency preparedness or mine emergency prevention for underground mines. A Department of Labor Strategic Goal is to ''improve workplace safety and health''. MSHA has a performance goal to ''prevent death, disease, and injury from mining and promote safe and healthful workplaces for the Nation's miners'' and supporting strategies to ''strengthen and modernize training and education'' and ''improve mine emergency response preparedness.'' MSHA's award of the Brookwood-Sago grants supports these goals and strategies. To show how the grant projects promote these goals and strategies, grantees must report, on a quarterly basis, the following information (as applicable):

Number of trainers trained
Number of mine operators and miners trained
Number trained as responsible persons
Number of persons trained in smoke
Number of training events
Number of course days of training provided to industry
Course evaluations of trainer and training material
Description of training materials created, to include target audience, goals and objectives, and usability in the mine training environment.

The technical proposal narrative must not exceed 12 single-sided, double-spaced pages, using 12-point font, and must contain the following sections: Program Design, Overall Qualifications of the Applicant, and Output and Evaluation. Any pages over the 12-page limit will not be reviewed. Attachments to the technical proposal are not counted toward the 12-page limit. Major sections and sub-sections of the proposal should be divided and clearly identified. As required in Part VI subpart E ''Transparency,'' a grantee's final technical proposal will be posted ''as is'' on MSHA's Web site unless MSHA receives a version redacting any proprietary, confidential business, or personally identifiable information no later than two weeks after receipt of the Notice of Award.

MSHA will review and rate the technical proposal in accordance with the selection criteria specified in Part V.

(a) Program Design

(1) Statement of the Problem/Need for Funds. Applicants must identify a clear and specific need for proposed activities. They must identify whether

they are providing a training program, creating training materials, or both. Applicants also must identify the number of individuals expected to benefit from their training and education program; this should include identifying the type of underground mines, the geographic locations of the training, and the number of mine operators and miners. Applicants must also identify other Federal funds they receive for similar activities.

(2) Quality of the Project Design. MSHA requires that each applicant include a 12-month workplan that correlates with the grant project period that will begin no later than September 30, 2015 and end no later than September 29, 2016.

(i) Plan Overview

Describe the plan for grant activities and the anticipated results. The plan should describe such things as the development of training materials, the training content, recruiting of trainees, where or how training will take place, and the anticipated benefits to mine operators and miners receiving the training.

(ii) Activities

Break the plan down into activities or tasks. For each activity, explain what will be done, who will do it, when it will be done, and the anticipated results of the activity. For training, discuss the subjects to be taught, the length of the training sessions, type of training (*e.g.,* Mine Emergency Response Development exercise), and training locations (*e.g.,* classroom, worksites). Describe how the applicant will recruit mine operators and miners for the training. (Note: Any commercially developed training materials the applicant proposes to use in its training must undergo an MSHA review before being used).

(iii) Quarterly Projections

For training and other quantifiable activities, estimate the quantities involved for data required to meet the grant goals located in Part IV.B.3. For example, estimate how many classes will be conducted and how many mine operators and miners will be trained each quarter of the grant (grant quarters match calendar quarters, *i.e.,* January to March, April to June, July to September, and October to December); except the first quarter is the date of award to the end of that calendar quarter). Also, provide the training number totals for the full year. Quarterly projections are used to measure the actual performance against the plan. Applicants planning to conduct a train-the-trainer program should estimate the number of individuals to be trained during the grant period by those who received the train-the-trainer training. These second-tier training numbers should be included only if the organization is planning to follow up with the trainers to obtain this data during the grant period.

(iv) Materials

Describe each educational material to be produced under this grant. Provide a timetable for developing and producing the material. The timetable must include provisions for an MSHA review of draft and camera-ready products or evaluation of equipment. MSHA must review and approve training materials or equipment for technical accuracy and suitability of content before use in the grant program. Whether or not an applicant's project is to develop training materials only, the applicant should provide an overall plan that includes time for MSHA to review any materials produced.

(b) Qualifications of the Applicant

(1) Applicant's Background

Describe the applicant, including its mission, and a description of its membership, if any. Provide an organizational chart (the chart may be included as a separate page which will not count toward the page limit). Identify the following:

(i) Project Director

The Project Director is the person who will be responsible for the day-to-day operation and administration of the program. Provide the name, title, street address and mailing address (if it is different from the organization's street address), telephone and fax numbers, and email address of the Project Director.

(ii) Certifying Representative

The Certifying Representative is the official in the organization who is authorized to enter into grant agreements. Provide the name, title, street address and mailing address (if it is different from the organization's street address), telephone and fax numbers, and email address of the Certifying Representative.

(2) Administrative and Program Capability

Briefly describe the organization's functions and activities, *i.e.,* the applicant's management and internal controls. Relate this description of functions to the organizational chart. If the applicant has received any other government (Federal, State or local) grant funding, the application must have, as an attachment (which will not count towards the page limit), information regarding these previous grants. This information must include each organization for which the work was done and the dollar value of each grant. If the applicant does not have previous grant experience, it may partner with an organization that has grant experience to manage the grant. If the organization uses this approach, the management organization must be identified and its grant program experience discussed. Lack of past experience with Federal grants is not a determining factor, but an applicant should show a successful experience relevant to the opportunity offered in the application. Such experience could include staff members' experiences with other organizations.

(3) Program Experience

Describe the organization's experience conducting the proposed mine training program or other relevant experience. Include program specifics such as program title, numbers trained, and duration of training. If creating training materials, include the title of other materials developed. Nonprofit organizations, including community-based and faith-based organizations that do not have prior experience in mine safety may partner with an established mine safety organization to acquire safety expertise.

(4) Staff Experience

Describe the qualifications of the professional staff you will assign to the program. Attach resumes of staff already employed (resumes will not count towards the page limit). If some positions are vacant, include position descriptions and minimum hiring qualifications instead of resumes. Staff should have, at a minimum, mine safety experience, training experience, or experience working with the mining community.

(c) Outputs and Evaluations

There are two types of evaluations that must be conducted. First, describe the methods, approaches, or plans to evaluate the training sessions or training materials to meet the data requirements in Part IV.B.3. Second, describe plans to assess the long-term effectiveness of the training materials or training conducted. The type of training given will determine whether the evaluation should include a process-related outcome or a result-related outcome or both. This will involve following up with an evaluation, or on-site review, if feasible, of miners trained. The

evaluation should focus on what changes the trained miners made to abate hazards and improve workplace conditions, or to incorporate this training in the workplace, or both.

For training materials, include an evaluation from individuals trained on the clarity of the presentation, organization, and the quality of the information provided on the subject matter and whether they would continue to use the training materials. Include timetables for follow-up and for submitting a summary of the assessment results to MSHA.

C. Dunn and Bradstreet Universal Numbering System (DUNS) Number and System for Award Management (SAM)—Required

Under 2 CFR 25.200(b)(3), every applicant for a Federal grant is required to include a DUNS number with its application. The DUNS number is a nine-digit identification number that uniquely identifies business entities. An applicant's DUNS number is to be entered into Block 8 of Standard Form (SF) 424. There is no charge for obtaining a DUNS number. To obtain a DUNS number, call 1–866–705–5711 or access the following Web site: *http://fedgov.dnb.com/webform*.

After receiving a DUNS number, all grant applicants must register as a vendor with the System for Award Management (SAM) through the Web site *www.sam.gov*. Grant applicants must create a user account and register online. Submitted registrations will take up to 10 business days to process, after which the applicant will receive an email notice that the registration is active. Once the registration is active in SAM it takes an additional 24–48 hours for the registration to be active in grants.gov. Registrations expire after one year. SAM will send notifications to the registered user via email prior to expiration of the registration. Under 2 CFR 25.200(b)(2), each grant applicant must maintain an active registration with current information at all times during which it has an active Federal award or an application under active consideration.

D. Submission Date, Times, and Addresses

The closing date for applications will be August 25, 2015, (no later than 11:59 p.m. EDST). MSHA will award grants on or before September 30, 2015.

Grant applications must be submitted electronically through the Grants.gov Web site. The Grants.gov site provides all the information about submitting an application electronically through the site as well as the hours of operation. Interested parties can locate the downloadable application package by the CFDA No. 17.603.

1. Non-Compliant Applications

(a) Applications that are lacking any of the required elements or do not follow the format prescribed in IV.B. will not be reviewed.

(b) Late Applications

You are cautioned that applications should be submitted before the deadline to ensure that the risk of late receipt of the application is minimized. Applications received after the deadline will not be reviewed unless it is determined to be in the best interest of the Government.

Applications received by Grants.gov are date and time stamped electronically. Once an interested party has submitted an application, Grants.gov will notify the interested party with two emails: The first is an automatic notification of receipt that provides the applicant with a tracking number and the second notifies applicants that the application has been validated by Grants.gov and is being prepared for Agency retrieval. The DOL E-Grants system then receives the application automatically from Grants.gov for Agency review.

An application must be fully uploaded and validated by the Grants.gov system before the application deadline date.

E. Intergovernmental Review

The Brookwood-Sago grants are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' MSHA however, reminds applicants that if they are not operating MSHA-approved State training grants, they should contact the State grantees and coordinate any training or educational program. Information about each state grant and the entity operating the state grant is provided online at: *www.msha.gov/TRAINING/STATES/STATES.asp*.

F. Funding Restrictions

MSHA will determine whether costs are allowable under the applicable Federal cost principles and other conditions contained in the grant award.

1. Allowable Costs

Grant funds may be spent on conducting training and outreach, developing educational materials, recruiting activities (to increase the number of participants in the program), and on necessary expenses to support these activities. Allowable costs are determined by the applicable Federal cost principles identified in Part VI.B, which are attachments in the application package, or are located online at *www.msha.gov*: Select ''Education & Training Resources'', click on ''Courses'', select ''Brookwood-Sago Mine Safety Grants''. Paper copies of the material may be obtained by contacting the Directorate of Educational Policy and Development at 202–693–9570.

(a) If an applicant anticipates earning program income during the grant period, the application must include an estimate of the income that will be earned. Program income earned must be reported on a quarterly basis.

(b) Program income is gross income earned by the grantee which is directly generated by a supported activity, or earned as a result of the award. Program income earned during the award period shall be retained by the recipient, added to funds committed to the award, and used for the purposes and under the conditions applicable to the use of the grant funds. See 2 CFR 200.80 and 200.307.

2. Unallowable Costs

Grant funds may not be used for the following activities under this grant program:

(a) Any activity inconsistent with the goals and objectives of this SGA
(b) Training on topics that are not targeted under this SGA
(c) Purchasing any equipment unless pre-approved and in writing by the MSHA grant officer
(d) Indirect administrative costs that exceed 15% of the total grant budget
(e) Any pre-award costs

Unallowable costs also include any cost determined by MSHA as not allowed according to the applicable cost principles or other conditions in the grant.

V. Application Review Information for FY 2015 Grants

A. Evaluation Criteria

MSHA will screen all applications to determine whether all required proposal elements are present and clearly identifiable. Those that do not comply with mandatory requirements will not be evaluated. The technical panels will review grant applications using the following criteria:

1. Program Design—40 Points Total

(a) Statement of the Problem/Need for Funds (3 Points)

The proposed training and education program or training materials must address either mine emergency preparedness or mine emergency prevention.

(b) Quality of the Project Design (25 Points)

(1) The proposal to train mine operators and miners clearly estimates the number to be trained and clearly identifies the types of mine operators and miners to be trained.

(2) If the proposal contains a train-the-trainer program, the following information must be provided:

- What ongoing support the grantee will provide to new trainers
- The number of individuals to be trained as trainers
- The estimated number of courses to be conducted by the new trainers
- The estimated number of students to be trained by these new trainers and a description of how the grantee will obtain data from the new trainers documenting their classes and student numbers if conducted during the grant period

(3) The work plan activities and training are described.

- The planned activities and training are tailored to the needs and levels of the mine operators and miners to be trained. Any special constituency to be served through the grant program is described, *e.g.,* smaller mines, limited English proficiency miners, etc. Organizations proposing to develop materials in languages other than English also will be required to provide an English version of the materials.
- If the proposal includes developing training materials, the work plan must include time during development for MSHA to review the educational materials for technical accuracy and suitability of content. If commercially developed training products will be used for a training program, applicants should also plan for MSHA to review the materials before using the products in their grant programs.
- The utility of the educational materials is described.
- The outreach or process to find mine operators, miners, or trainees to receive the training is described.

(c) Replication (4 Points)

The potential for a project to serve a variety of mine operators, miners, or mine sites, or the extent others may replicate the project.

(d) Innovation (3 Points)

The originality and uniqueness of the approach used.

(e) MSHA's Performance Goals (5 Points)

The extent the proposed project will contribute to MSHA's performance goals.

2. Budget—20 Points Total

(a) The budget presentation is clear and detailed. (15 points)

The budgeted costs are reasonable.

- No more than 15% of the total budget is for administrative costs.
- The budget complies with Federal cost principles (which can be found in the applicable Office of Management and Budget (OMB) Circulars and with MSHA budget requirements contained in the grant application instructions).

(b) The application demonstrates that the applicant has strong financial management and internal control systems. (5 points)

3. Overall Qualifications of the Applicant—25 Points Total

(a) Grant Experience (6 Points)

The applicant has administered, or will work with an organization that has administered, a number of different Federal or State grants. The applicant may demonstrate this experience by having project staff that has experience administering Federal or State grants.

(b) Mine Safety Training Experience (13 Points)

- The applicant applying for the grant demonstrates experience with mine safety teaching or providing mine safety educational programs. Applicants that do not have prior experience in providing mine safety training to mine operators or miners may partner with an established mine safety organization to acquire mine safety expertise.
- Project staff has experience in mine safety, the specific topic chosen, or in training mine operators and miners.
- Project staff has experience in recruiting, training, and working with the population the organization proposes to serve.
- Applicant has experience in designing and developing mine safety training materials for a mining program.
- Applicant has experience in managing educational programs.

(c) Management (6 Points)

Applicant demonstrates internal control and management oversight of the project.

4. Outputs and Evaluations—15 Points Total

The proposal should include provisions for evaluating the organization's progress in accomplishing the grant work activities and accomplishments, evaluating training sessions, and evaluating the program's effectiveness and impact to determine if the safety training and services provided resulted in workplace change or improved workplace conditions. The proposal should include a plan to follow up with trainees to determine the impact the program has had in abating hazards and reducing miner illnesses and injuries.

B. Review and Selection Process for FY 2015 Grants

A technical panel will rate each complete application against the criteria described in this SGA. One or more applicants may be selected as grantees on the basis of the initial application submission or a minimally acceptable number of points may be established. MSHA may request final revisions to the applications, and then evaluate the revised applications. MSHA may consider any information that comes to its attention in evaluating the applications.

The panel recommendations are advisory in nature. The Deputy Assistant Secretary for Operations for Mine Safety and Health will make a final selection determination based on what is most advantageous to the government, considering factors such as panel findings, geographic presence of the applicants or the areas to be served, Agency priorities, and the best value to the government, cost, and other factors. The Deputy Assistant Secretary's determination for award under this SGA is final.

C. Anticipated Announcement and Award Dates

Announcement of these awards is expected to occur before September 30, 2015. The grant agreement will be signed no later than September 30, 2015.

VI. Award Administration Information

A. Award Process

Before September 29, 2015, organizations selected as potential grant recipients will be notified by a representative of the Deputy Assistant Secretary. An applicant whose proposal is not selected will be notified in writing. The fact that an organization has been selected as a potential grant recipient does not necessarily constitute approval of the grant application as submitted (revisions may be required).

Before the actual grant award and the announcement of the award, MSHA may enter into negotiations with the potential grant recipient concerning such matters as program components, staffing and funding levels, and administrative systems. If the negotiations do not result in an acceptable submittal, the Deputy Assistant Secretary reserves the right to

terminate the negotiations and decline to fund the proposal.

B. Administrative and National Policy Requirements

All grantees will be subject to applicable Federal laws and regulations (including provisions of appropriations law) and applicable OMB Circulars. These requirements are attachments in the application package or are located online at *www.msha.gov*: Select ''Education & Training Resources'', click on ''Courses'', select ''Brookwood-Sago Mine Safety Grants''. The grants awarded under this competitive grant program will be subject to the following administrative standards and provisions, if applicable:

- 2 CFR Part 25, Universal Identifier and System of Award Management.
- 2 CFR Part 170, Reporting Subawards and Executive Compensation Information.
- 2 CFR Part 175, Award Term for Trafficking in Persons.
- 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- 29 CFR Part 2, Subpart D, Equal Treatment in Department of Labor Programs for Religious Organizations; Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries.
- 29 CFR Part 31, Nondiscrimination in federally assisted programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.
- 29 CFR Part 32, Nondiscrimination on the basis of handicap in programs or activities receiving federal financial assistance.
- 29 CFR Part 35, Nondiscrimination on the basis of age in programs or activities receiving federal financial assistance from the Department of Labor.
- 29 CFR Part 36, Nondiscrimination on the basis of sex in education programs or activities receiving federal financial assistance.
- 29 CFR Part 93, New restrictions on lobbying.
- 29 CFR Part 94, Government-wide requirements for drug-free workplace (financial assistance).
- 29 CFR Part 98, Government-wide debarment and suspension (non-procurement).
- Federal Acquisition Regulation (FAR) Part 31, Subpart 31.2, Contract cost principles and procedures (Codified at 48 CFR Subpart 31.2).

Indirect administrative costs for these grants may not exceed 15%. Unless specifically approved, MSHA's acceptance of a proposal or MSHA's award of Federal funds to sponsor any program does not constitute a waiver of any grant requirement or procedure. For example, if an application identifies a specific sub-contractor to provide certain services, the MSHA award does not provide a basis to sole-source the procurement (to avoid competition).

C. Special Program Requirements

1. MSHA Review of Educational Materials

MSHA will review all grantee-produced educational and training materials for technical accuracy and suitability of content during development and before final publication. MSHA also will review training curricula and purchased training materials for technical accuracy and suitability of content before the materials are used. Grantees developing training materials must follow all copyright laws and provide written certification that their materials are free from copyright infringement.

When grantees produce training materials, they must provide copies of completed materials to MSHA before the end of the grant period. Completed materials should be submitted to MSHA in hard copy and in digital format for publication on the MSHA Web site. Two copies of the materials must be provided to MSHA. Acceptable formats for training materials include Microsoft XP Word, PDF, PowerPoint, and any other format agreed upon by MSHA.

2. License

As stated in 2 CFR 200.315, the Department of Labor has a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use for Federal purposes any work produced, or for which ownership was acquired, under a grant, and to authorize others to do so. Such products include, but are not limited to, curricula, training models, and any related materials. Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronic, or otherwise.

3. Acknowledgement on Printed Materials

All approved grant-funded materials developed by a grantee shall contain the following disclaimer: ''This material was produced under grant number XXXXX from the Mine Safety and Health Administration, U.S. Department of Labor. It does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

When issuing statements, press releases, request for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds must clearly state:

(a) The percentage of the total costs of the program or project that will be financed with Federal money;

(b) The dollar amount of Federal financial assistance for the project or program; and

(c) The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

4. Use of U.S. Department of Labor (USDOL)

With written permission from MSHA, the USDOL logo may be applied to the grant-funded materials including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications. The grantees must consult with MSHA on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the DOL logo be placed on any item until MSHA has given the grantee written permission to use the logo on the item.

5. Reporting

Grantees are required by Departmental regulations to submit financial and project reports, as described below. Grantees are also required to submit final reports no later than 90 days after the end of the grant period.

(a) Financial Reports

The grantee shall submit financial reports on a quarterly basis. Recipients are required to use the U.S. Department of Labor's Grantee Reporting Systems' electronic SF–425 (Federal Financial Report), at *www.etareports.doleta.gov*, to report the status of all funds awarded and, if applicable, program income received and expended, during the funding period. All reports are due no later than 30 days after the end of the reporting period.

(b) Technical Project Reports

A grantee must submit a technical project report to MSHA no later than 30 days after December 31, 2015, March 31, 2016, June 30, 2016, and September 30, 2016, respectively. Technical project reports provide both quantitative and qualitative information and a narrative

assessment of performance for the preceding three-month period. This should include the current grant progress against the overall grant goals as provided in Part IV.B.3.

Between reporting dates, the grantee shall immediately inform MSHA of significant developments or problems affecting the organization's ability to accomplish the work. See 2 CFR 200.328(d).

(c) Final Reports

At the end of the grant period, each grantee must provide a project summary of its technical project reports, an evaluation report, and a close-out financial report. These final reports are due no later than 90 days after the end of the 12-month performance period.

D. Freedom of Information

Any information submitted in response to this SGA will be subject to the provisions of the Freedom of Information Act, as appropriate.

E. Transparency in the Grant Process

DOL is committed to conducting a transparent grant award process and publicizing information about program outcomes. Posting awardees' grant applications on public Web sites is a means of promoting and sharing innovative ideas. Under this SGA, DOL will publish the awardees' Executive Summaries, selected information from their SF–424s, and a version of awardees' Technical Proposals on the Department's Web site or similar location. None of the Attachments to the Technical Proposal provided with the applications will be published. The Technical Proposals and Executive Summaries will not be published until after the grants are awarded. In addition, information about grant progress and results may also be made publicly available.

DOL recognizes that grant applications sometimes contain information that an applicant may consider proprietary or business confidential information, or may contain personally identifiable information. Proprietary or business confidential information is information that is not usually disclosed outside your organization and disclosing this information is likely to cause you substantial competitive harm.

Personally identifiable information is any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

Executive Summaries will be published in the form originally submitted, without any redactions. Applicants should not include any proprietary or confidential business information or personally identifiable information in this summary. In the event that an applicant submits proprietary or confidential business information or personally identifiable information in the summary, DOL is not liable for the posting of this information contained in the Executive Summary. The submission of the grant application constitutes a waiver of the applicant's objection to the posting of any proprietary or confidential business information contained in the Executive Summary. Additionally, the applicant is responsible for obtaining all authorizations from relevant parties for publishing all personally identifiable information contained within the Executive Summary. In the event the Executive Summary contains proprietary or confidential business or personally identifiable information, the applicant is presumed to have obtained all necessary authorizations to provide this information and may be liable for any improper release of this information.

By submission of this grant application, the applicant agrees to indemnify and hold harmless the United States, the U.S. Department of Labor, its officers, employees, and agents against any liability or for any loss or damages arising from this application. By such submission of this grant application, the applicant further acknowledges having the authority to execute this release of liability.

In order to ensure that proprietary or confidential business information or personally identifiable information is properly protected from disclosure when DOL posts the selected Technical Proposals, applicants whose Technical Proposals will be posted will be asked to submit a second redacted version of their Technical Proposal, with any proprietary or confidential business information and personally identifiable information redacted. All non-public information about the applicant's staff or other individuals should be removed as well.

The Department will contact the applicants whose Technical Proposals will be published by letter or email, and provide further directions about how and when to submit the redacted version of the Technical Proposal.

Submission of a redacted version of the Technical Proposal will constitute permission by the applicant for DOL to make the redacted version publicly available. We will also assume that the applicant has obtained the agreement to the redacted version of the applicant's Technical Proposal. If an applicant fails to provide a redacted version of the Technical Proposal within two weeks after receipt of Notice of Award, DOL will publish the original Technical Proposal in full, after redacting only personally identifiable information. (Note that the original, unredacted version of the Technical Proposal will remain part of the complete application package, including an applicant's proprietary and confidential business information and any personally identifiable information.)

Applicants are encouraged to disclose as much of the grant application information as possible, and to redact only information that clearly is proprietary, confidential commercial/business information, or capable of identifying a person. The redaction of entire pages or sections of the Technical Proposal is not appropriate, and will not be allowed, unless the entire portion merits such protection. Should a dispute arise about whether redactions are appropriate, DOL will follow the procedures outlined in the Department's Freedom of Information Act (FOIA) regulations (29 CFR Part 70).

Redacted information in grant applications is protected from public disclosure in accordance with federal law, including the Trade Secrets Act (18 U.S.C. 1905), FOIA, and the Privacy Act (5 U.S.C. 552a). If DOL receives a FOIA request for your application, DOL will follow the procedures in its FOIA regulations; procedures governing commercial/business information submitted to the government are set forth in 29 CFR 70.26. It is possible that application of these rules may result in release of information that an applicant redacted.

VII. Agency Contacts

Any questions regarding this Solicitation for Grant Applications (SGA 15–3BS) should be directed to Janice Oates at *Oates.Janice@dol.gov* or 202–693–9570 (this is not a toll-free number) or Teresa Rivera at *Rivera.Teresa@dol.gov* or 202–693–9581 (this is not a toll-free number). MSHA's Web page at *www.msha.gov* is a valuable source of background for this initiative.

VIII. Office Of Management And Budget Information Collection Requirements

This SGA requests information from applicants. This collection of information is approved under (OMB No. 1225–0086, expiration: 01/31/2016).

Except as otherwise noted, in accordance with the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for the grant application is estimated to average 20 hours per response, for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Each recipient who receives a grant award notice will be required to submit nine progress reports to MSHA. MSHA estimates that each report will take approximately two and one-half hours to prepare.

Send comments regarding the burden estimated or any other aspect of this collection of information, including suggestions for reducing this burden, to the OMB Desk Officer for MSHA, Office of Management and Budget Room 10235, Washington, DC 20503 and MSHA, electronically to Janice Oates at *Oates.Janice@dol.gov* or Teresa Rivera at *Rivera.Teresa@dol.gov* or by mail to Janice Oates, 5th floor, 201 12th Street South, Arlington, VA 22202.

This information is being collected for the purpose of awarding a grant. The information collected through this ''Solicitation for Grant Applications'' will be used by the Department of Labor to ensure that grants are awarded to the applicant best suited to perform the functions of the grant. Submission of this information is required in order for the applicant to be considered for award of this grant.

Authority: 30 U.S.C. 965.

Dated: June 24, 2015.

Patricia W. Silvey,

Deputy Assistant Secretary for Operations, Mine Safety and Health.

[FR Doc. 2015–15858 Filed 6–26–15; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2015–0014]

Maritime Advisory Committee for Occupational Safety and Health (MACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of MACOSH meeting.

SUMMARY: This **Federal Register** notice announces meetings of the full Committee and the workgroups on September 1 and 2, 2015 in Tampa, FL.

DATES: *MACOSH meeting:* MACOSH will meet from 9 a.m. until approximately 5 p.m. on September 1 and 2, 2015.

Submission of comments, requests to speak, and requests for special accommodation: Submit comments, requests to speak at the full Committee meeting, and requests for special accommodations for these meetings (postmarked, sent, or transmitted) by August 10, 2015.

ADDRESSES: The Committee and workgroups will meet at the University of South Florida, Marshall Student Center, 4103 USF Cedar Circle, Tampa, FL 33620, in Rooms 3708 and 3709. Meeting attendees should use the main building entrance off of USF Cedar Drive.

Submission of comments and requests to speak: Submit comments and requests to speak at the MACOSH meetings, identified by the docket number for this **Federal Register** notice (Docket No. OSHA 2015–0014), by one of the following methods:

Electronically: Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If comments, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

Regular mail, express mail, hand (courier) delivery, and messenger service: When using this method, submit a copy of comments and attachments to the OSHA Docket Office, Docket No. OSHA–2015–0014, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. The Docket Office accepts deliveries (express mail, hand (courier) delivery, and messenger service) during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Requests for special accommodations: Submit requests for special accommodations for MACOSH and its workgroup meetings by hard copy, telephone, or email to: Gretta Jameson, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *jameson.grettah@dol.gov.*

Instructions: All submissions must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2015–0014). Because of security-related procedures, submissions by regular mail may result in a significant delay in receipt. Please contact the OSHA Docket Office for information about security procedures for making submissions by express mail, hand (courier) delivery, and messenger service.

OSHA will place comments and requests to speak, including personal information, in the public docket which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download documents in the public docket for this MACOSH meeting, go to *http://www.regulations.gov.* All documents in the public docket are listed in the index; however, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions are available for inspection and, when permitted, copying at the OSHA Docket Office at the above address. For information on using *http://www.regulations.gov* to make submissions or to access the docket, click on the ''Help'' tab at the top of the Home page. Contact the OSHA Docket Office for information about materials not available through that Web site and for assistance in using the Internet to locate submissions and other documents in the docket.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.frank2@dol.gov.*

For general information about MACOSH and this meeting: Amy Wangdahl, Director, Office of Maritime and Agriculture, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2066; email: *wangdahl.amy@dol.gov.*

Copies of this **Federal Register** notice: Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available at OSHA's Web page at: *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION: All MACOSH committee and workgroup meetings are open to the public. Interested persons may attend the full

Committee and its workgroup meetings at the time and place listed above. The full Committee will meet from 9 a.m. until approximately 5 p.m. on September 2, 2015, in Room 3709. The full Committee agenda will include: a presentation on OSHA 10 and 30-hour Maritime Outreach Training; an overview of OSHA Region IV, Tampa Area office; an OSHA field report on maritime activities in the Port of Tampa; presentations from local maritime safety professionals; an overview of OSHA's Maritime Steering Committee; and reports from the Longshoring and Shipyard workgroups.

The Longshoring and Shipyard workgroups will meet from 9 a.m. until approximately 5 p.m. on September 1, 2015, in conference rooms 3708 and 3709. The workgroups will discuss evaluating Shipyard Competent Person programs; fire and rescue services in shipyards; updates to the OSHA eTool for shipyards; container lashing safety; baggage handling in cruise terminal operations; mechanic safety in longshoring operations; and the translation of OSHA maritime guidance documents into Spanish.

Public Participation: Any individual attending the MACOSH meeting, including the workgroup meetings, at the University of South Florida, Marshall Student Center, should use the main building entrance off of USF Cedar Drive. Please contact the University of South Florida (email: *usfotioutreach@health.usf.edu*) for additional information about building policies for attending the MACOSH Committee and workgroup meetings. Interested parties may submit a request to make an oral presentation to MACOSH by any one of the methods listed in the **ADDRESSES** section above. The request must state the amount of time requested to speak, the interest represented (*e.g.,* organization name), if any, and a brief outline of the presentation. The MACOSH Chair has discretion to grant requests to address the full Committee as time permits.

Interested parties also may submit written comments, including data and other information, using any one of the methods listed in the **ADDRESSES** section above. OSHA will provide all submissions to MACOSH members prior to the meeting. Individuals who need special accommodations to attend the MACOSH meeting should contact Gretta Jameson as specified above under the heading ''Requests for special accommodations'' in the **ADDRESSES** section.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 655, 656, 5 U.S.C. App. 2, Secretary of Labor's Order No. 1–2012 (77 FR 3912), and 29 CFR part 1912.

Signed at Washington, DC, on June 22, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2015–15804 Filed 6–26–15; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–049]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: NARA must receive requests for copies in writing by July 29, 2015. Once NARA completes appraisal of the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR); 8601 Adelphi Road; College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

FAX: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Management Services (ACNR); National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for types of records and submit these schedules for NARA's approval. These schedules allow timely transfer into the National Archives of historically valuable records and authorize agencies to dispose of all other records after the agencies no longer need them to conduct business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media-neutral unless otherwise specified. An item in a schedule is media-neutral when an agency may apply the disposition instructions to records regardless of the medium in which it has created or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media-neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No agencies may destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after a thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of people directly affected by the

Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice: Lists the organizational unit(s) accumulating the records or that the schedule has agency-wide applicability (in the case of schedules that cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of the Army, Agency-wide (DAA–AU–2015–0030, 1 item, 1 temporary item). Master files of an electronic information system that contains records relating to dining facility inspections including inspection dates, locations, and final results.

2. Department of Commerce, National Oceanic and Atmospheric Administration (DAA–0370–2015–0001, 20 items, 14 temporary items). Records of the National Climatic Data Center, including atmospheric observations, homogenized and derived products, numerical model data, and the national digital forecast database. Proposed for permanent retention are routine atmospheric observation records, reports of historically significant events, analyzed maps and charts, and core normals of weather station temperature and precipitation values.

3. Department of Commerce, National Oceanic and Atmospheric Administration (DAA–0370–2015–0005, 7 items, 3 temporary items). Records of the Marine National Monument Program, including supporting materials and permit files. Proposed for permanent retention are national monument designation files, management plans and related reports, management plan and revision files, and supplemental management plans.

4. Department of Health and Human Services, Indian Health Service (DAA–0513–2015–0003, 1 item, 1 temporary item). Internal correspondence, forms, case summaries, internal committee findings, and reports for medical malpractice claims.

5. Department of Homeland Security, National Protection and Programs Directorate (DAA–0563–2015–0008, 1 item, 1 temporary item). Data inadvertently captured and determined to be unrelated to known or suspected cyber threats contained in the master files of an electronic information system used for intrusion detection, analysis, and prevention.

6. Department of State, Bureau of Energy Resources (DAA–0059–2014–0021, 3 items, 3 temporary items). Records of the Office of Electricity and Energy Efficiency including research materials, correspondence, reports, memorandums, and working files related to energy issues.

7. Department of State, Bureau of Energy Resources (DAA–0059–2015–0007, 3 items, 2 temporary items). Project and working files of the Office of Alternative and Renewable Energy. Proposed for permanent retention are records associated with participation on international advisory boards focused on renewable energy issues.

8. Department of Transportation, Surface Transportation Board (DAA–0134–2012–0002, 1 item, 1 temporary item). Summary reports of temporary suspensions of service by railroads.

9. Department of Transportation, Surface Transportation Board (DAA–0134–2013–0001, 1 item, 1 temporary item). Comments received on the merger of railroad companies.

10. Department of Transportation, Surface Transportation Board (DAA–0134–2013–0003, 1 item, 1 temporary item). Summaries of agricultural contracts entered into by railroads and shippers.

11. Department of Transportation, Surface Transportation Board (DAA–0134–2013–0006, 1 item, 1 temporary item). Audit work papers.

12. Department of Transportation, Surface Transportation Board (DAA–0134–2013–0007, 1 item, 1 temporary item). Practitioner application files.

13. Department of Transportation, Surface Transportation Board (DAA–0134–2013–0008, 1 item, 1 temporary item). Practitioner registry files.

14. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (DAA–0564–2015–0001, 1 item, 1 temporary item). Closed litigation case files.

15. Environmental Protection Agency, Agency-wide (DAA–0412–2015–0003, 1 item, 1 temporary item). Records used to facilitate emergency preparedness, prevention, and response.

16. Federal Communications Commission, Enforcement Bureau (DAA–0173–2014–0002, 4 items, 4 temporary items). Master files of an electronic information system used to track workflow and administrative actions related to complaints, initiatives and cases.

17. Federal Communications Commission, Consumer and Governmental Affairs Bureau (DAA–0173–2015–0003, 1 item, 1 temporary item). Reports of complaints of changing a consumer's telephone service without consent.

18. Office of the Director of National Intelligence, Front Office (N1–576–11–2, 8 items, 4 temporary items). Includes copies of speeches and records related to routine financial activities. Proposed for permanent retention are files of senior leadership.

19. Recovery, Accountability and Transparency Board, Agency-wide (DAA–0220–2014–0016, 4 items, 3 temporary items). Tracking files of evidence received and master files of an electronic information system used to analyze data of Federal grant recipients. Proposed for permanent retention are raw data of Federal grant recipients.

20. Securities and Exchange Commission, Division of Corporation Finance (DAA–0266–2014–0001, 2 items, 1 temporary item). Records related to the submission and processing of requests by businesses for confidential handling of certain proprietary business or financial information. Proposed for permanent retention are the unredacted submissions.

21. Selective Service System, Agency-wide (DAA–0147–2015–0002, 4 items, 1 temporary item). Background materials relating to the development of the Selective Service System including draft copies of organizational charts and plans. Proposed for permanent retention are organizational plans, organizational charts, and mission statements.

Dated: June 22, 2015.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2015–15985 Filed 6–26–15; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–050]

Freedom of Information Act (FOIA) Advisory Committee; Meeting

AGENCY: Office of Government Information Services (OGIS), National Archives and Records Administration (NARA)

ACTION: Notice of Federal Advisory Committee Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. App) and the second United States Open Government National Action Plan (NAP) released on December 5, 2013, NARA announces an upcoming Freedom of Information Act (FOIA) Advisory Committee meeting.

DATES: The meeting will be on July 21, 2015, from 10:00 a.m. to 1:00 p.m. EDT. You must register for the meeting by 5:00 p.m. EDT on July 20, 2015.

Location: National Archives and Records Administration (NARA); 700 Pennsylvania Avenue NW.; Archivist's Reception Room (Room 105); Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Christa Lemelin, Designated Federal Officer for this committee, by mail at National Archives and Records Administration; Office of Government Information Services; 8601 Adelphi Road—OGIS; College Park, MD 20740–6001, by telephone at 202–741–5773, or by email at *Christa.Lemelin@nara.gov.*

SUPPLEMENTARY INFORMATION: *Agenda and meeting materials:* You may find all meeting materials at *https://ogis.archives.gov/foia-advisory-committee/meetings.htm.* The purpose of this meeting is to discuss the FOIA issues on which the Committee is focusing its efforts: Oversight and accountability, proactive disclosures, and fees.

Procedures: The meeting is open to the public. Due to space limitations and access procedures, you must register in advance if you wish to attend the meeting. You will also go through security screening when you enter the building. Seating in the meeting room is limited and will be available on a first-come, first-served basis. Registration for the meeting will go live via Eventbrite on July 6, 2015, at 10:00 a.m. EDT. To register for the meeting, please do so at this Eventbrite link: *http://www.eventbrite.com/e/freedom-of-information-act-foia-advisory-committee-meeting-registration-15555361505.* Members of the media who wish to register, those who are unable to register online, and those who require special accommodations, should contact Christa Lemelin at the phone number, mailing address, or email address listed above.

Dated: June 22, 2015.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2015–15969 Filed 6–26–15; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0187]

Treatment of Natural Phenomena Hazards in Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Generic letter; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the availability of final Generic Letter 2015–01, ''Treatment of Natural Phenomena Hazards in Fuel Cycle Facilities.'' The generic letter requests information from licensees of fuel cycle facilities to demonstrate if compliance is being maintained with the regulatory requirements and applicable license conditions regarding the treatment of natural phenomena events in the facilities' safety assessments, and to determine if additional NRC regulatory action is necessary to ensure that licensees are in compliance with their current licensing basis and existing NRC's regulations. The NRC will use the information submitted by licensees in response to the generic letter to determine if additional regulatory action is warranted.

DATES: The final generic letter is available as of June 29, 2015.

ADDRESSES: Please refer to Docket ID NRC–2014–0187 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–2014–0187. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- NRC's Public Web site: Generic Letter 2015–01 is available at *http://www.nrc.gov/reading-rm/doc-collections/gen-comm/gen-letters/* (select ''2015'' and then select ''gl201501'').

FOR FURTHER INFORMATION CONTACT: Jonathan Marcano, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6731, email: *Jonathan.Marcano@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC published a notice of opportunity for public comment on this generic letter in the **Federal Register** on August 8, 2014 (79 FR 46472). The NRC received two comments from Stephen McDuffie and the Nuclear Energy Institute. The two comments resulted in editorial changes to the generic letter. The evaluation of these comments and the resulting changes to the generic letter are discussed in a publicly-available document which is available in ADAMS under Accession No. ML14328A036.

The final generic letter is available in ADAMS under Accession No. ML14328A029.

Dated at Rockville, Maryland, this 22nd day of June, 2015.

For the U.S. Nuclear Regulatory Commission.

Marissa Bailey,

Director, Division of Fuel Cycle Safety, Safeguards, and Environmental Review Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2015–15920 Filed 6–26–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0159]

Changes to Buried and Underground Piping and Tank Recommendations

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft license renewal interim staff guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) requests public comment on the draft License Renewal Interim Staff Guidance (LR–ISG), LR–ISG–2015–01, ''Changes to Buried and Underground Piping and Tank Recommendations.'' The draft LR–ISG

would replace aging management program (AMP) XI.M41, ''Buried and Underground Piping and Tanks,'' and its associated Updated Final Safety Analysis Report (UFSAR) Summary Description in LR–ISG–2011–03, ''Changes to the Generic Aging Lessons Learned (GALL) Report Revision 2 Aging Management Program (AMP) XI.M41, 'Buried and Underground Piping and Tanks'.'' These changes address new recommendations related to buried and underground piping and tanks within the scope of the NRC's regulations for the renewal of operating licenses for nuclear power plants.

DATES: Submit comments by August 13, 2015. Comments received after this date will be considered, if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comment by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0159. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: O12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William Holston, telephone: 301–415–8573, email: *William.Holston@nrc.gov;* and Catherine Nolan, telephone: 301–415–1535, email: *Catherine.Nolan@nrc.gov,* both are staff of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0159 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0159.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it available in ADAMS) is provided the first time that a document is referenced. The draft LR–ISG–2015–01 is available electronically under ADAMS Accession No. ML1525A377. The Generic Aging Lessons Learned (GALL) Report, NUREG–1801 Rev. 2 (Dec. 2010) (GALL Report), and the Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants (SRP–LR), NUREG–1800 Rev. 2 (Dec. 2010), are available under ADAMS Accession Nos. ML103490041 and ML103490036, respectively.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2015–0159 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

The draft LR–ISG would replace AMP XI.M41, ''Buried and Underground Piping and Tanks,'' and its associated UFSAR Summary Description in LR–ISG–2011–03. These proposed changes to AMP XI.M41 address new recommendations related to buried and underground piping and tanks within the scope of part 54 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants.''

The NRC issues LR–ISGs to communicate insights and lessons learned and to address emergent issues not covered in license renewal guidance documents, such as the GALL Report and SRP–LR. In this way, the NRC staff and stakeholders may use the guidance in an LR–ISG document before it is incorporated into a formal license renewal guidance document revision. The NRC staff issues LR–ISGs in accordance with the LR–ISG Process, Revision 2 (ADAMS Accession No. ML100920158), for which a notice of availability was published in the **Federal Register** on June 22, 2010 (75 FR 35510).

III. Proposed Action

By this action, the NRC is requesting public comments on draft LR–ISG–2015–01. This LR–ISG proposes certain revisions to NRC guidance on implementation of the requirements in 10 CFR part 54. The NRC staff will make a final determination regarding issuance of the LR–ISG after it considers any public comments received in response to this request.

IV. Backfitting and Issue Finality

Issuance of this LR–ISG in final form would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and would not otherwise be inconsistent with the issue finality provisions in 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.'' As discussed in the ''Backfitting and Issue Finality'' section of draft LR–ISG–2015–01, the LR–ISG is directed to holders of operating licenses or combined licenses who are currently in the license renewal process. The LR–ISG is not directed to holders of operating licenses or combined licenses until they apply for license renewal. The LR–ISG is also not directed to licensees who already hold renewed operating or combined licenses. However, the NRC could also use the LR–ISG in evaluating voluntary,

licensee-initiated changes to previously-approved aging management programs.

Dated at Rockville, Maryland, this 23rd day of June, 2015.

For the Nuclear Regulatory Commission.

Jane E. Marshall,

Deputy Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–15919 Filed 6–26–15; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–56 and CP2015–84; Order No. 2550]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 126 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 1, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 126 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–56 and CP2015–84 to consider the Request pertaining to the proposed Priority Mail Contract 126 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than July 1, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis Kidd to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–56 and CP2015–84 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Curtis Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than July 1, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–15908 Filed 6–26–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–57 and CP2015–85; Order No. 2551]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail & First-Class Package Service Contract 5 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 1, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail & First-Class Package Service Contract 5 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–57 and CP2015–85 to consider the Request pertaining to the proposed Priority Mail & First-Class Package Service Contract 5 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than July 1, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

[1] Request of the United States Postal Service to Add Priority Mail Contract 126 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, June 23, 2015 (Request).

[1] Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 5 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, June 23, 2015 (Request).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–57 and CP2015–85 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than July 1, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–15909 Filed 6–26–15; 8:45 am]

BILLING CODE 7710–FW–P

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

[Notice–PCLOB–2015–04; Docket No. 2015–0002, Sequence No. 4]

Closed Meeting on Executive Order 12333

AGENCY: Privacy and Civil Liberties Oversight Board.

ACTION: Notice of closed meeting.

SUMMARY: On April 8, 2015, during an open Sunshine Act meeting, the Board voted to select two counterterrorism-related activities governed by Executive Order 12333, and conduct focused in-depth examinations of those activities. During this closed meeting, the Board members will discuss proposed topics for this in-depth examination.

DATES: The closed meeting will be held on Wednesday, July 1, 2015 from 9:30 a.m. until 11:30 a.m. Eastern Standard Time (EST).

ADDRESSES: 2100 K Street NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Sharon Bradford Franklin, Executive Director, 202–331–1986.

SUPPLEMENTARY INFORMATION:

Status

Closed. Pursuant to 5 U.S.C. 552b(c)(1), it has been determined that this meeting will be closed to the public as the Board will be reviewing and discussing matters properly classified in accordance with Executive Order 13526.

Dated: June 23, 2015.

Eric Broxmeyer,

General Counsel, Privacy and Civil Liberties Oversight Board.

[FR Doc. 2015–15824 Filed 6–26–15; 8:45 am]

BILLING CODE 6820–b3–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rules 17h–1T and 17h–2T.

SEC File No. 270–359, OMB Control No. 3235–0410.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rules 17h–1T and 17h–2T (17 CFR 240.17h–1T and 17 CFR 240.17h–2T), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17h–1T requires a covered broker-dealer to maintain and preserve records and other information concerning certain entities that are associated with the broker-dealer. This requirement extends to the financial and securities activities of the holding company, affiliates and subsidiaries of the broker-dealer that are reasonably likely to have a material impact on the financial or operational condition of the broker-dealer. Rule 17h–2T requires a covered broker-dealer to file with the Commission quarterly reports and a cumulative year-end report concerning the information required to be maintained and preserved under Rule 17h–1T.

The collection of information required by Rules 17h–1T and 17h–2T, collectively referred to as the ''risk assessment rules'', is necessary to enable the Commission to monitor the activities of a broker-dealer affiliate whose business activities are reasonably likely to have a material impact on the financial or operational condition of the broker-dealer. Without this information, the Commission would be unable to assess the potentially damaging impact of the affiliate's activities on the broker-dealer.

There are currently 306 respondents that must comply with Rules 17h–1T and 17h–2T. Each of these 306 respondents are estimated to require 10 hours per year to maintain the records required under Rule 17h–1T, for an aggregate estimated annual burden of 3,060 hours (306 respondents × 10 hours). In addition, each of these 306 respondents must make five annual responses under Rule 17h–2T. These five responses are estimated to require 14 hours per respondent per year for an aggregate estimated annual burden of 4,284 hours (306 respondents × 14 hours).

In addition, new respondents must draft an organizational chart required under Rule 17h–1T and establish a system for complying with the risk assessment rules. The staff estimates that drafting the required organizational chart requires one hour and establishing a system for complying with the risk assessment rules requires three hours. Based on the unchanged number of filers in recent years, the staff estimates there will be zero new respondents, and thus, a corresponding estimated burden of zero hours for new respondents. Thus, the total compliance burden per year is approximately 7,344 burden hours (3,060 hours + 4,284 hours).

The retention period for the recordkeeping requirement under Rule 17h–1T is not less than two years following the date the notice is submitted. There is no specific retention period or recordkeeping requirement for Rule 17h–2T. The collection of information is mandatory. All information obtained by the Commission pursuant to the provisions of Rules 17h–1T and 17h–2T from a broker or dealer concerning a material associated person is deemed confidential information for the purposes of section 24(b) of the Exchange Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon,

100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 23, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15814 Filed 6–26–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Regulation S–P;

SEC File No. 270–480, OMB Control No. 3235–0537.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in the privacy notice and opt out notice provisions of Regulation S–P—Privacy of Consumer Financial Information (17 CFR part 248, subpart A) under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*).

The privacy notice and opt out notice provisions of Regulation S–P (the ''Rule'') implement the privacy notice and opt out notice requirements of Title V of the Gramm-Leach-Bliley Act (''GLBA''), which include the requirement that, at the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship, a financial institution shall provide a clear and conspicuous disclosure to such consumer of such financial institution's policies and practices with respect to disclosing nonpublic personal information to affiliates and nonaffiliated third parties (''privacy notice''). Title V of the GLBA also provides that, unless an exception applies, a financial institution may not disclose nonpublic personal information of a consumer to a nonaffiliated third party unless the financial institution clearly and conspicuously discloses to the consumer that such information may be disclosed to such third party; the consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and the consumer is given an explanation of how the consumer can exercise that nondisclosure option (''opt out notice''). The Rule applies to broker-dealers, investment advisers registered with the Commission, and investment companies (''covered entities'').

Commission staff estimates that, as of December 31, 2014, the Rule's information collection burden applies to approximately 19,876 covered entities (approximately 4,267 broker-dealers, 11,508 investment advisers registered with the Commission, and 4,101 investment companies). In view of (a) the minimal recordkeeping burden imposed by the Rule (since the Rule has no recordkeeping requirement and records relating to customer communications already must be made and retained pursuant to other SEC rules); (b) the summary fashion in which information must be provided to customers in the privacy and opt out notices required by the Rule (the model privacy form adopted by the SEC and the other agencies in 2009, designed to serve as both a privacy notice and an opt out notice, is only two pages); (c) the availability to covered entities of the model privacy form and online model privacy form builder; and (d) the experience of covered entities' staff with the notices, SEC staff estimates that covered entities will each spend an average of approximately 12 hours per year complying with the Rule, for a total of approximately 238,512 annual burden-hours ($12 \times 19{,}876 = 238{,}512$). SEC staff understands that the vast majority of covered entities deliver their privacy and opt out notices with other communications such as account opening documents and account statements. Because the other communications are already delivered to consumers, adding a brief privacy and opt out notice should not result in added costs for processing or for postage and materials. Also, privacy and opt out notices may be delivered electronically to consumers who have agreed to electronic communications, which further reduces the costs of delivery. Because SEC staff assumes that most paper copies of privacy and opt out notices are combined with other required mailings, the burden-hour estimates above are based on resources required to integrate the privacy and opt notices into another mailing, rather than on the resources required to create and send a separate mailing. SEC staff estimates that, of the estimated 12 annual burden-hours incurred, approximately 8 hours would be spent by administrative assistants at an hourly rate of $74, and approximately 4 hours would be spent by internal counsel at an hourly rate of $380, for a total annualized internal cost of compliance of $2,112 for each of the covered entities ($8 \times \$74 = \$592$; $4 \times \$380 = \$1{,}520$; $\$592 + \$1{,}520 = \$2{,}112$). Hourly cost of compliance estimates for administrative assistant time are derived from the Securities Industry and Financial Markets Association's *Office Salaries in the Securities Industry 2013,* modified by SEC staff to account for an 1,800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. Hourly cost of compliance estimates for internal counsel time are derived from the Securities Industry and Financial Markets Association's *Management & Professional Earnings in the Securities Industry 2013,* modified by SEC staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. Accordingly, SEC staff estimates that the total annualized internal cost of compliance for the estimated total hour burden for the approximately 19,876 covered entities subject to the Rule is approximately $41,978,112 ($\$2{,}112 \times 19{,}876 = \$41{,}978{,}112$).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission,c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 23, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15816 Filed 6–26–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75273; File No. SR–NYSEARCA–2015–38]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Adopting New Equity Trading Rules Relating to Trading Sessions, Order Ranking and Display, and Order Execution To Reflect the Implementation of Pillar, the Exchange's New Trading Technology Platform

June 23, 2015.

On April 30, 2015, NYSE Arca, Inc. (''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 adopt new equity trading rules relating to Trading Sessions, Order Ranking and Display, and Order Execution to reflect the implementation of Pillar, the Exchange's new trading technology platform. The proposed rule change was published for comment in the **Federal Register** on May 19, 2015.[3] The Commission received no comment letters regarding the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be approved or disapproved. The 45th day for this filing is July 3, 2015.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, pursuant to Section 19(b)(2) of the Act [5] and for the reasons stated above, the Commission designates August 17, 2015, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15826 Filed 6–26–15; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74951 (May 13, 2015), 80 FR 28721.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form ADV–E.

[OMB Control No. 3235–0361, SEC File No. 270–318]

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form ADV–E (17 CFR 279.8) is the cover sheet for certificates of accounting filed pursuant to rule 206(4)–2 under the Investment Advisers Act of 1940 (17 CFR 275.206(4)–2). The rule further requires that the public accountant file with the Commission a Form ADV–E and accompanying statement within four business days of the resignation, dismissal, removal or other termination of its engagement. Respondents each spend approximately three minutes, annually, complying with the requirements of the form.

The estimate of burden hours set forth above is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication. An agency 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.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: June 23, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15815 Filed 6–26–15; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2015–0040]

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a revision of an OMB-approved information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2015–0040].

SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than July 29, 2015. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

Application for a Social Security Number Card, the Social Security Number Application Process (SSNAP), and Internet SSN Replacement Card (iSSNRC) Application—20 CFR 422.103–422.110—0960–0066. SSA collects information on the SS–5 (used in the United States) and SS–5–FS (used outside the United States) to issue original or replacement Social Security cards. SSA also enters the application data into the Social Security Number Application Process (SSNAP) when applicants request a new or replacement card via telephone or in person. In addition, hospitals collect the same information on SSA's behalf for newborn children through the Enumeration-at-Birth process. In this process, parents of newborns provide hospital birth registration clerks with information required to register these newborns. Hospitals send this information to State Bureaus of Vital Statistics (BVS), and they send the information to SSA's National Computer Center. SSA then uploads the data to the SSA mainframe along with all other enumeration data, and we assign the newborn a Social Security number (SSN) and issue a Social Security card. Respondents can also use these modalities to request a change in their SSN records. Additionally, the iSSNRC application will collect information similar to the paper SS–5 for no-change replacement SSN cards for adult U.S. citizens. A new iSSNRC modality included in the current clearance will allow certain applicants for an SSN replacement card to apply by completing an internet application and submitting the required evidence online rather than completing a paper Form SS–5, Application for a Social Security Card. The respondents for this collection are applicants for original and replacement Social Security cards, or individuals who wish to change information in their SSN records, who use any of the modalities described above.

Type of Request: Revision of an OMB-approved information collection.

Application scenario	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Respondents who do not have to provide parents' SSNs	10,500,000	1	8.5	1,487,500
Adult U.S. Citizens requesting a replacement card with no changes through new iSSNRC modality*	1,500,000	1	5	125,000
Respondents whom we ask to provide parents' SSNs (when applying for original SSN cards for children under age 18)	400,000	1	9	60,000
Applicants age 12 or older who need to answer additional questions so SSA can determine whether we previously assigned an SSN	1,500,000	1	9.5	237,500
Applicants asking for a replacement SSN card beyond the new allowable limits (i.e., who must provide additional documentation to accompany the application)	900	1	60	900
Authorization to SSA to obtain personal information cover letter	500	1	15	125
Authorization to SSA to obtain personal information follow-up cover letter	500	1	15	125
Totals	13,901,900			1,911,150

*The total timeline for complete national coverage of the iSSNRC application is two years from the date of initial implementation and is dependent on the contractor enrolling each State into the network. By fiscal year 2018, we would expect to issue about 1.5 million replacement cards annually via the iSSNRC application. However, the estimated volume could vary based on the date of implementation, when the contractor acquires States, and our marketing efforts to the public.

Cost Burden: The state BVSs incur costs of approximately $11 million for transmitting data to SSA's mainframe. However, SSA reimburses the states for these costs.

Dated: June 24, 2015.

Faye I. Lipsky,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2015–15837 Filed 6–26–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 9176]

60-Day Notice of Proposed Information Collection: Affidavit of Physical Presence or Residence, Parentage and Support

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to August 28, 2015.

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

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering Docket Number: DOS–2015–0024 in the search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: RiversDA@state.gov*.
- *Mail:* (paper, disk, or CD–ROM submissions): U.S. Department of State,

CA/OCS/PMO, SA–17, 10th Floor, Washington, DC 20036.

- *Fax:* 202–736–9111.
- *Hand Delivery or Courier:* U.S. Department of State, CA/OCS/PMO, 600 19th St. NW., 10th Floor, Washington, DC 20036.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Derek Rivers, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/PMO), U.S. Department of State, SA–17, 10th Floor, Washington, DC 20036 or at *RiversDA@state.gov.*

SUPPLEMENTARY INFORMATION:

- Title of Information Collection: DS 5507, Affidavit of Physical Presence or Residence, Parentage and Support.
- OMB Control Number: OMB No.1405–0187.
- Type of Request: Extension.
- Originating Office: Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS).
- Form Number: DS–5507.
- Respondents: U.S. Citizens or Nationals.
- Estimated Number of Respondents: 17,716.
- Estimated Number of Responses: 17,716.
- Average Hours per Response: 30 minutes.
- Total Estimated Burden: 8,858 hours.
- Frequency: On Occasion.
- Obligation to Respond: Application for Benefits. Although acquisition of U.S. citizenship at birth is not a federal ''benefit,'' U.S. citizen/national parent(s) will not be able to obtain a Consular Report of Birth Abroad of a U.S. Citizen or a U.S. passport for their children born abroad if they do not provide the information requested in the form and establish all statutory requirements have been met to transmit U.S. citizenship to their children.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the requests for information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The purpose of the information collection is to determine whether a U.S. citizen/national parent has met the statutory physical presence or residence requirements to transmit U.S. citizenship to his or her child born abroad or in the United States for U.S. noncitizen nationality; to establish parentage of the child; and to fulfill the requirements of 8 U.S.C. 1409(a), which permits acknowledgment of paternity under oath and requires the U.S. citizen father's written agreement to provide financial support for his child born abroad out of wedlock. The affidavit may also be submitted by the U.S. citizen parent(s) to explain why a local birth certificate is unavailable and to state the facts that are relevant to the birth abroad.

Methodology

The information is collected in person or by mail. The Bureau of Consular Affairs is currently exploring options to make this information collection available electronically.

Dated: June 5, 2015.

Michelle Bernier-Toth,

Managing Director, Bureau of Consular Affairs, Department of State.

[FR Doc. 2015–15904 Filed 6–26–15; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Tenth Meeting: Tactical Operations Committee (TOC)

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

ACTION: Tenth meeting notice of Tactical Operations Committee.

SUMMARY: The FAA is issuing this notice to advise the public of the tenth meeting of the Tactical Operations Committee.

DATES: The meeting will be held July 21st from 9:00 a.m.–4:00 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0655.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Trin Mitra, TOC Secretary, RTCA, Inc., *tmitra@rtca.org,* 202–330–0655.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Tactical Operations Committee. The agenda will include the following:

Tuesday, July 21, 2015

1. Opening of Meeting/Introduction of TOC Members—Co Chairs Jim Bowman and Dale Wright
2. Official Statement of Designated Federal Official—Elizabeth Ray
3. Approval of May 20, 2015 Meeting Summary
4. Recommendation on NOTAM Search Phase 2 Implementation
5. Recommendation on GPS Adjacent Band Compatibility Exclusion Zones
6. Recommendation on Class B Airspace Design, Designation and Evaluation
7. Recommendation on Improving Safety and Operations in the Caribbean
8. Update on Airport Construction Task: Case Studies, Construction Process & Timeline
9. Update on National Procedure Assessment Initiative and Approval of TORs
10. Anticipated Issues for TOC consideration and action at the next meeting
11. Other business
12. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 23, 2015.

Latasha Robinson,

Management & Program Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–15931 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0050]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: FMCSA announces its denial of 115 applications from individuals who requested an exemption from the Federal vision standard applicable to interstate truck and bus drivers and the reasons for the denials. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions does not provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal vision standard for a renewable 2-year period if it finds ''such an exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such an exemption.'' The procedures for requesting an exemption are set forth in 49 CFR part 381.

Accordingly, FMCSA evaluated 115 individual exemption requests on their merit and made a determination that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption program. Each applicant has, prior to this notice, received a letter of final disposition on the exemption request. Those decision letters fully outlined the basis for the denial and constitute final Agency action. The list published in this notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following 25 applicants had no experience operating a CMV:

John O. Adams
Chamekia Allison
William S. Bennett
Alex J. Cordova
Lee J. Gaffney
Joseph P. Gatzek
Victor Gulian
James L. Howes
Jose R. Izaguirre
Robert C. Jeffries
Douglas R. Johnston
Joshua L. Johnson
Charles D. Jones
Darrell T. Leonard
Steven L. Loper
Jared J. Martin
Peni M. Matanimeke
Thomas I. Poindexter
Joaquin Rivera
Michael D. Roe
Allen Rowbotham
Zachary M. Sawyer
Marcus W. Scott
John J. Tilton
Joshua Yeick

The following 24 applicants did not have three years of experience driving a CMV on public highways with their vision deficiencies:

Raed A. Abdelrahim
Jaloliddin S. Abduvakhabov
Elbert A. Akers
Esmic Arras-Saenz
Howard D. Barton
Alan F. Brown
Jerry Carter
Donald E. Cessna, Sr.
Douglas G. Gentry
Jerry G. Henry III
Delbert R. Hummel
Timothy L. Kennie
Ricky A. Mobley
Gabriel Navarro
Ronald D. Otworth
Frederick E. Place
Joshua S. Reiling
Timothy A. Robbins
Anthony A. Salesi
Rodney M. Spigner
Charles Till
Benny P. Whitehead
Charles R. Williams
Wilson B. Willie

The following seven applicants did not have three years of recent experience driving a CMV with the vision deficiency:

Jeffrey S. Branch
Richard Jarrell
Duane A. McCord
Todd O. Moodispaugh
Reynerio G. Paz
Lynn C. Radney, Sr.
Rick L. Richardson

The following three applicants did not have sufficient driving experience during the past three years under normal highway operating conditions:

Harold L. Cobb
Allen Hewitt
Clarence H. Lee

The following applicant, James Lyman, was charged with a moving violation(s) in conjunction with a commercial motor vehicle accident(s).

The following applicant, Kevin E. Putney, had his CDL suspended in relation to a moving violation during the three-year period. Applicants do not qualify for an exemption with a suspension during the three-year period.

The following three applicants were unable to obtain a statement from an optometrist or ophthalmologist stating that he was able to operate a commercial vehicle from a vision standpoint:

Roger F. Berneking
Kip M. Le Fever
David N. Skillings

The following applicant, Michael A. Stiles, was denied for miscellaneous/multiple reasons.

The following two applicants did not have stable vision for the entire three-year period:

Wesley A. Boyd
Thomas E. Lippincott

The following applicant, Myrick J. Jackson, never submitted the documents required for a vision exemption.

The following applicant, Aaron Wiebe, lives in Canada.

The following two applicants did not meet the vision standard in their better eye:

Thomas E. Allen
Michael J. Pullman

The following 13 applicants met the current federal vision standards. Exemptions are not required for applicants who meet the current regulations for vision:

Elazar Ambriz
Steven P. Cohen
Aubrey B. Cook
John D. Hamm
Randal E. Heibult
Thomas M. King
Donald R. Knobloch
Rodney E. Parks
Rene J. Patenaude
Theodore T. Phillips
David Searcy
Guy Waltz
Lloyd F. Wood

The following 26 applicants were denied because they will not be driving interstate, interstate commerce, or are not required to carry a DOT medical card:

Melvin C. Bennett

James E. Campbell
Jeremy L. Elliott
Edward T. Errrichetto
Stefano U. Fabbri
Sebastian Fernandez
Phillp M. Green
Antone J. Heideman, Jr.
Eric J. Hidden
Jared B. Holt
Paul E. Irish, Jr.
Justin M. Jackson
Elias Lemus, Jr.
Thomas J. Manning
David B. McConnell
Timothy J. Miller
George Moore, Jr.
Elpidio Munoz, Jr.
Nicholas M. O'Rourke
William F. Potts
Michael L. Rouse
George E. Shores
Claude G. Stolp
James R. Taylor
Joseph M. Taylor
Joseph H. Varel

Finally, the following five applicants perform transportation for the federal government, state, or any political sub-division of the state.

Bryan A. Jenkins
Anton M. Maloblocki
Stuart P. Nichols
Lawrence K.W. Smith
James A. White, Jr.

Issued on: June 22, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–15862 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No FMCSA–2015–0149]

Proposal for Future Enhancements to the Safety Measurement System (SMS)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; request for public comment.

SUMMARY: FMCSA provides notice and seeks comments on proposed enhancements to the Agency's Safety Measurement System (SMS) methodology. Consistent with its prior announcements, the Agency is proposing changes to the SMS that are the direct result of feedback from stakeholders and the Agency's ongoing continuous improvement efforts. The Agency is considering several changes in this notice and is asking for comment on these issues, and other possible areas for consideration. This set of enhancements would include changing some of the SMS Intervention Thresholds to better reflect the Behavior Analysis and Safety Improvement Categories' (BASICs) correlation to crash risk, other changes to the Hazardous Materials (HM) Compliance BASIC, reclassifying violations for operating while out-of-service (OOS) to the Unsafe Driving BASIC, and adjustments to the Utilization Factor (UF). FMCSA will provide a preview of the proposed enhancements allowing motor carriers to see their own data, enforcement to see the data, and an opportunity for all to comment prior to implementation.

DATES: Comments must be received on or before July 29, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2015–0149 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. David Yessen, Federal Motor Carrier Safety Administration, Compliance Division, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone 609–275–2606, E-Mail: *david.yessen@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

The SMS

FMCSA first announced the implementation of the SMS in the **Federal Register** on April 9, 2010 (75 FR 18256) (Docket No. FMCSA–2004–18898). Since December 2010, FMCSA and its State partners have used SMS to identify and prioritize motor carriers for interventions, including automated warning letters and investigations. Additionally, SMS serves as a principal factor in roadside inspection selection software designed to recommend motor carriers for inspections. The SMS also provides the motor carrier industry, consumers, and other safety stakeholders with comprehensive safety performance data for many carriers. This information is updated monthly. SMS is available at the public Web site at *http://ai.fmcsa.dot.gov/SMS.* FMCSA announced improvements to the SMS in March 2012 (77 FR 18298) (Docket No. FMCSA–2012–0074), August 2012 (77 FR 52110) (Docket No. FMCSA–2004–18898), and July 2014 (79 FR 43117) (Docket No. FMCSA–2013–0392). As stated in the March 2012 notice, FMCSA plans to apply a systematic approach to making improvements to SMS, prioritizing, and releasing packages of improvements as needed.

FMCSA convened a Continuous Improvement Working Group (CIWG) comprised of Federal and State Enforcement personnel. This group used their diverse experiences to identify areas of needed improvement with SMS and the Compliance, Safety, Accountability interventions process. The CIWG recommendations are under review, and they informed the potential enhancements outlined below.

List of Proposed Enhancements

FMCSA is proposing the following enhancements:

1. Changing some of the SMS Intervention Thresholds to better reflect the BASICs' correlation to crash risk.
2. Two changes to the HM Compliance BASIC:
- Segmenting the HM Compliance BASIC by cargo tank (CT) and non-CT carriers; and
- Releasing motor carrier percentile ranknngs under the HM Compliance BASIC to the public.
3. Reclassifying violations for operating while OOS as under the Unsafe Driving BASIC, rather than the BASIC of the underlying OOS violation.
4. Increasing the maximum Vehicle Miles Travelled (VMT) used in the UF to more accurately reflect operations of high-utilization carriers.

Proposed Changes to SMS Intervention Thresholds

The Agency published its most recent SMS Effectiveness Test at *http://csa.fmcsa.dot.gov/Documents/CSMS_Effectiveness_Test_Final_Report.pdf.* After considering the results of this test and other independent analyses, FMCSA is proposing to make changes to more closely align intervention thresholds with each BASIC's correlation to crash risk. FMCSA determined that lowering the Vehicle Maintenance BASIC intervention threshold to better reflect the seriousness of the crash risk associated with vehicle maintenance issues and raising the intervention thresholds for the Controlled Substances/Alcohol, HM Compliance, and Driver Fitness BASICs would more effectively prioritize motor carriers.

As part of the SMS Effectiveness Test analysis, FMCSA analyzed the correlation of each BASIC with crash risk and introduced three levels of crash risk correlation:

- High: Unsafe Driving, Crash Indicator, Hours-of-Service (HOS) Compliance
- Medium: Vehicle Maintenance
- Low: Controlled Substances/Alcohol, HM Compliance, and Driver Fitness

The following chart illustrates the crash rates by BASIC, as demonstrated in the SMS Effectiveness Test.

BASIC over threshold	Crash rate (per 100 PUs)	% Increase in crash rate compared to national average (3.43)
Unsafe Driving	6.62	93
Crash Indicator	6.34	85
HOS Compliance	6.26	83
Vehicle Maintenance	5.65	65
Controlled Substances/Alcohol	4.61	34
HM Compliance	4.49	31
Driver Fitness	3.11	−9

After a thorough analysis of this information and other available studies, the Agency analyzed carriers over a variety of intervention thresholds, and compared those crash rates to the national average. Based on that analysis, the Agency is proposing to adjust the intervention thresholds as shown in the table below, to reflect the differences in the crash correlations of each BASIC:

BASICS	Current intervention thresholds (%)	Proposed intervention thresholds (%)
Unsafe Driving Crash Indicator HOS Compliance	65	65
Vehicle Maintenance	80	75
Controlled Substances/Alcohol HM Compliance Driver Fitness	80	90

The Agency notes that lowering the Vehicle Maintenance BASIC intervention threshold will identify a new set of motor carriers to receive warning letters so that they may address non-compliance issues before crashes occur. The changes would maintain the current intervention thresholds of 65% for the BASICs with the strongest relationship to crash risk. While fewer carriers will be identified for interventions in those BASICs where FMCSA proposes to raise the threshold to 90%, a similar number of carriers will be identified across all BASICs as under the current intervention thresholds. In addition, under the proposed changes the carriers prioritized for interventions will have a higher crash rate than the carriers currently prioritized for interventions. We examined the interstate carriers that are identified as at or above intervention threshold in any of the six BASICs (HM is excluded as it is handled in a different analysis). The effectiveness testing, which uses historical data, showed under the current thresholds that 39,454 carriers at or above intervention thresolds had a crash rate of 5.12 crashes per 100 Pus and under the proposed thresholds 41,012 carriers at or above intervention threshold had a crash rate of 5.49 crashes per 100 PUs. This is a 7% increase in crash rate. A recent snapshot of SMS data (Dec 2014) shows that 2,431 carriers are newly identified while 453 are no longer identified with any of the six BASICs at or above the intervention threshold.

Proposed HM Compliance BASIC Changes

Industry and enforcement stakeholders raised concerns to FMCSA that large non-CT HM carriers have difficulty improving in the HM Compliance BASIC because they are being unfairly compared to CT HM carriers. Non-CT HM and CT HM carriers have different operations and as a result they often receive different violations. After analyzing the issue carefully, FMCSA determined that segmenting the HM Compliance BASIC by CT and non-CT carriers will address this bias and improve the SMS's ability to identify HM carriers with serious safety problems.

FMCSA studied the feasibility of segmenting the HM Compliance BASIC by business type and found that for

most motor carriers that operate CTs, the CTs make up a majority of the carrier's inspections. A carrier was categorized as a CT carrier if more than 50% of its inspections indicated the vehicles were CTs, and for most that percentage was actually much higher. Analysis shows that there are a sufficient number of carriers for both segments in all safety event groups (SEGs) for effective assessment. FMCSA reviewed BASIC percentile changes with segmentation and found that large CT carriers would see an increase in percentiles, while large non-CT carriers would see a decrease. Small carriers, both CT and non-CT, will not see a change.

HM CARGO SEGMENTATION IMPACT

SEG HM inspections	Current BASIC %	New BASIC non-CT %	New BASIC CT %
5–10	80	Same	Same.
11–15	80	Same	Same.
16–40	80	Same	Same.
41–100	80	71% (−9%)	85% (+5%).
100+	80	62% (−18%)	90% (+10%).

With these changes, FMCSA is confident that the data in the HM Compliance BASIC appropriately reflects the distinct operations of these carriers. As a result, FMCSA proposes to make the HM Compliance BASIC information available to the public.

Violating Out-of-Service Orders

Currently, when a carrier is cited for violating an OOS Order, these violations are associated with the same BASIC as the initial OOS violation. However, the behavior of deciding to violate an OOS Order is more closely related to a motor carrier's or driver's safety judgment, regardless of the underlying OOS condition.

FMCSA reviewed these violations and analyzed the potential impact of reclassifying violations of an OOS Order to the Unsafe Driving BASIC. The Agency found that the crash rate of carriers at or above the intervention threshold in the Unsafe Driving BASIC will remain the same under this proposed change. Moreover, consolidating these OOS violations in the Unsafe Driving BASIC will help enforcement and motor carriers better identify and correct driver-related safety issues. Therefore, FMCSA proposes to move all violations of operating while OOS to the Unsafe Driving BASIC.

Changing the Maximum Vehicle Miles Travelled (VMT)

The Utilization Factor (UF) is an analytical element determined by dividing a motor carrier's vehicle miles traveled (VMT) by the number of power units (PU) in the carrier's fleet. The UF provides a more accurate picture of a carrier's safety and compliance. The UF is used in the Unsafe Driving BASIC and Crash Indicator BASIC when a carrier has a higher than normal utilization of its vehicles (VMT per PU). The UF is currently limited to 200,000 miles. Industry stakeholders noted that the current UF is not accurate for some companies with extremely high utilization. Data reviewed by FMCSA indicates that 200,000 miles may not be the appropriate cap. Therefore, FMCSA is examining allowing additional credit to high-utilization carriers to provide a more accurate picture of the carriers' crash exposure and unsafe driving behaviors.

FMCSA believes that extending the UF to carriers with VMT per PU up to 250,000 miles, from the current level of 200,000, will allow for a better measure of exposure for carriers with very high utilization. During the preview, carriers will be able to see the individual impacts of this change.

FMCSA expects to begin a preview of the proposed enhancements later in 2015. Information on the availability of the preview will be made available on the SMS Web site, and the Agency will publish a subsequent **Federal Register** notice. Prior to implementation, motor carriers will be able to log in with their Portal account or PINs to view their own data and any proposed re-designed formats. The general public will be able to access simulated carrier data in order to view the proposed enhancements. During the preview period, FMCSA will hold several public webinars to provide stakeholders with detailed information about the SMS methodology enhancements.

II. Request for Comments

In advance of the SMS preview, FMCSA requests comments on the above enhancements to the SMS. Commenters are requested to provide supporting data wherever appropriate.

Issued on: June 22, 2015.

T.F. Scott Darling, III,

Chief Counsel.

[FR Doc. 2015–15907 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No FMCSA–2013–0298]

National Implementation of the New Entrant Safety Assurance Program's Off-Site Safety Audit Procedures

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: FMCSA announces the completion of its New Entrant Safety Assurance Program Operational Test (Operational Test) and the beginning of the national implementation of the Off-site Safety Audit Procedures. The Off-site Safety Audit Procedures allow FMCSA, and its Motor Carrier Safety Assurance Program State partners (State Partners), to complete an off-site audit of an eligible new entrant motor carrier whereby the new entrant motor carrier can demonstrate basic safety management controls by submitting compliance documentation to a safety auditor via electronic mail (email), fax, or U.S. mail rather than being subject to an on-site safety audit. FMCSA, working with its respective State partners, conducted an 18-month Operational Test of the Off-Site Safety Audit Procedures on new entrant motor carriers domiciled in the following six States: Alaska, California, Florida, Illinois, Montana, and New York; and the Canadian Provinces contiguous to Montana and New York. The Operational Test began July 15, 2013, and concluded on December 31, 2014. FMCSA will phase-in the implementation of the Off-site Safety Audit Procedures on new entrant motor carriers in other states beginning in the summer of 2015 and continuing over the course of 36 months.

DATES: National implementation of the Off-site Safety Audit Procedures will begin in the summer of 2015 and continue over the next 36 months.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Bennett, Federal Motor Carrier Safety Administration, Compliance Division, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone 202–365–8324, EMAIL: *joseph.bennett@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

Prior to October 1, 2013, 49 CFR part 385 subpart D required a safety audit within 18 months after a new entrant motor carrier began operations to determine if the carrier was exercising basic safety management controls. FMCSA and its State Partners conducted all new entrant safety audits at the motor carrier's principle place of business, which was time and labor intensive. The timeframe for conducting these safety audits was further limited by Section 32102 of the Moving Ahead for Progress in the 21st Century (MAP–21) [Pub. L. 112–141, 126 Stat. 405 (July 6, 2012)], which required FMCSA to complete safety audits within 12 months for property carriers and within 120 days for motorcoach passenger carriers. MAP 21's tightened deadlines, coupled with an increase in new entrant applicants, prompted FMCSA to develop a more efficient mechanism for conducting safety audits.

On September 4, 2013, FMCSA published a notice in the **Federal Register** announcing the Operational Test (78 FR 54510). The Operational Test, which began in July 2013, allowed certain eligible new entrant motor carriers to submit compliance documentation to safety auditors either electronically, via email, or via fax. A safety auditor would then conduct the safety audit remotely, assessing the new entrant's safety performance and determining if it has adequate safety management practices pursuant to 49 CFR part 385, subpart D. New entrant carriers subject to off-site safety audits had the same regulatory requirements and privileges under 49 CFR part 385 subpart D as those carriers subject to on-site safety audits. New entrant motor carriers that transport either hazardous material or passengers were not eligible for an off-site safety audit. New entrant motor carriers with a known safety issue (*i.e.,* received an expedited action notice pursuant to 49 CFR 385.308 or had Behavior Analysis and Safety Improvement Categories (BASICs) scores above the Safety Measurement System thresholds) were also not eligible for an off-site safety audit.

On September 9, 2014, FMCSA announced changes to the Operational Test (79 FR 53511). First, the Agency updated the IT systems so that when an automatic failure violation (as listed in 49 CFR 385.321) is identified by the Agency based on the records the motor carrier provides during the document submission process, the carrier will automatically fail the new entrant safety audit and be placed into the corrective action process. Second, the Agency extended the Operational Test through December 2014 to ensure sufficient data is available to calculate the established metrics in order to make an informed decision on any future actions.

FMCSA monitored and evaluated the effectiveness, efficiency, innovation, and flexibility of the Operational Test procedures in contrast to the current New Entrant Safety Assurance Program during and after the test using several performance metrics. Additional information about the Operational Test is available at *www.regulations.gov* under Docket No. FMCSA–2013–0298.

Upon conclusion of the 18-month Operational Test, FMCSA determined that the data supported the effectiveness of the off-site procedures in determining the safety fitness of eligible new entrant carriers. The off-site procedures further allowed FMCSA to better meet the obligation of conducting safety audits on all new entrant carriers within the MAP–21 timeframes. As a result, FMCSA is moving forward with the nationwide implementation of the Off-Site Safety Audit Procedures.

Results from the 18-month Operational Test showed that:

- 60 percent of new entrant carriers were eligible for, and received, off-site safety audits;
- The number of safety audits completed within the test states increased by 4 percent;
- Off-site safety audits take 33 percent less time to conduct than on-site safety audits;
- Off-site safety audits saved 58 percent on travel costs;
- Carriers identified for the less resource-intensive off-site safety audit were performing well during subsequent roadside inspections; and,
- Post-safety audit carriers receiving off-site safety audits, on average, have equivalent or fewer 49 CFR 385.308 expedited actions and violation rates than carriers receiving an on-site safety audit.

Based on the success of the Operational Test, FMCSA will begin national implementation of the Off-site Safety Audit Procedures for eligible new entrant motor carriers under the New Entrant Safety Assurance Program. Starting in the summer of 2015, FMCSA will phase in use of the off-site procedures as additional State Partners are able to be trained on the process, policy, and information technology system used in conducting an off-site safety audit. In the first phase, FMCSA will implement use of off-site new entrant safety audits in the following 11 States: Georgia, Maine, Michigan, Minnesota, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Vermont, Wyoming, and Washington, DC.

Over the course of the next 36 months, FMCSA will continue to expand the program to FMCSA State Partners, and new entrant motor carriers domiciled in other states. FMCSA will provide a schedule on its public Web site at *http://www.fmcsa.dot.gov/safety/new-entrant-safety-assurance-program* for the additional States implementing the Off-site Safety Audit Procedures. FMCSA anticipates completion of the nationwide expansion of the Off-Site Safety Audit Procedures by the summer of 2018. As the program expands eligible new entrant applicants will receive a written or verbal notice from FMCSA of their eligibility for the off-site safety audit with instructions on the Off-Site Safety Audit Procedures.

Issued on: June 22, 2015.

T.F. Scott Darling, III,

Chief Counsel.

[FR Doc. 2015–15867 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–28043]

Hours of Service of Drivers; Renewal and Expansion of American Pyrotechnics Association Exemption From the 14-Hour Rule During Independence Day Celebrations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces the granting of an exemption for 51 member-companies of the American Pyrotechnics Association (APA) from FMCSA's regulation prohibiting drivers of commercial motor vehicles (CMVs) from driving after the 14th hour after coming on duty. FMCSA renews the exemption for 46 APA member

companies and grants 5 additional carriers coverage under the exemption, which is effective from June 28–July 8, 2015, and June 28–July 8, 2016, inclusive. The original application covered 55 carriers, but FMCSA has declined to exempt 3 of them, and 1 carrier is out of business, leaving 51 approved carriers. Drivers who operate these CMVs in conjunction with staging fireworks shows celebrating Independence Day will be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour driving window otherwise applicable. These drivers remain subject to the 60- and 70-hour limits; they may also drive no more than 11 hours in the 14-hour period after coming on duty, as extended by any off-duty or sleeper-berth time in accordance with this exception. FMCSA believes that the terms and conditions of the exemption will likely enable APA member motor carriers to maintain a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation.

DATES: This exemption is effective from June 28, 2015 (12:01 a.m.) through July 8, 2015 (11:59 p.m.) and from June 28, 2016 (12:01 a.m.) through July 8, 2016 (11:59 p.m.).

FOR FURTHER INFORMATION CONTACT: Mrs. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325, Email: *MCPSD@dot.gov,* Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Docket: For access to the docket to read background documents or comments submitted to the notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The online Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

APA Application for Exemption

The hours-of-service (HOS) rule in 49 CFR 395.3(a)(2) prohibits a property-carrying CMV driver from driving a CMV after the 14th hour after coming on duty following 10 consecutive hours off duty. Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the HOS requirements in 49 CFR 395.3(a)(2) for a 2-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The procedures for requesting an exemption (including renewals) are prescribed in 49 CFR part 381.

The APA, a trade association representing the domestic fireworks industry, applied for an exemption in 2004. A copy of that application is in the docket; it describes fully the nature of the pyrotechnic operations during a typical Independence Day period. Various APA members have held 2-year exemptions during Independence Day periods from 2005 through 2014. The last exemption, for 55 of its members, expired on July 9, 2014. The renewal application covered 50 members that previously held exemptions and 5 additional member companies, but FMCSA has decided not to exempt 3 of them; and 1 carrier, Hi-Tech FX, LLC (US DOT number 1549055), is out of business; 51 carriers are being granted the exemption. A copy of the renewal request is included in the docket referenced at the beginning of this notice.

The CMV drivers employed by APA members are trained pyro technicians who hold commercial driver's licenses (CDLs) with hazardous materials (HM) endorsements. They transport fireworks and related equipment by CMVs on a demanding schedule during a brief Independence Day period, often to remote locations. After they arrive, the drivers are responsible for set-up and staging of the fireworks shows.

The APA stated that it was seeking an HOS exemption for the 2015 and 2016 Independence Day periods because compliance with the current 14-hour rule in 49 CFR 395.3(a)(2) by its members would impose a substantial economic hardship on numerous cities, towns and municipalities, as well as its member-companies. To meet the demand for fireworks shows under the current HOS rules, APA claimed that its members would be required to hire a second driver for most trips. The result would be a substantial increase in the cost of the fireworks shows—beyond the means of many of its members' customers—and many Americans would therefore be denied this important component of the Independence Day celebration. The 51 APA members within the scope of this exemption are listed in an appendix to this notice.

Method To Ensure an Equivalent or Greater Level of Safety

The APA believes that renewal of the exemption for previously exempt carriers and the granting of relief for new carriers will not adversely affect the safety of the fireworks transportation provided by these motor carriers. According to APA, its member-companies have operated under this exemption for 10 previous Independence Day periods without a reported motor carrier safety incident. Moreover, it asserts, without the extra duty-period time provided by the exemption, safety would decline because APA drivers would be unable to return to their home base or other safe location after each show. They would be forced to park the CMVs carrying HM 1.1G, 1.3G and 1.4G products in areas less secure than the motor carrier's home base. As a condition of the exemption, each motor carrier is required to notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5) involving the operation of any CMVs while under this exemption. To date, FMCSA has received no accident notifications, nor is the Agency aware of any accidents reportable under terms of the prior APA exemptions.

APA asserted that the operational demands of this unique industry minimize the risk of CMV crashes. In the last few days before the 4th of July, these drivers transport fireworks over relatively short routes from distribution points to the site of the fireworks display, and normally do so in the early morning when traffic is light. At the site, they spend considerable time installing, wiring, and safety-checking the fireworks displays, followed by several hours off duty in the late afternoon and early evening prior to the event. During this time, the drivers are able to rest and nap, thereby reducing or eliminating the fatigue accumulated during the day. Before beginning another duty day, these drivers must take 10 consecutive hours off duty, the same as other CMV drivers. FMCSA believes that APA operations conducted under the terms and conditions of this limited exemption will likely provide a level of safety that is equivalent to the level of safety achieved without the exemption.

Public Comments

On April 7, 2015, FMCSA published notice of this renewal application, and asked for public comment (80 FR 186690). No comments were submitted.

FMCSA Decision

The FMCSA has evaluated APA's application and the safety records of the companies to which the exemption would apply. The Agency believes that APA members will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption [49 CFR 381.305(a)], and grants the requested exemption to the 51 APA member-companies listed in the appendix.

FMCSA denies the exemption applications of Garden State Fireworks, Inc. (USDOT number 435878); Pyro Engineering Inc. (USDOT number 530262); and Pyro Shows, Inc. (USDOT number 456818). The denial is based on their insufficient safety management controls and the Agency's analysis of their roadside inspections during the last 24 months. Under these circumstances, FMCSA believes it would be inappropriate at this time to grant an exemption to these three companies.

Terms and Conditions of the Exemption

Period of the Exemption

The exemption from the requirements of 49 CFR 395.3(a)(2) is effective from June 28, 2015 (12:01 a.m.) through July 8, 2015 (11:59 p.m.) and from June 28, 2016 (12:01 a.m.) through July 8, 2016 (11:59 p.m.). The exemption will expire on July 8, 2016, at 11:59 p.m. local time.

Extent of the Exemption

This exemption is restricted to the 51 motor carriers listed in the appendix and their CMV drivers. The drivers are exempt from 49 CFR 395.3(a)(2), which prohibits a driver from driving a CMV after the 14th hour after coming on duty and does not permit off-duty periods to extend the 14-hour limit. Drivers covered by this exemption may exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour limit. However, driving time is limited to 11 hours in the 14-hour period after coming on duty, as extended by any off-duty or sleeper-berth time in accordance with this exemption. The exemption is further contingent on each driver having a minimum of 10 consecutive hours off duty prior to beginning a new duty period. The carriers and drivers must comply with all other applicable requirements of the Federal Motor Carrier Safety Regulations (49 CFR parts 350–399) and Hazardous Materials Regulations (49 CFR parts 105–180).

Other Conditions

Each carrier must maintain USDOT registration, a Hazardous Materials Safety Permit (if required), minimum levels of public liability insurance, and not be subject to any ''imminent hazard'' or other out-of-service (OOS) order issued by FMCSA. Each driver covered by the exemption must be in possession of the exemption document, maintain a valid CDL with required endorsements, not be subject to any OOS order or suspension of driving privileges, and meet all physical qualifications required by 49 CFR part 391.

Preemption

During the periods the exemption is in effect, no State may enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person or entity operating under the exemption (49 U.S.C. 31315(d)).

FMCSA Accident Notification

Exempt motor carriers must notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while under this exemption. The notification must include the following information:

a. Identifier of the Exemption: ''APA''

b. Name of operating carrier and USDOT number,

c. Date of the accident,

d. City or town, and State, in which the accident occurred, or closest to the accident scene,

e. Driver's name and license number,

f. If any, co-driver's name and license number,

g. Vehicle number and state license number,

h. Number of individuals suffering physical injury,

i. Number of fatalities,

j. The police-reported cause of the accident,

k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and

l. The total driving time and total on-duty time prior to the accident.

Termination

The FMCSA does not believe the motor carriers and drivers covered by this exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

Issued on: June 23, 2015.

T.F. Scott Darling, III,

Chief Counsel.

Appendix to Notice of Application for Renewal of American Pyrotechnics Association (APA) Exemption from the 14-Hour HOS Rule During 2015 and 2016 Independence Day Celebrations for 46 Motor Carriers

Motor carrier	Street address	City, state, zip code	DOT No.
1 American Fireworks Company	7041 Darrow Road	Hudson, OH 44236	103972
2 American Fireworks Display, LLC	P.O. Box 980	Oxford, NY 13830	2115608
3 AM Pyrotechnics, LLC	2429 East 535th Rd	Buffalo, MO 65622	1034961
4 Atlas PyroVision Entertainment Group, Inc.	136 Old Sharon Rd	Jaffrey, NH 03452	789777
5 Central States Fireworks, Inc	18034 Kincaid Street	Athens, IL 62613	1022659
6 Colonial Fireworks Company	5225 Telegraph Road	Toledo, OH 43612	177274
7 East Coast Pyrotechnics, Inc	4652 Catawba River Rd	Catawba, SC 29704	545033
8 Entertainment Fireworks, Inc	13313 Reeder Road SW	Tenino, WA 98589	680942
9 Falcon Fireworks	3411 Courthouse Road	Guyton, GA 31312	1037954
10 Fireworks & Stage FX America	12650 Hwy 67S. Suite B	Lakeside, CA 92040	908304
11 Fireworks by Grucci, Inc	20 Pinehurst Drive	Bellport, NY 11713	324490
12 J&J Computing dba Fireworks Extravaganza.	174 Route 17 North	Rochelle Park, NJ 07662	2064141
13 Fireworks West Internationale	910 North 3200 West	Logan, UT 84321	245423
14 Gateway Fireworks Displays	P.O. Box 39327	St Louis, MO 63139	1325301
15 Great Lakes Fireworks	24805 Marine	Eastpointe, MI 48021	1011216
16 Hamburg Fireworks Display, Inc	2240 Horns Mill Road SE	Lancaster, OH	395079

Motor carrier	Street address	City, state, zip code	DOT No.
17 Hawaii Explosives & Pyrotechnics, Inc.	17–7850 N. Kulani Road	Mountain View, HI 96771	1375918
18 Hollywood Pyrotechnics, Inc	1567 Antler Point	Eagan, MN 55122	1061068
19 Homeland Fireworks, Inc	P.O. Box 7	Jamieson, OR 97909	1377525
20 Island Fireworks Co., Inc	N1597 County Rd VV	Hager City, WI 54014	414583
21 J&M Displays, Inc	18064 170th Ave	Yarmouth, IA 52660	377461
22 Lantis Fireworks, Inc	130 Sodrac Dr., Box 229	N. Sioux City, SD 57049	534052
23 Legion Fireworks Co., Inc	10 Legion Lane	Wappingers Falls, NY 12590	554391
24 Miand Inc. dba Planet Productions (Mad Bomber).	P.O. Box 294, 3999 Hupp Road R31	Kingsbury, IN 46345	777176
25 Martin & Ware Inc. dba Pyro City Maine & Central Maine Pyrotechnics.	P.P. Box 322	Hallowell, ME 04347	734974
26 Melrose Pyrotechnics, Inc	1 Kinsgubury Industrial Park	Kingsbury, IN 46345	434586
27 Precocious Pyrotechnics, Inc	4420–278th Ave NW	Belgrade, MN 56312	435931
28 Pyro Spectacluars, Inc	3196 N Locust Ave	Rialto, CA 92376	029329
29 Pyro Spectaculars North, Inc	5301 Lang Avenue	McClellan, CA 95652	1671438
30 Pyrotechnic Display, Inc	8450 W. St. Francis Rd	Frankfort, IL 60423	1929883
31 Pyrotecnico (S. Vitale Pyrotechnic Industries, Inc.).	302 Wilson Rd	New Castle, PA 16105	526749
32 Pyrotecnico, LLC	60 West Ct	Mandeville, LA 70471	548303
33 Pyrotecnico FX	6965 Speedway Blvd. Suite 115	Las Vegas, NV 89115	1610728
34 Rainbow Fireworks, Inc	76 Plum Ave	Inman, KS 67546	1139643
35 RES Specialty Pyrotechnics	21595 286th St	Belle Plaine, MN 56011	523981
36 Rozzi's Famous Fireworks, Inc	11605 North Lebanon Rd	Loveland, OH 45140	0483686
37 Skyworks, Ltd	13513 W. Carrier Rd	Carrier, OK 73727	1421047
38 Spielbauer Fireworks Co, Inc	220 Roselawn Blvd	Green Bay, WI 54301	046479
39 Starfire Corporation	682 Cole Road	Carrolltown, PA 15722	554645
40 Vermont Fireworks Co., Inc./ Northstar Fireworks Co., Inc.	2235 Vermont Route 14 South	East Montpelier, VT 05651	310632
41 Western Display Fireworks, Ltd	10946 S. New Era Rd	Canby, OR 97013	498941
42 Western Enterprises, Inc	P.O. Box 160	Carrier, OK 73727	203517
43 Western Fireworks, Inc	14592 Ottaway Road NE	Aurora, OR 97002	838585
44 Wolverine Fireworks Display, Inc	205 W Seidlers	Kawkawlin, MI	376857
45 Young Explosives Corp	P.O. Box 18653	Rochester, NY 14618	450304
46 Zambelli Fireworks MFG, Co., Inc	P.O. Box 1463	New Castle, PA 16103	033167

Appendix to Renewal of Exemption for 5 Motor Carriers Not Previously Exempted

Motor carrier	Street address	City, state, zip code	DOT No.
1 Pyro Shows of Texas, Inc	6601 9 Mile Azle Rd	Fort Worth, TX 76135	2432196
2 Sorgi American Fireworks Michigan, LLC.	935 Wales Ridge Rd	Wales, MI 48027	2475727
3 Spirit of 76	6401 West Hwy 40	Columbia, MO 65202	2138948
4 USA Halloween Planet Inc. dba USA Fireworks.	7800 Record Street, Suite A	Indianapolis, IN 46226	725457
5 Arthur Rozzi Pyrotechnics	6607 Red Hawk Ct	Maineville, OH 45039	2008107

[FR Doc. 2015–15879 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in the Cities of San Rafael and Larkspur, CA, and Moline, IL. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before November 27, 2015.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Terence Plaskon, Environmental Protection Specialist, Office of Environmental Programs, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are

described in the documentation issued in connection with the projects to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on each project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice are:

1. *Project name and location:* Sonoma-Marin Area Rail Transit Downtown San Rafael to Larkspur Extension, Cities of San Rafael and Larkspur, CA. *Project sponsor:* Sonoma-Marin Area Rail Transit (SMART). *Project description:* The proposed project would extend a planned 43-mile initial operating segment of passenger rail service by 2.1 miles from downtown San Rafael to the City of Larkspur ferry terminal. Railway improvements include trackwork, trestle rehabilitation or replacement, the partial realignment of West Francisco Boulevard, at-grade crossing improvements, and construction of a passenger rail station in Larkspur. No acquisition of additional right-of-way would be required. *Final agency actions:* Finding that the project is exempt from Section 4(f) evaluation; Section 106 finding of no historic properties affected; project-level air quality conformity; and Finding of No Significant Impact, dated May 20, 2015. *Supporting documentation:* Environmental Assessment, dated December 2014, and Addendum to the EA, dated May 2015.

2. *Project name and location:* MetroLINK Ferryboat Terminal, Moline, IL. *Project sponsor:* Rock Island County Metropolitan Mass Transit District (MetroLINK). *Project description:* MetroLINK is proposing the construction of a new ferryboat terminal in the 3000 block of River Drive in Moline. The project would include maintenance and storage functions for ferryboat operations, a new dock, and a pedestrian bridge. All work would occur within the City of Moline's owned property. *Final agency actions:* Section 4(f) *de minimis* impact determination; Section 106 finding of no historic properties affected; and determination of documented categorical exclusion. *Supporting documentation:* Documented categorical exclusion pursuant to 23 CFR 771.118(d), dated June 8, 2015.

Issued on: June 19, 2015.

Lucy Garliauskas,

Associate Administrator Planning and Environment.

[FR Doc. 2015–15855 Filed 6–26–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0081]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel TWILIGHT; 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 July 29, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0081. 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 TWILIGHT is:

Intended Commercial Use of Vessel: ''Captained Charters''.

Geographic Region: ''Florida''.

The complete application is given in DOT docket MARAD–2015–0081 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: June 22, 2015.

Thomas M. Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–15890 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0084]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LA MIA STELLA; 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 July 29, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0084. 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 LA MIA STELLA is:

Intended Commercial Use of Vessel: ''UPV Charters''.

Geographic Region: Maryland, Virginia, Washington, DC.

The complete application is given in DOT docket MARAD–2015–0084 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: June 22, 2015.

Thomas M. Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–15893 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0085]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel FIREFLY; 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 July 29, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0085. 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 FIREFLY is:

Intended Commercial Use of Vessel: ''Sightseeing tours''.

Geographic Region: ''Florida''.

The complete application is given in DOT docket MARAD–2015–0085 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: June 22, 2015.

Thomas M. Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–15887 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0083]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel NO WIKI; 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 July 29, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0083. 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 NO WIKI is:

Intended Commercial Use of Vessel: ''The vessel will be donated to The Nature Conservancy in Palmyra Atoll (A U.S. Possession) for 8 months per year. The best use of the vessel is for transporting guests and scientists between Palmyra Atoll and Kiritimati and occasionally Hawaii.''

Geographic Region: ''Hawaii''.

The complete application is given in DOT docket MARAD–2015–0083 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: June 22, 2015.

Thomas M. Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–15892 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0082]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel S/V ADELIE; 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 July 29, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0082. 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 S/V ADELIE is:

Intended Commercial Use of Vessel: ''Bareboat and skippered recreational and research high latitude—remote and winter time charters''.

Geographic Region: ''Alaska, Washington State''.

The complete application is given in DOT docket MARAD–2015–0082 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: June 22, 2015.

Thomas M. Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–15888 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number: DOT–OST–2014–0031]

Agency Information Collection; Activity Under OMB Review; Part 249 Preservation of Records

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), Department of Transportation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of BTS requiring certificated air carriers to preserve accounting records, consumer complaint letters, reservation reports and records, system reports of aircraft movements, etc. Also, public charter operators and overseas military personnel charter operators are required to retain certain contracts, invoices, receipts, bank records and reservation records.

DATES: Written comments should be submitted by August 28, 2015.

FOR FURTHER INFORMATION CONTACT: Jeff Gorham, Office of Airline Information, RTS–42, Room E34, OST–R, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–4406, Fax Number (202) 366–3383 or Email *jeff.gorham@dot.gov.*

Comments

ADDRESSES: You may submit comments identified by DOT Docket ID Number DOT–OST–2014–0031 OMB Approval No. 2138–0006 by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail: Docket Services: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Fax: 202–366–3383.

Instructions: Identify docket number, DOT–OST–2014–0031, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov.* All comments are posted electronically without charge or edits, including any personal information provided.

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 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* or the street address listed above. Follow the online instructions for accessing the dockets.

Electronic Access

You may access comments received for this notice at *http://www.regulations.gov,* by searching docket DOT–OST–2014–0031.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 2138–0006.

Title: Preservation of Air Carrier Records—14 CFR part 249.

Form No.: None.

Type of Review: Extension of a currently approved recordkeeping requirement.

Respondents: Certificated air carriers and charter operators.

Number of Respondents: 90 certificated air carriers, 300 charter operators.

Estimated Time per Response: 3 hours per certificated air carrier, 1 hour per charter operator.

Total Annual Burden: 570 hours.

Needs and Uses: Part 249 requires the retention of records such as: General and subsidiary ledgers, journals and journal vouchers, voucher distribution registers, accounts receivable and payable journals and ledgers, subsidy records documenting underlying financial and statistical reports to DOT, funds reports, consumer records, sales reports, auditors' and flight coupons, air waybills, etc. Depending on the nature of the document, the carrier may be required to retain the document for a period of 30 days to three years. Public charter operators and overseas military personnel charter operators must retain documents which evidence or reflect deposits made by each charter participant and commissions received by, paid to, or deducted by travel agents, and all statements, invoices, bills and receipts from suppliers or furnishers of goods and services in connection with the tour or charter. These records are retained for six months after completion of the charter program.

Not only is it imperative that carriers and charter operators retain source documentation, but it is critical that DOT has access to these records. Given DOT's established information needs for such reports, the underlying support documentation must be retained for a reasonable period of time. Absent the retention requirements, the support for such reports may or may not exist for audit/validation purposes and the relevance and usefulness of the carrier submissions would be impaired, since the data could not be verified to the source on a test basis.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on June 24, 2015.

William Chadwick, Jr.,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 2015–15877 Filed 6–26–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of five individuals and one entity whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182). In addition, OFAC is updating the identifying information for one entity that was previously identified pursuant to the Kingpin Act.

DATES: The designation by the Director of OFAC of the five individuals and one entity identified and one update in this notice pursuant to section 805(b) of the Kingpin Act are effective on June 24, 2015.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security, may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On June 24, 2015, the Director of OFAC designated the following five individuals and one entity whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individuals

1. CARTAGENA BENITEZ, Octavio (a.k.a. ''DON GABRIEL''; a.k.a. ''GABRIEL PARACO''); DOB 18 Oct 1956; POB Urrao, Antioquia, Colombia; Cedula No. 15481237 (Colombia) (individual) [SDNTK]. Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of LA OFICINA DE ENVIGADO and/or LOS URABENOS, and/or acting for or on behalf of LA OFICINA DE ENVIGADO and/or LOS URABENOS and therefore meets the statutory criteria for designation as a Specially Designated Narcotics Trafficker (SDNT) pursuant to sections 805(b)(2) and/or (3) of the Foreign Narcotics Kingpin Designation Act (Kingpin Act), 21 U.S.C. 1904(b)(2) and/or (3).

2. GALLON HENAO, Juan Santiago; DOB 26 May 1963; POB Medellin, Colombia; Cedula No. 79270771 (Colombia) (individual) [SDNTK]. Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of LA OFICINA DE ENVIGADO, and/or acting for or on behalf of LA OFICINA DE ENVIGADO and therefore meets the statutory criteria for designation as a Specially Designated Narcotics Trafficker (SDNT) pursuant to sections 805(b)(2) and/or (3) of the Foreign Narcotics Kingpin Designation Act (Kingpin Act), 21 U.S.C. 1904(b)(2) and/or (3).

3. GALLON HENAO, Pedro David; DOB 12 Aug 1970; POB Medellin, Colombia; Cedula No. 98551360 (Colombia) (individual) [SDNTK]. Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of LA OFICINA DE ENVIGADO, and/or acting for or on behalf of LA OFICINA DE ENVIGADO and therefore meets the statutory criteria for designation as a Specially Designated Narcotics Trafficker (SDNT) pursuant to sections 805(b)(2) and/or (3) of the Foreign Narcotics Kingpin Designation Act (Kingpin Act), 21 U.S.C. 1904(b)(2) and/or (3).

4. GIRALDO OCHOA, Hugo Humberto; DOB 03 Sep 1962; POB Envigado, Antioquia, Colombia; Cedula No. 70556353 (Colombia) (individual) [SDNTK]. Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of LA OFICINA DE ENVIGADO, and/or acting for or on behalf of LA OFICINA DE ENVIGADO and therefore meets the statutory criteria for designation as a Specially Designated Narcotics Trafficker (SDNT) pursuant to sections 805(b)(2) and/or (3) of the Foreign Narcotics Kingpin Designation Act (Kingpin Act), 21 U.S.C. 1904(b)(2) and/or (3).

5. OCHOA MESA, Reinaldo (a.k.a. ''NATILLA''); DOB 10 May 1957; POB Envigado, Antioquia, Colombia; Cedula No. 70546722 (Colombia) (individual) [SDNTK] (Linked To: SEMILLANOS S.A.). Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of LA OFICINA DE ENVIGADO, and/or acting for or on behalf of LA OFICINA DE ENVIGADO and therefore meets the statutory criteria for designation as a Specially Designated Narcotics Trafficker (SDNT) pursuant to sections 805(b)(2) and/or (3) of the Foreign Narcotics Kingpin Designation Act (Kingpin Act), 21 U.S.C. 1904(b)(2) and/or (3).

Entity

1. SEMILLANOS S.A., Carrera 43 A 1 Sur 100 Of 1705, Medellin, Antioquia, Colombia; Hacienda El Cedro, Km 5 Via Rabolargo, Cerete, Cordoba, Colombia; NIT #811034178–0 (Colombia) [SDNTK]. Designated for being owned, controlled, or directed by, or acting for or on behalf of, LA OFICINA DE ENVIGADO and therefore meets the statutory criteria for designation as a Specially Designated Narcotics Trafficker (SDNT) pursuant to section

805(b)(3) of the Foreign Narcotics Kingpin Designation Act (Kingpin Act), 21 U.S.C. 1904(b)(3).

In addition, OFAC has made updates to the record for the following entity previously designated pursuant to the Kingpin Act:

LOS URABENOS (a.k.a. BANDA CRIMINAL DE URABA; a.k.a. LOS AUTODEFENSAS GAITANISTAS DE COLOMBIA), Colombia; Honduras; Panama [SDNTK].

The listing for this entity now appears as follows:

LOS URABENOS (Latin: LOS URABEÑOS) (a.k.a. BANDA CRIMINAL DE URABA; a.k.a. CLAN USUGA; a.k.a. LOS AUTODEFENSAS GAITANISTAS DE COLOMBIA), Colombia; Honduras; Panama [SDNTK].

Dated: June 24, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015–15881 Filed 6–26–15; 8:45 am]

BILLING CODE 4811–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Publication of Nonconventional Source Production Credit Reference Price for Calendar Year 2014

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: Publication of the reference price for the nonconventional source production credit for calendar year 2014. The credit period for nonconventional source production credit ended on December 31, 2013 for facilities producing coke or coke gas (other than from petroleum based products). However, the reference price continues to apply in determining the amount of the enhanced oil recovery credit under section 43, the marginal well production credit under section 45I, and the percentage depletion in case of oil and natural gas produced from marginal properties under section 613A.

DATES: The reference price under section 45K(d)(2)(C) for calendar year 2014 applies for purposes of sections 43, 45I, and 613A for taxable year 2015.

Reference Price: The reference price under section 45K(d)(2)(C) for calendar year 2014 is $87.39.

FOR FURTHER INFORMATION CONTACT: Jennifer Bernardini, CC:PSI:6, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Telephone Number (202) 317–6853 (not a toll-free number).

Dated: June 18, 2015.

Christopher T. Kelley,

Special Counsel to the Associate Chief Counsel, (Passthroughs and Special Industries).

[FR Doc. 2015–15787 Filed 6–26–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 97–15

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 97–15, section 103-Remedial Payment Closing Agreement Program.

DATES: Written comments should be received on or before August 28, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, 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 Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Section 103—Remedial Payment Closing Agreement Program.

OMB Number: 1545–1528.

Revenue Procedure Number: Revenue Procedure 97–15.

Abstract: This information is required by the Internal Revenue Service to verify compliance with sections 57, 103, 144, 142, 144, 145, and 147 of the Internal Revenue Code of 1986, as applicable (including any corresponding provision, if any, of the Internal Revenue Code of 1954). This information will be used by the Service to enter into a closing agreement with the issuer of certain state or local bonds to establish the closing agreement amount.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal government, and not-for-profit institutions.

Estimated Number of Respondents: 50

Estimated Time per Respondent: 1 hour, 30 minutes.

Estimated Total Annual Burden Hours: 75.

The following paragraph applies to all 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: June 18, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–15789 Filed 6–26–15; 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 Guidance regarding Charitable Remainder Trusts and Special Valuation Rules for Transfers of Interests and Trusts.

DATES: Written comments should be received on or before August 28, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Kerry Dennis, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Kerry.Dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Guidance Regarding Charitable Remainder Trusts and Special Valuation Rules for Transfers of Interests and Trusts.

OMB Number: 1545–1536.

Regulation Project Number: REG–209823–96.

Abstract: This regulation provides guidance relating to charitable remainder trusts and to special valuation rules for transfers of interests in trusts. Section 1.664–1(a)(7) of the regulation provides that either an independent trustee or qualified appraiser using a qualified appraisal must value a charitable remainder trust's assets that do not have an objective, ascertainable value.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 150.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 75.

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: June 18, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–15790 Filed 6–26–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8508

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 8508, Request for Waiver From Filing Information Returns Electronically (Forms W–2, W–2G, 1042–S, 1098 Series, 1099 Series, 5498 Series, and 8027).

DATES: Written comments should be received on or before August 28, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, 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 Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Request for Waiver From Filing Information Returns Electronically (Forms W–2, W–2G, 1042–S, 1098 Series, 1099 Series, 5498 Series, and 8027).

OMB Number: 1545–0957.

Form Number: Form 8508.

Abstract: Certain filers of information returns are required by law to file electronically. In some instances, waivers from this requirement are necessary and justified. Form 8508 is submitted by the filer and provides information on which IRS will base its waiver determination.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Farms, Federal Government, State, Local or Tribal Government, and Not-for-Profit institutions.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 18, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–15788 Filed 6–26–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

AGENCY: Department of the Treasury.

ACTION: Notice.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before July 29, 2015 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by email at *PRA@treasury.gov* or the entire information collection request may be found at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

OMB Number: 1545–0064.

Type of Review: Extension without change of a previously approved collection.

Title: Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.

Form: 4029.

Abstract: Form 4029 is used by members of recognized religious groups to apply for exemption from social security and Medicare taxes under IRC sections 1402(g) and 3127. The information is used to approve or deny exemption from social security and Medicare taxes.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 3,792.

OMB Number: 1545–0387.

Type of Review: Extension without change of a previously approved collection.

Title: Application for Filing Information Returns Electronically (FIRE).

Form: 4419.

Abstract: Under section 6011(e)(2)(a) of the Internal Revenue Code, any person, including corporations, partnerships, individuals, estates and trusts, who is required to file 250 or more information returns must file such returns electronically. Payers required to file electronically must complete Form 4419 to receive authorization to file.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 6,500.

OMB Number: 1545–1146.

Type of Review: Extension without change of a previously approved collection.

Title: Applicable Conventions Under the Accelerated Cost Recovery System (TD 8444—Final).

Abstract: The regulations describe the time and manner of making the notation required to be made on Form 4562 under certain circumstances when the taxpayer transfer property in certain non-recognition transactions. The information is necessary to monitor compliance with the section 168 rules.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 70.

OMB Number: 1545–1356.

Type of Review: Extension without change of a previously approved collection.

Title: TD 8725—Miscellaneous Sections Affected by the Taxpayer Bill of Rights 2 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Abstract: This document contains final regulations relating to joint returns, property exempt from levy, interest, penalties, offers in compromise, and the awarding of costs and certain fees. The regulations reflect changes to the law made by the Taxpayer Bill of Rights 2 and a conforming amendment made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The regulations affect taxpayers with respect to filing of returns, interest, penalties, court costs, and payment, deposit, and collection of taxes.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 86.

OMB Number: 1545–1788.

Type of Review: Revision of a previously approved collection.

Title: Taxpayer Advocacy Panel (TAP) Membership Application Process.

Form: 13013, 13013–D.

Abstract: The Federal Advisory Committee Act requires that committee membership be fairly balanced in terms of points of view represented and the functions to be performed. As a result, members of specific committees often have both the expertise and professional skills that parallel the program responsibilities of their sponsoring agencies. Selection of committee members is made based on the FACA's requirements and the potential member's background and qualifications. Therefore, an application, Form 13013, is needed to ascertain the desired skills set for membership. The TAP Tax Check Waiver, Form 13013–D, must be signed as a condition of membership. New and continuing members of IRS Advisory Committees/Councils are required to undergo a tax compliance check. Once signed by the applicant, the tax check wavier authorizes the Government Liaison Disclosure analysts to provide the results to the appropriate IRS officials.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 525.

OMB Number: 1545–1831.

Type of Review: Extension without change of a previously approved collection.

Title: TD 9157 (Final) Guidance Regarding the Treatment of Certain Contingent Payment Debt Instruments With One or More Payments That Are Denominated in, or Determined by Reference to, a Nonfunctional Currency.

Abstract: The IRS needs the information from the holder of certain debt instruments in order to alert the agency that the computation of interest income/expense by the holder and issuer will not be consistent. The respondents will be holders of contingent payment debt instruments which require payments to be made in or by reference to foreign currency. The respondents will probably be investment banks, however, may also include others who hold these debt instruments for investments.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 100.

OMB Number: 1545–1956.

Type of Review: Extension without change of a previously approved collection.

Title: Revenue Procedure 2007–25, Regarding I.R.C. 6707A(e) and Disclosure with the SEC.

Abstract: This revenue procedure amplifies Rev. Proc. 2005–51, 2005–2 C.B. 296, which provides guidance to persons who may be required to pay certain penalties under sections 6662(h), 6662A, or 6707A of the Internal Revenue Code, and who may be required under section 6707A(e) to disclose those penalties on reports filed with the Securities and Exchange Commission (SEC). This revenue procedure describes the report on which the disclosures must be made, the information that must be disclosed, and the deadlines by which persons must make the disclosures on reports filed with the SEC in order to avoid additional penalties under section 6707A(e).

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 430.

OMB Number: 1545–2259.

Type of Review: Extension without change of a previously approved collection.

Title: Performance and Quality for Small Wind Energy Property.

Abstract: Section 48(a)(3)(D) of the Internal Revenue Code allows a credit for energy property which meets, among other requirements, the performance and quality standards (if any) which have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and are in effect at the time of the acquisition of the property. Energy property includes small wind energy property. This notice provides the performance and quality standards that small wind energy property must meet to qualify for the energy credit under section 48.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 400.

Dated: June 24, 2015.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2015–15840 Filed 6–26–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

VA National Academic Affiliations Council Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Federal Advisory Committee Act, 5 U.S.C. App. 2 that the VA National Academic Affiliations Council will meet via conference call on September 23, 2015, from 2 p.m. to 4 p.m. EST. The purpose of the Council is to advise the Secretary on matters affecting partnerships between VA and its academic affiliates. The Council will address the status of the implementation of the Veterans Access, Choice, and Accountability Act of 2014's Graduate Medical Education expansion plan, discuss issues related to VA contracting including the Veteran's Choice Program, and receive updates on VA training programs. Plans for the December Council meeting will be provided. The Council will receive public comments from 3:45 p.m. to 4 p.m. EST.

Interested persons may attend and/or present oral statements to the Council. The dial in number to attend the conference call is: 1–800–767–1750. At the prompt, enter access code 21382 then press #. Individuals seeking to present oral statements are invited to submit a 1–2 page summary of their comments at the time of the meeting for inclusion in the official meeting record. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Council prior to the meeting or at any time, via email to, *Steve.Trynosky@va.gov,* or by mail to Stephen K. Trynosky J.D., M.P.H., M.M.A.S., Designated Federal Officer, Office of Academic Affiliations (10A2D), 810 Vermont Avenue NW., Washington, DC 20420. Any member of the public wishing to attend or seeking additional information should contact Mr. Trynosky via email or by phone at (202) 461–6723.

Dated: June 23, 2015.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2015–15785 Filed 6–26–15; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Defense

Department of the Army, Corps of Engineers

33 CFR Part 328

Environmental Protection Agency

40 CFR Parts 110, 112, 116, *et al.*

Clean Water Rule: Definition of ''Waters of the United States''; Final Rule

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 328

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 110, 112, 116, 117, 122, 230, 232, 300, 302, and 401

[EPA–HQ–OW–2011–0880; FRL–9927–20–OW]

RIN 2040–AF30

Clean Water Rule: Definition of ''Waters of the United States''

AGENCY: U.S. Army Corps of Engineers, Department of the Army, Department of Defense; and Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) are publishing a final rule defining the scope of waters protected under the Clean Water Act (CWA or the Act), in light of the statute, science, Supreme Court decisions in *U.S.* v. *Riverside Bayview Homes, Solid Waste Agency of Northern Cook County* v. *U.S. Army Corps of Engineers (SWANCC),* and *Rapanos* v. *United States (Rapanos),* and the agencies' experience and technical expertise. This final rule reflects consideration of the extensive public comments received on the proposed rule. The rule will ensure protection for the nation's public health and aquatic resources, and increase CWA program predictability and consistency by clarifying the scope of ''waters of the United States'' protected under the Act.

DATES: This rule is effective on August 28, 2015. In accordance with 40 CFR part 23, this regulation shall be considered issued for purposes of judicial review at 1 p.m. Eastern time on July 13, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Downing, Office of Water (4502–T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number 202–566–2428; email address: *CWAwaters@epa.go* v. Ms. Stacey Jensen, Regulatory Community of Practice (CECW–CO–R), U.S. Army Corps of Engineers, 441 G Street NW., Washington, DC 20314; telephone number 202–761–5856; email address: *USACE_CWA_Rule@usace.army.mil.*

SUPPLEMENTARY INFORMATION: This final rule does not establish any regulatory requirements. Instead, it is a definitional rule that clarifies the scope of ''waters of the United States'' consistent with the Clean Water Act (CWA), Supreme Court precedent, and science. Programs established by the CWA, such as the section 402 National Pollutant Discharge Elimination System (NPDES) permit program, the section 404 permit program for discharge of dredged or fill material, and the section 311 oil spill prevention and response programs, all rely on the definition of ''waters of the United States.'' Entities currently are, and will continue to be, regulated under these programs that protect ''waters of the United States'' from pollution and destruction.

State, tribal, and local governments have well-defined and longstanding relationships with the Federal government in implementing CWA programs and these relationships are not altered by the final rule. Forty-six states and the U.S. Virgin Islands have been authorized by EPA to administer the NPDES program under section 402, and two states have been authorized by the EPA to administer the section 404 program. All states and forty tribes have developed water quality standards under the CWA for waters within their boundaries. A federal advisory committee has recently been announced to assist states in identifying the scope of waters assumable under the section 404 program.

The scope of jurisdiction in this rule is narrower than that under the existing regulation. Fewer waters will be defined as ''waters of the United States'' under the rule than under the existing regulations, in part because the rule puts important qualifiers on some existing categories such as tributaries. In addition, the rule provides greater clarity regarding which waters are subject to CWA jurisdiction, reducing the instances in which permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, would need to make jurisdictional determinations on a case-specific basis.

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I. General Information

A. How can I get copies of this document and related information?

1. *Docket.* An official public docket for this action has been established under Docket Id. No. EPA–HQ–OW–2011–0880. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. The official public docket also includes a Technical Support Document that provides additional legal and scientific discussion for issues raised in this rule, and the Response to Comments document. Although a part of the official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the OW Docket, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. This Docket Facility is open from 8:30 a.m.

to 4:30 p.m., Monday through Friday, excluding legal holidays. The OW Docket telephone number is 202–566–2426. A reasonable fee will be charged for copies.

2. *Electronic Access.* You may access this **Federal Register** document electronically under the **''Federal Register''** listings at *http://www.regulations.gov*. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may access EPA Dockets at *http://www.regulations.gov* to view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the Docket Facility.

B. Under what legal authority is this rule issued?

The authority for this rule is the Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.,* including sections 301, 304, 311, 401, 402, 404 and 501.

II. Executive Summary

In this final rule, the agencies clarify the scope of ''waters of the United States'' that are protected under the Clean Water Act (CWA), based upon the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies' technical expertise and experience in implementing the statute. This rule makes the process of identifying waters [1] protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation's water resources.

Congress enacted the CWA ''to restore and maintain the chemical, physical, and biological integrity of the Nation's waters,'' section 101(a), and to complement statutes that protect the navigability of waters, such as the Rivers and Harbors Act. 33 U.S.C. 401, 403, 404, 407. The CWA is the nation's single most important statute for protecting America's clean water against pollution, degradation, and destruction. To provide that protection, the Supreme Court has consistently agreed that the geographic scope of the CWA reaches beyond waters that are navigable in fact. Peer-reviewed science and practical experience demonstrate that upstream waters, including headwaters and wetlands, significantly affect the chemical, physical, and biological integrity of downstream waters by playing a crucial role in controlling sediment, filtering pollutants, reducing flooding, providing habitat for fish and other aquatic wildlife, and many other vital chemical, physical, and biological processes.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies' technical expertise and extensive experience in implementing the CWA over the past four decades. The rule will clarify and simplify implementation of the CWA consistent with its purposes through clearer definitions and increased use of bright-line boundaries to establish waters that are jurisdictional by rule and limit the need for case-specific analysis. The agencies emphasize that, while the CWA establishes permitting requirements for covered waters to ensure protection of water quality, these requirements only apply with respect to discharges of pollutants to the covered water. In the absence of a discharge of a pollutant, the CWA does not impose permitting restrictions on the use of such water.

Additionally, Congress has exempted certain discharges, and the rule does not affect any of the exemptions from CWA section 404 permitting requirements provided by CWA section 404(f), including those for normal farming, ranching, and silviculture activities. CWA section 404(f); 40 CFR 232.3; 33 CFR 323.4. This rule not only maintains current statutory exemptions, it expands regulatory exclusions from the definition of ''waters of the United States'' to make it clear that this rule does not add any additional permitting requirements on agriculture. The rule also does not regulate shallow subsurface connections nor any type of groundwater, erosional features, or land use, nor does it affect either the existing statutory or regulatory exemptions from NPDES permitting requirements, such as for agricultural stormwater discharges and return flows from irrigated agriculture, or the status of water transfers. CWA section 402(l)(1); CWA section 402(l)(2); CWA section 502(14); 40 CFR 122.3(f); 40 CFR 122.2.

Finally, even where waters are covered by the CWA, the agencies have adopted many streamlined regulatory requirements to simplify and expedite compliance through the use of measures such as general permits and standardized mitigation measures. The agencies will continue to develop general permits and simplified procedures, particularly as they affect crossings of covered ephemeral and intermittent tributaries jurisdictional under this rule to ensure that projects that offer significant social benefits, such as renewable energy development, can proceed with the necessary environmental safeguards while minimizing permitting delays.

The jurisdictional scope of the CWA is ''navigable waters,'' defined in section 502(7) of the statute as ''waters of the United States, including the territorial seas.'' The term ''navigable waters'' is used in a number of provisions of the CWA, including the section 402 National Pollutant Discharge Elimination System (NPDES) permit program, the section 404 permit program, the section 311 oil spill prevention and response program,[2] the water quality standards and total maximum daily load programs (TMDL) under section 303, and the section 401 state water quality certification process. However, while there is only one CWA definition of ''waters of the United States,'' there may be other statutory factors that define the reach of a particular CWA program or provision.[3]

[1] The agencies use the term ''water'' and ''waters'' in categorical reference to rivers, streams, ditches, wetlands, ponds, lakes, oxbows, and other types of natural or man-made aquatic systems, identifiable by the water contained in these aquatic systems or by their chemical, physical, and biological indicators. The agencies use the terms ''waters'' and ''water bodies'' interchangeably in this preamble.

[2] While section 311 uses the phrase ''navigable waters of the United States,'' EPA has interpreted it to have the same breadth as the phrase ''navigable waters'' used elsewhere in section 311, and in other sections of the CWA. *See United States* v. *Texas Pipe Line Co.,* 611 F.2d 345, 347 (10th Cir. 1979); *United States* v. *Ashland Oil & Transp. Co.,* 504 F.2d 1317, 1324–25 (6th Cir. 1974). In 2002, EPA revised its regulatory definition of ''waters of the United States'' in 40 CFR part 112 to ensure that the language of the rule was consistent with the regulatory language of other CWA programs. *Oil Pollution Prevention & Response; Non-Transportation-Related Onshore & Offshore Facilities,* 67 FR 47042, July 17, 2002. A district court vacated the rule for failure to comply with the Administrative Procedure Act, and reinstated the prior regulatory language. *American Petroleum Ins.* v. *Johnson,* 541 F. Supp. 2d 165 (D. D.C. 2008). However, EPA interprets ''navigable waters of the United States'' in CWA section 311(b), in the pre-2002 regulations, and in the 2002 rule to have the same meaning as ''navigable waters'' in CWA section 502(7).

[3] For example, the CWA section 402 (33 U.S.C. 1342) program regulates discharges of pollutants

Continued

Existing regulations (last codified in 1986) define ''waters of the United States'' as traditional navigable waters, interstate waters, all other waters that could affect interstate or foreign commerce, impoundments of waters of the United States, tributaries, the territorial seas, and adjacent wetlands. 33 CFR 328.3; 40 CFR 122.2.[4]

However, the Supreme Court has issued three decisions that provide critical context and guidance in determining the appropriate scope of ''waters of the United States'' covered by the CWA. In *United States* v. *Riverside Bayview Homes,* 474 U.S. 121 (1985) (*Riverside*), the Court, in a unanimous opinion, deferred to the Corps' ecological judgment that adjacent wetlands are ''inseparably bound up'' with the waters to which they are adjacent, and upheld the inclusion of adjacent wetlands in the regulatory definition of ''waters of the United States.'' *Id.* at 134. The Court observed that the broad objective of the CWA to restore and maintain the integrity of the Nation's waters ''incorporated a broad, systemic view of the goal of maintaining and improving water quality. . . . Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly.'' *Id.* at 132–33 (*citing* Senate Report No. 92–414, p. 77 (1972)).

In *Solid Waste Agency of Northern Cook County* v. *U.S. Army Corps of Engineers,* 531 U.S. 159 (2001) (*SWANCC*), the Supreme Court held that the use of ''isolated'' non-navigable intrastate ponds by migratory birds was not by itself a sufficient basis for the exercise of federal regulatory authority under the CWA. Although the *SWANCC* decision did not call into question earlier decisions upholding the CWA's coverage of wetlands or other waters ''adjacent'' to traditional navigable waters, it created uncertainty with regard to the jurisdiction of other waters and wetlands that, in many instances, may play an important role in protecting the integrity of the nation's waters. The majority opinion in *SWANCC* introduced the concept that it was a ''significant nexus'' that informed the Court's reading of CWA jurisdiction over waters that are not navigable in fact.

Five years later, in *Rapanos* v. *United States,* 547 U.S. 715 (2006) (*Rapanos*), all Members of the Court agreed that the term ''waters of the United States'' encompasses some waters that are not navigable in the traditional sense. In addition, Justice Kennedy's opinion indicated that the critical factor in determining the CWA's coverage is whether a water has a ''significant nexus'' to downstream traditional navigable waters such that the water is important to protecting the chemical, physical, or biological integrity of the navigable water, referring back to the Court's decision in *SWANCC.* Justice Kennedy's concurrence in *Rapanos* stated that to constitute a ''water of the United States'' covered by the CWA, ''a water or wetland must possess a 'significant nexus' to waters that are or were navigable in fact or that could reasonably be so made.'' *Id.* at 759 (Kennedy, J., concurring in the judgment) (*citing SWANCC,* 531 U.S. at 167, 172). Justice Kennedy concluded that wetlands possess the requisite significant nexus if the wetlands ''either alone or in combination with similarly situated [wet]lands in the region, significantly affect the chemical, physical, and biological integrity of other covered waters more readily understood as 'navigable.''' 547 U.S. at 780.

In this rule, the agencies interpret the scope of the ''waters of the United States'' for the CWA using the goals, objectives, and policies of the statute, the Supreme Court case law, the relevant and available science, and the agencies' technical expertise and experience as support. In particular, the agencies looked to the objective of the CWA ''to restore and maintain the chemical, physical, and biological integrity of the Nation's waters,'' and the scientific consensus on the strength of the effects of upstream tributaries and adjacent waters, including wetlands, on downstream traditional navigable waters, interstate waters, and the territorial seas. An important element of the agencies' interpretation of the CWA is the significant nexus standard. This significant nexus standard was first informed by the ecological and hydrological connections the Supreme Court noted in *Riverside Bayview,* developed and established by the Supreme Court in *SWANCC,* and further refined in Justice Kennedy's opinion in *Rapanos.* The agencies also utilized the plurality standard in *Rapanos* by establishing boundaries on the scope of ''waters of the United States'' and in support of the exclusions from the definition of ''waters of the United States.'' The analysis used by the agencies has been supported by all nine of the United States Courts of Appeals that have considered the issue.

The agencies assess the significance of the nexus in terms of the CWA's objective to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' When the effects are speculative or insubstantial, the ''significant nexus'' would not be present. The science demonstrates that the protection of upstream waters is critical to maintaining the integrity of the downstream waters. The upstream waters identified in the rule as jurisdictional function as integral parts of the aquatic environment, and if these waters are polluted or destroyed, there is a significant effect downstream.

In response to the Supreme Court opinions, the agencies issued guidance in 2003 (post-*SWANCC*) and 2008 (post-*Rapanos*). However, these two guidance documents did not provide the public or agency staff with the kind of information needed to ensure timely, consistent, and predictable jurisdictional determinations. Many waters are currently subject to case-specific jurisdictional analysis to determine whether a ''significant nexus'' exists, and this time and resource intensive process can result in inconsistent interpretation of CWA jurisdiction and perpetuate ambiguity over where the CWA applies. As a result of the ambiguity that exists under current regulations and practice following these recent decisions, almost all waters and wetlands across the country theoretically could be subject to a case-specific jurisdictional determination.

Members of Congress, developers, farmers, state and local governments, energy companies, and many others requested new regulations to make the process of identifying waters protected under the CWA clearer, simpler, and faster. Chief Justice Roberts' concurrence in *Rapanos* underscores

from ''point sources'' to ''waters of the United States,'' whether these pollutants reach jurisdictional waters directly or indirectly. The plurality opinion in *Rapanos* noted that ''there is no reason to suppose that our construction today significantly affects the enforcement of § 1342. . . . The Act does not forbid the 'addition of any pollutant *directly* to navigable waters from any point source,' but rather the 'addition of any pollutant *to* navigable waters.' '' 547 U.S. at 743.

[4] There are numerous regulations that utilize the definition of ''waters of the United States'' and each is codified consistent with its place in a particular section of the Code of Federal Regulations. For simplicity, throughout the preamble the agencies refer to the rule as organized into (a), (b), (c) provisions and intend the reference to encompass the appropriate cites in each section of the Code of Federal Regulations. For example, a reference to (a)(1) is a reference to all instances in the CFR identified as subject to this rule that state ''All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.''

the importance of this rulemaking effort.[5] In this final rule, the agencies are responding to those requests from across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and more consistent with the law and peer-reviewed science.

The agencies proposed a rule clarifying the scope of waters of the United States April 21, 2014 (79 FR 22188), and solicited comments for over 200 days. This final rule reflects the over 1 million public comments on the proposal, the substantial majority of which supported the proposed rule, as well as input provided through the agencies' extensive public outreach effort, which included over 400 meetings nationwide with states, small businesses, farmers, academics, miners, energy companies, counties, municipalities, environmental organizations, other federal agencies, and many others. The agencies sought comment on a number of approaches to specific jurisdictional questions, and many of these commenters and stakeholders urged EPA to improve upon the April 2014 proposal, by providing more bright line boundaries and simplifying definitions that identify waters that are protected under the CWA, all for the purpose of minimizing delays and costs, making protection of clean water more effective, and improving predictability and consistency for landowners and regulated entities.

The agencies' interpretation of the CWA's scope in this final rule is guided by the best available peer-reviewed science—particularly as that science informs the determinations as to which waters have a ''significant nexus'' with traditional navigable waters, interstate waters, or the territorial seas.

The relevant science on the relationship and downstream effects of waters has advanced considerably in recent years. A comprehensive report prepared by the EPA's Office of Research and Development entitled ''Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence'' [6] (hereafter the Science Report) synthesizes the peer-reviewed science.

The Science Report provides much of the technical basis for this rule. The Science Report is based on a review of more than 1,200 peer-reviewed publications. EPA's Science Advisory Board (SAB) conducted a comprehensive technical review of the Science Report and reviewed the adequacy of the scientific and technical basis of the proposed rule. The Science Report and the SAB review confirmed that:

- Waters are connected in myriad ways, including physical connections and the hydrologic cycle; however, connections occur on a continuum or gradient from highly connected to highly isolated.
- These variations in the degree of connectivity are a critical consideration to the ecological integrity and sustainability of downstream waters.
- The critical contribution of upstream waters to the chemical, physical, and biological integrity of downstream waters results from the accumulative contribution of similar waters in the same watershed and in the context of their functions considered over time.

The Science Report and the SAB review also confirmed that:

- Tributary streams, including perennial, intermittent, and ephemeral streams, are chemically, physically, and biologically connected to downstream waters, and influence the integrity of downstream waters.
- Wetlands and open waters in floodplains and riparian areas are chemically, physically, and biologically connected with downstream waters and influence the ecological integrity of such waters.
- Non-floodplain wetlands and open waters provide many functions that benefit downstream water quality and ecological integrity, but their effects on downstream waters are difficult to assess based solely on the available science.

Although these conclusions play a critical role in informing the agencies' interpretation of the CWA's scope, the agencies' interpretive task in this rule—determining which waters have a ''significant nexus''—requires scientific and policy judgment, as well as legal interpretation. The science demonstrates that waters fall along a gradient of chemical, physical, and biological connection to traditional navigable waters, and it is the agencies' task to determine where along that gradient to draw lines of jurisdiction under the CWA. In making this determination, the agencies must rely, not only on the science, but also on their technical expertise and practical experience in implementing the CWA during a period of over 40 years. In addition, the agencies are guided, in part, by the compelling need for clearer, more consistent, and easily implementable standards to govern administration of the Act, including brighter line boundaries where feasible and appropriate.

Major Rule Provisions

In this final rule, the agencies define ''waters of the United States'' to include eight categories of jurisdictional waters. The rule maintains existing exclusions for certain categories of waters, and adds additional categorical exclusions that are regularly applied in practice. The rule reflects the agencies' goal of providing simpler, clearer, and more consistent approaches for identifying the geographic scope of the CWA. The rule recognizes jurisdiction for three basic categories: Waters that are jurisdictional in all instances, waters that are excluded from jurisdiction, and a narrow category of waters subject to case-specific analysis to determine whether they are jurisdictional.

Decisions about waters in each of these categories are based on the law, peer-reviewed science, and the agencies' technical expertise, and were informed by public comments. This rule replaces existing procedures that often depend on individual, time-consuming, and inconsistent analyses of the relationship between a particular stream, wetland, lake, or other water with downstream waters. The agencies have greatly reduced the extent of waters subject to this individual review by carefully incorporating the scientific literature and by utilizing agency expertise and experience to characterize the nature and strength of the chemical, physical, and biological connections between upstream and downstream waters. The result of applying this scientific analysis is that the agencies can more effectively focus the rule on identifying waters that are clearly covered by the CWA and those that are clearly not covered, making the rule easier to understand, consistent, and environmentally more protective.

The jurisdictional categories reflect the current state of the best available science, and are based upon the law and Supreme Court decisions. The agencies will continue a transparent review of the science, and learn from on-going

[5] Chief Justice Roberts' concurrence in *Rapanos* emphasized that ''[a]gencies delegated rulemaking authority under a statute such as the Clean Water Act are afforded generous leeway by the courts in interpreting the statute they are entrusted to administer.'' *Id.* at 758. Chief Justice Roberts made clear that, if the agencies had undertaken such a rulemaking, ''the Corps and the EPA would have enjoyed plenty of room to operate in developing *some* notion of an outer bound to the reach of their authority.'' *Id.* (Emphasis in original.)

[6] U.S. Environmental Protection Agency, *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence* (Final Report), EPA/600/R–14/475F, (Washington, DC: U.S. Environmental Protection Agency, (2015)). *http://www.epa.gov/ncea.*

experience and expertise as the agencies implement the rule. If evolving science and the agencies' experience lead to a need for action to alter the jurisdictional categories, any such action will be conducted as part of a rule-making process.

The first three types of jurisdictional waters, traditional navigable waters, interstate waters, and the territorial seas, are jurisdictional by rule in all cases. The fourth type of water, impoundments of jurisdictional waters, is also jurisdictional by rule in all cases. The next two types of waters, ''tributaries'' and ''adjacent'' waters, are jurisdictional by rule, as defined, because the science confirms that they have a significant nexus to traditional navigable waters, interstate waters, or territorial seas. For waters that are jurisdictional by rule, no additional analysis is required.

The final two types of jurisdictional waters are those waters found after a case-specific analysis to have a significant nexus to traditional navigable waters, interstate waters, or the territorial seas, either alone or in combination with similarly situated waters in the region. Justice Kennedy acknowledged the agencies could establish more specific regulations or establish a significant nexus on a case-by-case basis, *Rapanos* at 782, and for these waters the agencies will continue to assess significant nexus on a case-specific basis.

The major elements of the final rule are briefly summarized here.

Traditional Navigable Waters, Interstate Waters, Territorial Seas, and Impoundments of Jurisdictional Waters

Consistent with existing regulations and the April 2014 proposed rule, the final rule includes traditional navigable waters, interstate waters, territorial seas, and impoundments of jurisdictional waters in the definition of ''waters of the United States.'' These waters are jurisdictional by rule.

Tributaries

Previous definitions of ''waters of the United States'' regulated all tributaries without qualification. This final rule more precisely defines ''tributaries'' as waters that are characterized by the presence of physical indicators of flow—bed and banks and ordinary high water mark—and that contribute flow directly or indirectly to a traditional navigable water, an interstate water, or the territorial seas. The rule concludes that such tributaries are ''waters of the United States.'' The great majority of tributaries as defined by the rule are headwater streams that play an important role in the transport of water, sediments, organic matter, nutrients, and organisms to downstream waters. The physical indicators of bed and banks and ordinary high water mark demonstrate that there is sufficient volume, frequency, and flow in such tributaries to a traditional navigable water, interstate water, or the territorial seas to establish a significant nexus. ''Tributaries,'' as defined, are jurisdictional by rule.

The rule only covers as tributaries those waters that science tells us provide chemical, physical, or biological functions to downstream waters and that meet the significant nexus standard. The agencies identify these functions in the definition of ''significant nexus'' at paragraph (c)(5). Features not meeting this legal and scientific test are not jurisdictional under this rule. The rule continues the current policy of regulating ditches that are constructed in tributaries or are relocated tributaries or, in certain circumstances drain wetlands, or that science clearly demonstrates are functioning as a tributary. These jurisdictional waters affect the chemical, physical, and biological integrity of downstream waters. The rule further reduces existing confusion and inconsistency regarding the regulation of ditches by explicitly excluding certain categories of ditches, such as ditches that flow only after precipitation. Further, the rule explicitly excludes from the definition of ''waters of the United States'' erosional features, including gullies, rills, and ephemeral features such as ephemeral streams that do not have a bed and banks and ordinary high water mark.

Adjacent Waters

The agencies determined that ''adjacent waters,'' as defined in the rule, have a significant nexus to traditional navigable waters, interstate waters, and the territorial seas based upon their hydrological and ecological connections to, and interactions with, those waters. Under this final rule, ''adjacent'' means bordering, contiguous, or neighboring, including waters separated from other ''waters of the United States'' by constructed dikes or barriers, natural river berms, beach dunes and the like. Further, waters that connect segments of, or are at the head of, a stream or river are ''adjacent'' to that stream or river. ''Adjacent waters'' include wetlands, ponds, lakes, oxbows, impoundments, and similar water features. However, it is important to note that ''adjacent waters'' do not include waters that are subject to established normal farming, silviculture, and ranching activities as those terms are used in Section 404(f) of the CWA.

The final rule establishes a definition of ''neighboring'' for purposes of determining adjacency. In the rule, the agencies identify three circumstances under which waters would be ''neighboring'' and therefore ''waters of the United States'':

(1) Waters located in whole or in part within 100 feet of the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, an impoundment of a jurisdictional water, or a tributary, as defined in the rule.

(2) Waters located in whole or in part in the 100-year floodplain and that are within 1,500 feet of the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, an impoundment, or a tributary, as defined in the rule (''floodplain waters'').

(3) Waters located in whole or in part within 1,500 feet of the high tide line of a traditional navigable water or the territorial seas and waters located within 1,500 feet of the ordinary high water mark of the Great Lakes.

The agencies emphasize that the rule has defined as ''adjacent waters'' those waters that currently available science demonstrates possess the requisite connection to downstream waters and function as a system to protect the chemical, physical, or biological integrity of those waters. The agencies also emphasize that the rule does not cover ''adjacent waters'' that are otherwise excluded. Further, the agencies recognize the establishment of bright line boundaries in the rule for adjacency does not in any way restrict states from considering state specific information and concerns, as well as emerging science to evaluate the need to more broadly protect their waters under state law. The CWA establishes both national and state roles to ensure that states specific circumstances are properly considered to complement and reinforce actions taken at the national level.

''Adjacent'' waters as defined are jurisdictional by rule. The agencies recognize that there are individual waters outside of the ''neighboring'' boundaries stated above where the science may demonstrate through a case-specific analysis that there exists a significant nexus to a downstream traditional navigable water, interstate water, or the territorial seas. However, these waters are not determined jurisdictional by rule and will be evaluated through a case-specific analysis. The strength of the science and

the significance of the nexus will be established on a case-specific basis as described below.

Case-Specific Significant Nexus

The rule identifies particular waters that are not jurisdictional by rule but are subject to case-specific analysis to determine if a significant nexus exists and the water is a ''water of the United States.'' This category of case-specific waters is based upon available science and the law, and in response to public comments that encouraged the agencies to ensure more consistent determinations and reduce the complexity of conducting jurisdictional determinations. Consistent with the significant nexus standard articulated in the Supreme Court opinions, waters are ''waters of the United States'' if they significantly affect the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, or the territorial seas. This determination will most typically be made on a water individually, but can, when warranted, be made in combination with other waters where waters function together.

In this final rule, the agencies have identified by rule, five specific types of waters in specific regions that science demonstrates should be subject to a significant nexus analysis and are considered similarly situated by rule because they function alike and are sufficiently close to function together in affecting downstream waters. These five types of waters are Prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands. Consistent with Justice Kennedy's opinion in *Rapanos,* the agencies determined that such waters should be analyzed ''in combination'' (as a group, rather than individually) in the watershed that drains to the nearest traditional navigable water, interstate water, or the territorial seas when making a case-specific analysis of whether these waters have a significant nexus to traditional navigable waters, interstate waters, or territorial seas.

The final rule also provides that waters within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas and waters within 4,000 feet of the high tide line or the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundments, or covered tributary are subject to case-specific significant nexus determinations, unless the water is excluded under paragraph (b) of the rule. The science available today does not establish that waters beyond those defined as ''adjacent'' should be jurisdictional as a category under the CWA, but the agencies' experience and expertise indicate that there are many waters within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas or out to 4,000 feet where the science demonstrates that they have a significant effect on downstream waters.

In circumstances where waters within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas or within 4,000 feet of the high tide line or ordinary high water mark are subject to a case-specific significant nexus analysis and such waters may be evaluated as ''similarly situated,'' it must be first demonstrated that these waters function alike and are sufficiently close to function together in affecting downstream waters. The significant nexus analysis must then be conducted based on consideration of the functions provided by those waters in combination in the point of entry watershed. A ''similarly situated'' analysis is conducted where it is determined that there is a likelihood that there are waters that function together to affect downstream water integrity. To provide greater clarity and transparency in determining what functions will be considered in determining what constitutes a significant nexus, the final rule lists specific functions that the agencies will consider.

In establishing both the 100-year floodplain and the 4,000 foot bright line boundaries for these case-specific significant nexus determinations in the rule, the agencies are carefully applying the available science. Consistent with the CWA, the agencies will work with the states in connection with the prevention, reduction and elimination of pollution from state waters. The agencies will work with states to more closely evaluate state-specific circumstances that may be present within their borders and, as appropriate, encourage states to develop rules that reflect their circumstances and emerging science to ensure consistent and effective protection for waters in the states. As is the case today, nothing in this rule restricts the ability of states to more broadly protect state waters.

Exclusions

All existing exclusions from the definition of ''waters of the United States'' are retained, and several exclusions reflecting longstanding agency practice are added to the regulation for the first time.

Prior converted cropland and waste treatment systems have been excluded from the definition of ''waters of the United States'' definition since 1992 and 1979 respectively, and continue to be excluded. Ministerial changes are made for purposes of clarity, but these two exclusions remain substantively and operationally unchanged. The agencies add exclusions for waters and features previously identified as generally exempt (*e.g.,* exclusion for certain ditches that are not located in or drain wetlands) in preamble language from **Federal Register** documents by the Corps on November 13, 1986, and by EPA on June 6, 1988. This is the first time these exclusions have been established by rule. The agencies for the first time also establish by rule that certain ditches are excluded from jurisdiction, including ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary, and ditches with intermittent flow that are not a relocated tributary, or excavated in a tributary, or drain wetlands. The agencies add exclusions for groundwater and erosional features, as well as exclusions for some waters that were identified in public comments as possibly being found jurisdictional under proposed rule language where this was never the agencies' intent, such as stormwater control features constructed to convey, treat, or store stormwater, and cooling ponds that are created in dry land. These exclusions reflect the agencies' current practice, and their inclusion in the rule as specifically excluded furthers the agencies' goal of providing greater clarity over what waters are and are not protected under the CWA.

Role of States and Tribes Under the Clean Water Act

States and tribes play a vital role in the implementation and enforcement of the CWA. Section 101(b) of the CWA states that it is Congressional policy to preserve the primary responsibilities and rights of states to prevent, reduce, and eliminate pollution, to plan the development and use of land and water resources, and to consult with the Administrator with respect to the exercise of the Administrator's authority under the CWA.

Of particular importance, states and tribes may be authorized by the EPA to administer the permitting programs of CWA sections 402 and 404. Forty-six states and the U.S. Virgin Islands are authorized to administer the NPDES program under section 402, while two states administer the section 404 program. The CWA identifies the waters over which states may assume section 404 permitting jurisdiction. *See* CWA section 404(g)(1). The scope of waters

that are subject to state and tribal permitting is a separate inquiry and must be based on the statutory language in CWA section 404. States administer approved CWA section 404 programs for ''waters of the United States'' within the state, except those waters remaining under Corps jurisdiction pursuant to CWA section 404(g)(1) as identified in a Memorandum of Agreement between the state and the Corps. 40 CFR 233.14; 40 CFR 233.70(c)(2); 40 CFR 233.71(d)(2). EPA has initiated a separate process to address how the EPA can best clarify assumable waters for dredged and fill material permit programs pursuant to the Clean Water Act section 404(g)(1). 80 FR 13539 (Mar. 16, 2015). Additional CWA programs that utilize the definition of ''waters of the United States'' and are of importance to the states and tribes include the section 311 oil spill prevention and response program, the water quality standards and total maximum daily load (TMDL) programs under section 303, and the section 401 state water quality certification process.

States and federally-recognized tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in their jurisdiction. Under section 510 of the CWA, unless expressly stated, nothing in the CWA precludes or denies the right of any state to establish more protective standards or limits than the Federal CWA. Congress has also provided roles for eligible Indian tribes to administer CWA programs over their reservations and expressed a preference for tribal regulation of surface water quality on Indian reservations to ensure compliance with the goals of the CWA. See 33 U.S.C. 1377; 56 FR 64876, 64878–79 (Dec. 12, 1991)). Tribes also have inherent sovereign authority to establish more protective standards or limits than the Federal CWA. Where appropriate, references to states in this document may also include eligible tribes. Many states and tribes, for example, regulate groundwater, and some others protect wetlands that are vital to their environment and economy but outside the jurisdiction of the CWA. Nothing in this rule limits or impedes any existing or future state or tribal efforts to further protect their waters. In fact, providing greater clarity regarding what waters are subject to CWA jurisdiction will reduce the need for permitting authorities, including the states and tribes with authorized section 402 and 404 CWA permitting programs, to make jurisdictional determinations on a case-specific basis.

Overview of the Preamble

The remainder of this preamble is organized as follows. Section III (Significant Nexus Standard) provides additional background on the rule, including a discussion of Supreme Court precedent, the science underpinning the rule, and the agencies' overall interpretive approach to applying the significant nexus standard. Section IV (Definition of Waters of the United States) explains the provisions of the final rule, including subsections on each of the major elements of the rule. Section V summarizes the economic analysis of the rule and Section VI addresses Related Acts of Congress, Executive Orders and Agency Initiatives.

III. Significant Nexus Standard

With this rule, the agencies interpret the scope of the ''waters of the United States'' for the CWA in light of the goals, objectives, and policies of the statute, the Supreme Court case law, the relevant and available science, and the agencies' technical expertise and experience. The key to the agencies' interpretation of the CWA is the significant nexus standard, as established and refined in Supreme Court opinions: Waters are ''waters of the United States'' if they, either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, or the territorial seas. The agencies interpret specific aspects of the significant nexus standard in light of the science, the law, and the agencies' technical expertise: The scope of the region in which to evaluate waters when making a significant nexus determination; the waters to evaluate in combination with each other; and the functions provided by waters and strength of those functions, and when such waters significantly affect the chemical, physical, or biological integrity of the downstream traditional navigable waters, interstate waters, or the territorial seas.

In the rule, the agencies determine that tributaries, as defined (''covered tributaries''), and ''adjacent waters'', as defined (''covered adjacent waters''), have a significant nexus to downstream traditional navigable waters, interstate waters, and the territorial seas and therefore are ''waters of the United States.'' In the rule, the agencies also establish that defined sets of additional waters may be determined to have a significant nexus on a case-specific basis: (1) Five specific types of waters that the agencies conclude are ''similarly situated'' and therefore must be analyzed ''in combination'' in the watershed that drains to the nearest traditional navigable water, interstate water, or the territorial seas when making a case-specific significant nexus analysis; and (2) waters within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas, or waters within 4,000 feet of the high tide line or ordinary high water mark of traditional navigable waters, interstate waters, the territorial seas, impoundments or covered tributaries. The rule establishes a definition of significant nexus, based on Supreme Court opinions and the science, to use when making these case-specific determinations.

Significant nexus is not a purely scientific determination. The opinions of the Supreme Court have noted that as the agencies charged with interpreting the statute, EPA and the Corps must develop the outer bounds of the scope of the CWA, while science does not provide bright line boundaries with respect to where ''water ends'' for purposes of the CWA. Therefore, the agencies' interpretation of the CWA is informed by the Science Report and the review and comments of the SAB, but not dictated by them. With this context, this section addresses, first, the Supreme Court case law and the significant nexus standard, second, the relevant scientific conclusions reached by analysis of existing scientific literature, and third, the agencies' significant nexus determinations underpinning the rule. Section IV of the preamble addresses in more detail the precise definitions of the covered waters promulgated by the agencies to provide the bright line boundaries identifying ''waters of the United States.''

A. The Significant Nexus Standard

Congress enacted the CWA ''to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' Section 101(a). The agencies' longstanding regulations define ''waters of the United States'' for purposes of the Clean Water Act, and the Supreme Court has addressed the scope of ''waters of the United States'' protected by the CWA in three cases. The significant nexus standard evolved through those cases.

In *United States* v. *Riverside Bayview Homes,* 474 U.S. 121 (1985) (*Riverside*), which involved wetlands adjacent to a traditional navigable water in Michigan, the Court, in a unanimous opinion, deferred to the Corps' ecological judgment that adjacent wetlands are ''inseparably bound up'' with the waters

to which they are adjacent, and upheld the inclusion of adjacent wetlands in the regulatory definition of ''waters of the United States.'' *Id.* at 134. The Court observed that the broad objective of the CWA to restore and maintain the integrity of the Nation's waters ''incorporated a broad, systemic view of the goal of maintaining and improving water quality . . .. Protection of aquatic ecosystems, Congress recognized, demanded broad federal authority to control pollution, for '[w]ater moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' In keeping with these views, Congress chose to define the waters covered by the Act broadly.'' *Id.* at 132–33 (*citing* Senate Report No. 92–414). The Court also recognized that ''[i]n determining the limits of its power to regulate discharges under the Act, the Corps must necessarily choose some point at which water ends and land begins. Our common experience tells us that this is often no easy task: The transition from water to solid ground is not necessarily or even typically an abrupt one. Rather, between open waters and dry land may lie shallows, marshes, mudflats, swamps, bogs—in short, a huge array of areas that are not wholly aquatic but nevertheless fall far short of being dry land. Where on this continuum to find the limit of 'waters' is far from obvious.'' *Id.* The Court then deferred to the agencies' interpretation: ''In view of the breadth of federal regulatory authority contemplated by the Act itself and the inherent difficulties of defining precise bounds to regulable waters, the Corps' ecological judgment about the relationship between waters and their adjacent wetlands provides an adequate basis for a legal judgment that adjacent wetlands may be defined as waters under the Act.'' *Id.* at 134.

The issue of CWA jurisdiction over ''waters of the United States'' was addressed again by the Supreme Court in *Solid Waste Agency of Northern Cook County* v. *U.S. Army Corps of Engineers,* 531 U.S. 159 (2001) (*SWANCC*). In *SWANCC,* the Court (in a 5–4 opinion) held that the use of ''isolated'' non-navigable intrastate ponds by migratory birds was not by itself a sufficient basis for the exercise of federal regulatory authority under the CWA. The *SWANCC* Court noted that in *Riverside* it had ''found that Congress' concern for the protection of water quality and aquatic ecosystems indicated its intent to regulate wetlands 'inseparably bound up' with the 'waters' of the United States'' and that ''[i]t was the significant nexus between the wetlands and 'navigable waters' that informed our reading of the CWA'' in that case. *Id.* at 167. *SWANCC* did not invalidate any parts of the regulatory definition of ''waters of the United States.''

Five years after *SWANCC,* the Court again addressed the term ''waters of the United States'' in *Rapanos* v. *United States,* 547 U.S. 715 (2006) (*Rapanos*). *Rapanos* involved two consolidated cases in which the CWA had been applied to wetlands adjacent to non-navigable tributaries of traditional navigable waters. All Members of the Court agreed that the term ''waters of the United States'' encompasses some waters that are not navigable in the traditional sense. A four-Justice plurality in *Rapanos* interpreted the term ''waters of the United States'' as covering ''relatively permanent, standing or continuously flowing bodies of water . . .,'' *id.* at 739, that are connected to traditional navigable waters, *id.* at 742, as well as wetlands with a ''continuous surface connection . . .'' to such water bodies, *id.* (Scalia, J., plurality opinion). The *Rapanos* plurality noted that its reference to ''relatively permanent'' waters did ''not necessarily exclude streams, rivers, or lakes that might dry up in extraordinary circumstances, such as drought,'' or ''*seasonal* rivers, which contain continuous flow during some months of the year but no flow during dry months. . . .'' *Id.* at 732 n.5 (emphasis in original).

Justice Kennedy concurred that the cases should be remanded for further decision making, and stated that ''to constitute 'navigable waters' under the Act, a water or wetland must possess a 'significant nexus' to waters that are or were navigable in fact or that could reasonably be so made.'' *Id.* at 759 (*citing SWANCC,* 531 U.S. at 167, 172). Justice Kennedy concluded that ''The required nexus must be assessed in terms of the statute's goals and purposes. Congress enacted the law to 'restore and maintain the chemical, physical, and biological integrity of the Nation's waters,' 33 U.S.C. 1251(a), and it pursued that objective by restricting dumping and filling in 'navigable waters,' §§ 1311(a), 1362(12).'' *Id.* at 779. He concluded that wetlands possess the requisite significant nexus if the wetlands ''either alone or in combination with similarly situated [wet]lands in the region, significantly affect the chemical, physical, and biological integrity of other covered waters more readily understood as 'navigable.' '' 547 U.S. at 780. Justice Kennedy's opinion notes that such a relationship with navigable waters must be more than ''speculative or insubstantial.'' *Id.* at 780.

While Justice Kennedy's opinion focused on adjacent wetlands in light of the facts of the cases before him, his opinion is clear that a significant nexus is the basis for jurisdiction to protect non-navigable waters and wetlands under the CWA (*id.* at 759), and there is no indication in his opinion that the analytical framework his opinion provides for determining significant nexus for adjacent wetlands is limited to adjacent wetlands. In addition, the four dissenting Justices in *Rapanos,* who would have affirmed the court of appeals' application of the agencies' regulation, also concluded that the term ''waters of the United States'' encompasses, inter alia, all tributaries and wetlands that satisfy ''either the plurality's [standard] or Justice Kennedy's.'' *Id.* at 810 & n.14 (Stevens, J., dissenting). Neither the plurality nor the Kennedy opinion invalidated any of the current regulatory provisions defining ''waters of the United States.''

Chief Justice Roberts' concurrence in *Rapanos* emphasized that ''[a]gencies delegated rulemaking authority under a statute such as the Clean Water Act are afforded generous leeway by the courts in interpreting the statute they are entrusted to administer.'' *Id.* at 758. Chief Justice Roberts made clear that, if the agencies had undertaken such a rulemaking, ''the Corps and the EPA would have enjoyed plenty of room to operate in developing *some* notion of an outer bound to the reach of their authority.'' *Id.* (Emphasis in original.)

The agencies utilize the significant nexus standard, as articulated by Justice Kennedy's opinion and informed by the unanimous opinion in *Riverside Bayview* and the plurality opinion in *Rapanos* which all recognize that the Act and the agencies must identify the scope of CWA jurisdiction ''on this continuum to find the limit of 'waters,' '' *Riverside Bayview* at 132, to interpret the scope of the statutory term ''waters of the United States.'' While a significant nexus determination is primarily weighted in the scientific evidence and criteria, the agencies also consider the statutory language, the statute's goals, objectives and policies, the case law, and the agencies' technical expertise and experience when interpreting the terms of the CWA.

B. Science Report

EPA's Office of Research and Development prepared the Science Report, a peer-reviewed compilation and analysis of published peer-reviewed scientific literature summarizing the current scientific understanding of the

connectivity of and mechanisms by which streams and wetlands, singly or in combination, affect the chemical, physical, and biological integrity of downstream waters. The final Science Report is available in the docket and at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=296414.*

The process for developing the Science Report followed standard information quality guidelines for EPA. In September 2013, EPA released a draft of the Science Report for an independent SAB review and invited submissions of public comments for consideration by the SAB panel. In October 2014, after several public meetings and hearings, the SAB completed its peer review of the draft Science Report. The SAB was highly supportive of the draft Science Report's conclusions regarding streams, riparian and floodplain wetlands, and open waters, and recommended strengthening the conclusion regarding non-floodplain waters to include a more definitive statement that reflects how numerous functions of such waters sustain the integrity of downstream waters.[7] The final peer review report is available on the SAB Web site, as well as in the docket for this rulemaking. EPA revised the draft Science Report based on comments from the public and recommendations from the SAB panel.

The SAB was established in 1978 by the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), to provide independent scientific and technical advice to the EPA Administrator on the technical basis for Agency positions and regulations. Advisory functions include peer review of EPA's technical documents, such as the Science Report. At the time the peer review was completed, the chartered SAB was comprised of more than 50 members from a variety of sectors including academia, non-profit organizations, foundations, state governments, consulting firms, and industry. To conduct the peer review, EPA's SAB staff formed an ad hoc panel based on nominations from the public to serve as the primary reviewers. The panel consisted of 27 technical experts in an array of relevant fields, including hydrology, wetland and stream ecology, biology, geomorphology, biogeochemistry, and freshwater science. Similar to the chartered SAB, the panel members represented sectors including academia, a federal government agency, non-profit organizations, and consulting firms. The chair of the panel was a member of the chartered SAB.

The SAB process is open and transparent, consistent with the Federal Advisory Committee Act, 5 U.S.C., App 2, and agency policies regarding Federal advisory committees. Consequently, the SAB has an approved charter, which must be renewed biennially, announces its meetings in the **Federal Register**, and provides opportunities for public comment on issues before the Board. The SAB staff announced via the **Federal Register** that they sought public nominations of technical experts to serve on the expert panel: SAB Panel for the Review of the EPA Water Body Connectivity Report (via a similar process the public also is invited to nominate chartered SAB members). 78 FR 15012 (Mar. 8, 2013). The SAB staff then invited the public to comment on the list of candidates for the panel. Once the panel was selected, the SAB staff posted a memo on its Web site addressing the formation of the panel and the set of determinations that were necessary for its formation (*e.g.,* no conflicts of interest). In the public notice of the first public meetings interested members of the public were invited to submit relevant comments for the SAB Panel to consider pertaining to the review materials, including the charge to the Panel. Over 133,000 public comments were received by the Docket. Every meeting was open to the public, noticed in the **Federal Register**, and had time allotted for the public to present their views. In total, the Panel held a two-day in-person meeting in Washington, DC, in December 2013, and three four-hour public teleconferences in April, May, and June 2014. The SAB Panel also compiled four draft versions of its peer review report to inform and assist the meeting deliberations that were posted on the SAB Web site. In September 2014, the chartered SAB conducted a public teleconference to conduct the quality review of the Panel's final draft peer review report. The peer review report was approved at that meeting, and revisions were made to reflect the chartered SAB's review. The culmination of that public process was the release of the final peer review report in October 2014. All meeting minutes and draft reports are available on the SAB Web site for public access.

The final Science Report states that connectivity is a foundational concept in hydrology and freshwater ecology. Connectivity is the degree to which components of a system are joined, or connected, by various transport mechanisms and is determined by the characteristics of both the physical landscape and the biota of the specific system. Connectivity for purposes of interpreting the scope of ''waters of the United States'' under the CWA serves to demonstrate the ''nexus'' between upstream water bodies and the downstream traditional navigable water, interstate water, or the territorial sea. The scientific literature does not use the term ''significant'' as it is defined in a legal context, but it does provide information on the strength of the effects on the chemical, physical, and biological functioning of the downstream water bodies from the connections among covered tributaries, covered adjacent waters, and case-specific waters and those downstream waters. The scientific literature also does not use the terms traditional navigable waters, interstate waters, or the territorial seas. However, evidence of strong chemical, physical, and biological connections to larger rivers, estuaries, and lakes applies to that subset of rivers, estuaries, and lakes that are traditional navigable waters, interstate waters, or the territorial seas.

The Science Report presents evidence of those connections from various categories of waters, evaluated singly or in combination, which affect downstream waters and the strength of that effect. The objectives of the Science Report are (1) to provide a context for considering the evidence of connections between downstream waters and their tributary waters, and (2) to summarize current understanding about these connections, the factors that influence them, and the mechanisms by which the connections affect the function or condition of downstream waters. The connections and mechanisms discussed in the Science Report include transport of physical materials and chemicals such as water, wood, sediment, nutrients, pesticides, and mercury; functions that covered adjacent waters perform, such as storing and cleansing water; movement of organisms or their seeds and eggs; and hydrologic and biogeochemical interactions occurring in and among surface and groundwater flows, including hyporheic zones[8] and alluvial aquifers.

The Science Report presents five major conclusions:

[7] U.S. EPA. 2014. SAB review of the draft EPA report *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence.* EPA–SAB–15–001, U.S. Environmental Protection Agency, Washington, DC. (''SAB 2014a.'')

[8] The hyporheic zone is the subsurface area immediately below the bed of intermittent and ephemeral streams that remains wet even when there is no surface flow. These areas are extremely important to macro-benthic organisms critical to the bio-chemical integrity of streams.

Conclusion 1: Streams

The scientific literature unequivocally demonstrates that streams, individually or cumulatively, exert a strong influence on the chemical, physical, and biological integrity of downstream waters. All tributary streams, including perennial, intermittent, and ephemeral streams, are chemically, physically, and biologically connected to downstream rivers via channels and associated alluvial deposits where water and other materials are concentrated, mixed, transformed, and transported. Streams are the dominant source of water in most rivers, and the majority of tributaries are perennial, intermittent, or ephemeral headwater streams. Headwater streams also convey water into local storage compartments such as ponds, shallow aquifers, and floodplains, and into regional and alluvial aquifers; these local storage compartments are important sources of water for maintaining baseflow in rivers. In addition to water, streams transport sediment, wood, organic matter, nutrients, chemical contaminants, and many of the organisms found in rivers. The scientific literature provides robust evidence that streams are biologically connected to downstream waters by the dispersal and migration of aquatic and semiaquatic organisms, including fish, amphibians, plants, microorganisms, and invertebrates, that use both upstream and downstream habitats during one or more stages of their life cycles, or provide food resources to downstream communities. In addition to material transport and biological connectivity, ephemeral, intermittent, and perennial flows influence fundamental biogeochemical processes by connecting channels and shallow groundwater with other landscape elements. Chemical, physical, and biological connections between streams and downstream waters interact via integrative processes such as nutrient spiraling. This occurs when stream communities assimilate and chemically transform large quantities of nitrogen and other nutrients that otherwise would be transported directly downstream, thereby increasing nutrient loads and associated impairments due to excess nutrients in downstream waters. Science Report at ES–2.

Conclusion 2: Riparian/Floodplain Wetlands and Open Waters

The scientific literature clearly shows that wetlands and open waters in riparian areas and floodplains are chemically, physically, and biologically integrated with rivers via functions that improve downstream water quality, including the temporary storage and deposition of channel-forming sediment and woody debris, temporary storage of local groundwater that supports baseflow in rivers, and transformation and transport of stored organic matter. Riparian/floodplain wetlands and open waters improve water quality through the assimilation, transformation, and sequestration of pollutants, including excess nutrients and chemical contaminants such as pesticides and metals that can degrade downstream water integrity. In addition to providing effective buffers to protect downstream waters from point source and nonpoint source pollution, these systems form integral components of river food webs, providing nursery habitat for breeding fish and amphibians, colonization opportunities for stream invertebrates, and maturation habitat for stream insects. Lateral expansion and contraction of the river in its floodplain result in an exchange of organic matter and organisms, including fish populations that are adapted to use floodplain habitats for feeding and spawning during high water, that are critical to river ecosystem function. Riparian/floodplain wetlands and open waters also affect the integrity of downstream waters by subsequently releasing (desynchronizing) floodwaters and retaining large volumes of stormwater, sediment, and contaminants in runoff that could otherwise negatively affect the condition or function of downstream waters. Science Report at ES–2 to ES–3.

Conclusion 3: Non-Floodplain Wetlands and Open Waters

Wetlands and open waters in non-floodplain landscape settings (''non-floodplain wetlands'') provide numerous functions that benefit downstream water integrity. These functions include storage of floodwater; recharge of groundwater that sustains river baseflow; retention and transformation of nutrients, metals, and pesticides; export of organisms or seeds to downstream waters; and habitats needed for stream species. This diverse group of wetlands (*e.g.,* many Prairie potholes or vernal pools) can be connected to downstream waters through surface water, shallow subsurface water, and groundwater flows, and through biological and chemical connections.

In general, connectivity of non-floodplain wetlands occurs along a gradient, and can be described in terms of the frequency, duration, magnitude, timing, and rate of change of water, material, and biotic fluxes to downstream waters. These descriptors are influenced by climate, geology, and terrain, which interact with factors such as the magnitudes of the various functions within wetlands (*e.g.,* amount of water storage or carbon export) and their proximity to downstream waters to determine where wetlands occur along the connectivity gradient. At one end of this gradient, the functions of non-floodplain wetlands clearly affect the condition of downstream waters if a visible (*e.g.,* channelized) surface water or a regular shallow subsurface-water connection to the river network is present. For non-floodplain wetlands lacking a channelized surface or regular shallow subsurface connection (*i.e.,* those at intermediate points along the gradient of connectivity), generalizations about their specific effects on downstream waters from the available literature are difficult because information on both function and connectivity is needed. Science Report at ES–3.

Conclusion 4: Degrees and Determinants of Connectivity

Connectivity of streams and wetlands to downstream waters occurs along a gradient that can be described in terms of the frequency, duration, magnitude, timing, and rate of change of water, material, and biotic fluxes to downstream waters. These terms, which we refer to collectively as connectivity descriptors, characterize the range over which streams and wetlands vary and shift along the connectivity gradient in response to changes in natural and anthropogenic factors and, when considered in a watershed context, can be used to predict probable effects of different degrees of connectivity over time. The evidence unequivocally demonstrates that the stream channels and riparian/floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. The connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. Science Report at ES–3 to ES–4.

Conclusion 5: Cumulative Effects

The incremental effects of individual streams and wetlands are cumulative across entire watersheds, and therefore, must be evaluated in context with other streams and wetlands. Downstream waters are the time-integrated result of all waters contributing to them. For example, the amount of water or biomass contributed by a specific

ephemeral stream in a given year might be small, but the aggregate contribution of that stream over multiple years, or by all ephemeral streams draining that watershed in a given year or over multiple years, can have substantial consequences on the integrity of the downstream waters. Similarly, the downstream effect of a single event, such as pollutant discharge into a single stream or wetland, might be negligible but the cumulative effect of multiple discharges could degrade the integrity of downstream waters.

When considering the effect of an individual stream or wetland, all contributions and functions of that stream or wetland should be evaluated cumulatively. For example, the same stream transports water, removes excess nutrients, transports pollutants, mitigates flooding, and provides refuge for fish when conditions downstream are unfavorable; if any of these functions is ignored, the overall effect of that stream would be underestimated. Science Report at ES–5 to ES–6.

SAB Review of the Proposed Rule

In addition to its peer review of the draft Science Report, in a separate effort the SAB also reviewed the adequacy of the scientific and technical basis of the proposed rule and provided its advice and comments on the proposal in September 2014.[9] The same SAB Panel that reviewed the draft Science Report met via two public teleconferences in August 2014 to discuss the scientific and technical basis of the proposed rule. The Panel submitted comments to the Chair of the chartered SAB. A work group of chartered SAB members considered comments provided by panel members, agency representatives, and the public on the adequacy of the science informing the rule. This work group then led the September 2014 public teleconference discussion of the chartered SAB. The public had an opportunity to submit oral or written comments during these two public meetings. The SAB's final letter to the EPA Administrator can be found on the SAB Web site and in the docket for this rule.

The SAB found that the available science provides an adequate scientific basis for the key components of the proposed rule. The SAB noted that although water bodies differ in degree of connectivity that affects the extent of influence they exert on downstream waters (*i.e.,* they exist on a ''connectivity gradient''), the available science supports the conclusion that the types of water bodies identified as ''waters of the United States'' in the proposed rule exert strong influence on the chemical, physical, and biological integrity of downstream waters. In particular, the SAB expressed support for the proposed rule's inclusion of tributaries and ''adjacent waters'' as categorical waters of the United States and the inclusion of ''other waters'' on a case-specific basis, though noting that certain ''other waters'' can be determined as a subcategory to be similarly situated.

Regarding tributaries, the SAB found, ''[t]here is strong scientific evidence to support the EPA's proposal to include all tributaries within the jurisdiction of the Clean Water Act. Tributaries, as a group, exert strong influence on the physical, chemical, and biological integrity of downstream waters, even though the degree of connectivity is a function of variation in the frequency, duration, magnitude, predictability, and consequences of physical, chemical, and biological processes.'' The Board advised EPA to reconsider the definition of tributaries because not all tributaries have ordinary high water marks (*e.g.,* ephemeral streams with arid and semi-arid environments or in low gradient landscapes where the flow of water is unlikely to cause an ordinary high water mark). The SAB also advised EPA to consider changing the wording in the definition to ''bed, bank, and other evidence of flow.'' SAB 2014b at 2. The agencies did not make this change because this recommendation seemed to suggest that any hydrologic connection is sufficient for CWA jurisdiction. The definition of ''tributary'' in the rule better identifies tributaries that have a significant nexus to downstream traditional navigable waters, interstate waters, or the territorial seas. In addition, the SAB suggested that EPA reconsider whether flow-through lentic systems should be included as ''adjacent waters'' and wetlands, rather than as tributaries.

Regarding ''adjacent waters'' and wetlands, the SAB stated, ''[t]he available science supports the EPA's proposal to include ''adjacent waters'' and wetlands as a waters of the United States. . . . because [they] have a strong influence on the physical, chemical, and biological integrity of navigable waters.'' *Id.* In particular, the SAB noted, ''the available science supports defining adjacency or determination of adjacency on the basis of functional relationships,'' rather than ''solely on the basis of geographical proximity or distance to jurisdictional waters.'' *Id.* at 2–3. The agencies have determined which waters are adjacent, and thus jurisdictional under the rule, based on both functional relationships and proximity because those factors identify the waters that have a strong influence on the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, or the territorial seas. Section C. and IV.F below. The agencies' determination is informed by the science, and consideration of proximity is reasonable in interpreting the scope of adjacency.

In the evaluation of ''other waters,'' the SAB found that ''scientific literature has established that 'other waters' can influence downstream waters, particularly when considered in aggregate.'' *Id.* at 3. The SAB thus found it ''appropriate to define 'other waters' as waters of the United States on a case-by-case basis, either alone or in combination with similarly situated waters in the same region.'' *Id.* The SAB found that distance could not be the sole indicator used to evaluate the connection of ''other waters'' to jurisdictional waters. The agencies' identification of the areas within which a water is assessed on a case-specific basis for a significant nexus is informed by the science and the agencies' experience and technical expertise, and consideration of proximity is reasonable in interpreting the scope of the statute. The SAB also expressed support for language in one of the options discussed in the preamble to the proposed rule. Specifically, the SAB stated there is ''also adequate scientific evidence to support a determination that certain subcategories and types of 'other waters' in particular regions of the United States (*e.g.,* Carolina and Delmarva Bays, Texas coastal prairie wetlands, prairie potholes, pocosins, western vernal pools) are similarly situated (*i.e.,* they have a similar influence on the chemical, physical, and biological integrity of downstream waters and are similarly situated on the landscape) and thus could be considered waters of the United States.'' *Id.* The Board noted that other sets of wetlands could be identified as ''similarly situated'' as the science continues to develop and that science does not support excluding groups of ''other waters'' or subcategories thereof from jurisdiction.

The exclusions paragraph of the proposed rule generated the most comments from the SAB. The SAB noted, ''[t]he Clean Water Act exclusions of groundwater and certain other exclusions listed in the proposed rule and the current regulation do not

[9] U.S. EPA. 2014. SAB Consideration of the Adequacy of the Scientific and Technical Basis of the EPA's Proposed Rule titled ''Definition of Waters of the United States under the Clean Water Act.'' EPA–SAB–14–007, U.S. Environmental Protection Agency, Washington, DC. (''SAB 2014b.'')

have scientific justification.'' *Id.* With regard to ditches, the Board found that there is a lack of scientific knowledge to determine whether ditches should be categorically excluded. For example, some ditches that would be excluded in the Midwest may drain Cowardin wetlands and may provide certain ecosystem services, while gullies, rills, and non-wetland swales can be important conduits for moving water between jurisdictional waters. The SAB also noted that artificial lakes or ponds, or reflection pools, can be directly connected to jurisdictional waters via either shallow or deep groundwater. The SAB also recommended that the agencies clarify in the preamble to the final rule that ''significant nexus'' is a legal term, not a scientific one.

C. Significant Nexus Conclusions

As noted earlier, the agencies interpret the scope of ''waters of the United States'' protected under the CWA based on the information and conclusions in the Science Report, other relevant scientific literature, the Technical Support Document that provides additional legal and scientific discussion for issues raised in this rule, the relevant Supreme Court decisions, the agencies' technical expertise and experience, and the objectives and requirements of the CWA. In light of this information, the agencies made scientifically and technically informed judgments about the nexus between the relevant waters and the significance of that nexus and conclude that ''tributaries'' and ''adjacent waters,'' each as defined by the rule, have a significant nexus such that they are ''waters of the United States'' and no additional analysis is required. The agencies also determined that additional waters may, on a case-specific basis, have a significant nexus to traditional navigable waters, interstate waters, and the territorial seas, either alone or in combination with similarly situated waters. The agencies' interpretation of the scope of ''waters of the United States'' is informed by the Science Report and the review and comments of the SAB. The rule reflects the judgment of the agencies in balancing the science, the agencies' expertise, and the regulatory goals of providing clarity to the public while protecting the environment and public health, consistent with the law.

Since the *Rapanos* decision, the agencies have gained extensive experience making significant nexus determinations, and that experience and expertise has informed the judgment of the agencies as reflected in the provisions of the rule. The agencies, most often the Corps, have made more than 400,000 CWA jurisdictional determinations since 2008. Of those, more than 120,000 are case-specific significant nexus determinations. The agencies made determinations in every state in the country, from the arid West to the tropics of Hawaii, from the Appalachian Mountains in the East to the lush forests of the Northwest. With field staff located in 38 Corps District offices and 10 EPA regional offices, the agencies have almost a decade of nationwide experience in making significant nexus determinations. These individual jurisdictional determinations have been made for waters ranging from an intermittent stream that provides flow to a drinking water source, to a group of floodplain wetlands in North Dakota that provide important protection from floodwaters to downstream communities alongside the Red River, to headwater mountain streams that provide high quality water that supplies baseflow and reduces the harmful concentrations of pollutants in the main part of the river below. Through this experience, the agencies developed wide-ranging technical expertise in assessing the hydrologic flowpaths along which water and materials are transported and transformed that determine the degree of chemical, physical, or biological connectivity, as well as the variations in climate, geology, and terrain within and among watersheds and over time that affect the functions (such as the removal or transformation of pollutants) performed by streams and wetlands for downstream traditional navigable waters, interstate waters or the territorial seas.

The agencies utilize many tools and many sources of information to help make jurisdictional determinations, including U.S. Geological Survey (USGS) and state and local topographic maps, aerial photography, soil surveys, watershed studies, scientific literature and references, and field work. For example, USGS and state and local stream maps and datasets, aerial photography, gage data, watershed assessments, monitoring data, and field observations are often used to help assess the contributions of flow of tributary streams, including intermittent and ephemeral streams, to downstream traditional navigable waters, interstate waters or the territorial seas. Similarly, floodplain and topographic maps of federal, state and local agencies, modeling tools, and field observations can be used to assess how wetlands are trapping floodwaters that might otherwise affect downstream waters. Further, the agencies utilize the large body of scientific literature regarding the functions of tributaries, including tributaries with ephemeral, intermittent and perennial flow and of wetlands and open waters to inform their evaluations of significant nexus. In addition, the agencies have experience and expertise for decades prior to and since the *SWANCC* and *Rapanos* decisions with making jurisdictional determinations, and consider hydrology, ordinary high water mark, biota, and other technical factors in implementing Clean Water Act programs. This immersion in the science along with the practical expertise developed through case-specific determinations across the country and in diverse settings is reflected in the agencies' conclusions with respect to waters that have a significant nexus, as well as where the agencies have drawn boundaries demarking where ''waters of the United States'' end.

1. Scope of Significant Nexus Analysis

Under the significant nexus standard, waters possess the requisite significant nexus if they ''either alone or in combination with similarly situated [wet]lands in the region, significantly affect the chemical, physical, and biological integrity of other covered waters more readily understood as 'navigable.' '' *Rapanos* at 780. Several terms in this standard were not defined. In this rule the agencies interpret these terms and the scope of ''waters of the United States'' based on the goals, objectives, and policies of the statute, the scientific literature, the Supreme Court opinions, and the agencies' technical expertise and experience. Therefore, for purposes of a significant nexus analysis, the agencies have determined (1) which waters are ''similarly situated,'' and thus should be analyzed in combination, in (2) the ''region,'' for purposes of a significant nexus analysis, and (3) the types of functions that should be analyzed to determine if waters significantly affect the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, or the territorial seas. These determinations underpin many of the key elements of the rule and are reflected in the definition of ''significant nexus'' in the rule.

a. Similarly Situated Waters

As reflected in the rule's definition of ''significant nexus,'' the agencies determined that it is reasonable to consider waters as ''similarly situated'' where they function alike and are sufficiently close to function together in affecting the nearest traditional

navigable water, interstate water, or the territorial sea. Since the focus of the significant nexus standard is on protecting and restoring the chemical, physical, and biological integrity of the nation's waters, the agencies interpret the phrase ''similarly situated'' in terms of whether particular waters are providing common, or similar, functions for downstream waters such that it is reasonable to consider their effect together. Regarding covered tributaries and covered adjacent waters, the agencies define each water type such that the functions provided are similar and the waters are situated so as to provide those functions together to affect downstream waters.

The science demonstrates that covered tributaries provide many common vital functions important to the chemical, physical, and biological integrity of downstream waters, regardless of the size of the tributaries. The science also supports the conclusion that sufficient volume, duration, and frequency of flow are required to create a bed and banks and ordinary high water mark. The science also supports the conclusion that tributaries function together to affect downstream waters. The agencies conclude that covered tributaries with a bed and banks and ordinary high water mark are similarly situated for purposes of the agencies' significant nexus analysis.

For covered adjacent waters, the science demonstrates that these waters provide many similar vital functions to downstream waters, and the agencies defined ''adjacent waters'' with distance boundaries to ensure that the waters are providing similar functions to downstream waters and that the waters are located comparably in the region such that the agencies' reasonably judged them to be similarly situated.

For waters for which a case-specific significant nexus determination is required the agencies have determined that some waters in specific regions are similarly situated; for other specified waters, the determination of whether there are any other waters providing similar functions in a similar situation in the region must be made as part of a case-specific determination. See section IV.H.

Assessing the functions of identified waters in combination is consistent not only with Justice Kennedy's significant nexus standard, but with the science. Scientists routinely combine the effects of groups of waters, aggregating the known effect of one water with those of ecologically similar waters in a specific geographic area, or to a certain scale. This is because the chemical, physical, and biological integrity of downstream waters is directly related to the aggregate contribution of upstream waters that flow into them, including any tributaries and connected wetlands. As a result, the scientific literature and the Science Report consistently document that the health of larger downstream waters is directly related to the aggregate health of waters located upstream, including waters such as wetlands that may not be hydrologically connected but function together to ameliorate the potential impacts of flooding and pollutant contamination from affecting downstream waters. *See* Technical Support Document.

For example, excess nutrients discharged into small tributary streams in the aggregate can cause algal blooms downstream that reduce dissolved oxygen levels and increase turbidity in traditional navigable waters, interstate waters, and the territorial seas. Water low in dissolved oxygen cannot support aquatic life. This widely-recognized phenomenon, known as hypoxia, has impacted commercial and recreational fisheries in the northern Gulf of Mexico. In this instance, the cumulative effects of nutrient export from the many small headwater streams of the Mississippi River have resulted in large-scale ecological and economically harmful impacts hundreds of miles downstream. *See* Technical Support Document.

In review of the scientific and technical adequacy of the rule, the SAB panel members ''generally agreed that aggregating 'similarly situated' waters is scientifically justified, given that the combined effects of these waters on downstream waters are often only measurable in aggregate.'' [10] As stated in section III.B. above, one of the main conclusions of the Science Report is that the incremental contributions of individual streams and wetlands are cumulative across entire watersheds, and their effects on downstream waters should be evaluated within the context of other streams and wetlands in that watershed. For example, the Science Report finds, ''[t]he amount of nutrients removed by any one stream over multiple years or by all headwater streams in a watershed in a given year can have substantial consequences for downstream waters.'' Science Report at 1–11. Cumulative effects of streams, wetlands, and open waters across a watershed must be considered because ''[t]he downstream consequences (*e.g.,* the amount and quality of materials that eventually reach a river) are determined by the aggregate effect of contributions and sequential alterations that begin at the source waters and function along continuous flowpaths to the watershed outlet.'' *Id.* at 1–19.

The agencies conclude that it is appropriate to assess the effects of waters in combination based on the similarity of the functions they provide to the downstream water and their location in the watershed. This is consistent with the science and effectively meets the goals of the CWA.

b. In the Region

Since Justice Kennedy did not define the ''region,'' the agencies determined that the single point of entry watershed is a reasonable and technically appropriate scale for identifying ''in the region'' for purposes of the significant nexus standard. A single point of entry watershed is the drainage basin within whose boundaries all precipitation ultimately flows to the nearest single traditional navigable water, interstate water, or the territorial sea. The agencies determined that because the movement of water from watershed drainage basins to coastal waters, river networks, and lakes shapes the development and function of these systems in a way that is critical to their long-term health, the watershed is a reasonable and technically appropriate way to identify the scope of waters that together may have an effect on the chemical, physical, or biological integrity of a particular traditional navigable water, interstate water, or territorial sea. The watershed includes all streams, wetlands, lakes, and open waters within its boundaries. Using the watershed that flows to the nearest single traditional navigable water, interstate water, or territorial sea is consistent with court decisions that these waters are the ultimate focus of CWA protections. Using the single point of entry watershed ensures that any analysis of significant nexus is appropriately connected to these touchstone waters.

Because the movement of water from watershed drainage basins to coastal waters, river networks, and lakes shapes the development and function of these systems in a way that is critical to their integrity, using a watershed as the framework for conducting significant nexus evaluations is scientifically supportable. Watersheds are generally regarded as the most appropriate spatial unit for water resource management. Anthropogenic actions and natural events can have widespread effects within the watershed that collectively

[10] September 2, 2014. Memorandum from Dr. Amanda Rodewald to Dr. David Allen. Comments to the chartered SAB on the Adequacy of the Scientific and Technical Basis of the EPA's Proposed Rule titled ''Definition of 'Waters of the United States' under the Clean Water Act.'' (''SAB 2014c.'')

impact the integrity and quality of the relevant traditional navigable water, interstate water, or the territorial sea. The functions of the contributing waters are inextricably linked and have a cumulative effect on the integrity of the downstream traditional navigable water, interstate water, or the territorial sea. For these reasons, it is more appropriate to conduct a significant nexus analysis at the watershed scale than to focus on a specific site, such as an individual stream segment. *See* proposal Appendix A, Scientific Analysis, 79 FR 22246, April 21, 2014, Science Report, and Technical Support Document.

Concluding that the watershed is the reasonable and appropriate region for purposes of a significant nexus analysis is also consistent with the agencies' longstanding practice and experience. To restore or maintain the health of the downstream affected water, the agencies' standard practice is to evaluate the condition of the waters that are in the contributing watersheds and to develop a plan to address the issues of concern. The Corps has used watershed framework approaches for water sources, for navigation approaches for more than 100 years, and in the regulatory program since its inception. Also, using a watershed framework is consistent with more than two decades of practice by EPA and many other governmental, academic, and additional entities that recognize that a watershed approach is the most effective framework to address water resource challenges. Finally, the watershed that drains to the nearest (*i.e.,* first downstream) traditional navigable water, interstate water, or the territorial seas is likely to be of a size commonly understood as a ''region.''

In light of the scientific literature, the longstanding approach of the agencies' implementation of the CWA, and the statutory goals underpinning Justice Kennedy's significant nexus framework, the watershed draining to the nearest traditional navigable water, interstate water, or the territorial sea, is the appropriate ''region'' for a significant nexus analysis. *See* the proposed rule preamble and Technical Support Document.

c. Significantly Affect Chemical, Physical, or Biological Integrity

The agencies' definition of the term ''significant nexus'' in the rule is consistent with language in *Riverside Bayview, SWANCC,* and *Rapanos,* and with the goals, objectives, and policies of the CWA. The definition reflects that not all waters have a requisite connection to traditional navigable waters, interstate waters, or the territorial seas sufficient to be determined jurisdictional. Justice Kennedy was clear that to be covered, waters must significantly affect the chemical, physical, or biological integrity of a downstream navigable water and that the requisite nexus must be more than ''speculative or insubstantial,'' *Rapanos,* at 780. The agencies define significant nexus in precisely those terms. Under the rule a ''significant nexus'' is established by a showing of a significant chemical, physical, or biological effect. In characterizing the significant nexus standard, Justice Kennedy stated: ''[t]he required nexus must be assessed in terms of the statute's goals and purposes. Congress enacted the [CWA] to 'restore and maintain the chemical, physical, and biological integrity of the Nation's waters'. . . .'' 547 U.S. at 779. It is clear that Congress intended the CWA to ''restore and maintain'' all three forms of ''integrity,'' Section 101(a), so if any one is compromised then that is contrary to the statute's stated objective. It would subvert the objective if the CWA only protected waters upon a showing that they had effects on every attribute of the integrity of a traditional navigable water, interstate water, or the territorial sea.

In the rule's definition of ''significant nexus,'' the agencies identify the functions that waters provide that can significantly affect the chemical, physical, or biological integrity of traditional navigable waters, interstate waters and the territorial seas. In identifying the functions to be considered the agencies were informed by the goals of the statute and the available science. Among the means to achieve the CWA's objective to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, Congress established an interim national goal to achieve wherever possible ''water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water.'' Section 101(a)(2). Functions to be considered for the purposes of determining significant nexus are sediment trapping; nutrient recycling; pollutant trapping, transformation, filtering, and transport; retention and attenuation of floodwaters; runoff storage; contribution of flow; export of organic matter; export of food resources; and provision of life-cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, and use as a nursery area) for species located in traditional navigable waters, interstate waters, or the territorial seas. The effect of an upstream water can be significant even when a water, alone or in combination, is providing a subset, or even just one, of the functions listed.

Science demonstrates that these aquatic functions provided by smaller streams, ponds, wetlands and other waters are important for protecting the chemical, physical, and biological integrity of downstream traditional navigable waters, interstate waters, and the territorial seas. For example, States identify sediment and nutrients as the primary contaminants in the nation's waters. Sediment storage and export via streams to downstream waters is critical for maintaining the river network, including the formation of channel features. Although sediment is essential to river systems, excess sediment can impair ecological integrity by filling interstitial spaces, reducing channel capacity, blocking sunlight transmission through the water column, and increasing contaminant and nutrient concentrations. Streams and wetlands can prevent excess deposits of sediment downstream and reduce pollutant concentrations in downstream waters. Thus the function of trapping of excess sediment, along with export of sediment, have a significant effect on the chemical, physical, and biological integrity of downstream waters.

Nutrient recycling results in the uptake and transformation of large quantities of nitrogen and other nutrients that otherwise would be transported directly downstream, thereby decreasing nutrient loads and associated impairments due to excess nutrients in downstream waters. Streams, wetlands and open waters improve water quality through the assimilation, transformation, or sequestration of pollutants, including excess nutrients and chemical contaminants such as pesticides and metals that can degrade downstream water integrity. Nutrient transport exports nutrients downstream and can degrade water quality and lead to stream impairments. Nutrients are necessary to support aquatic life, but excess nutrients lead to excessive plant growth and hypoxia, in which over-enrichment causes dissolved oxygen concentrations to fall below the level necessary to sustain most aquatic animal life in the downstream waters. Nutrient recycling, retention, and export can significantly affect downstream chemical integrity by impacting downstream water quality.

The contribution of flow downstream is an important role, as upstream waters can be a cumulative source of the majority of the total mean annual flow to bigger downstream rivers and waters, including via the recharge of baseflow.

Streams, wetlands, and open waters contribute surface and subsurface water downstream, and are the dominant sources of water in most rivers. Contribution of flow can significantly affect the physical integrity of downstream waters, helping to sustain the volume of water in larger waters.

Small streams and wetlands are particularly effective at retaining and attenuating floodwaters. By subsequently releasing (desynchronizing) floodwaters and retaining large volumes of stormwater that could otherwise negatively affect the condition or function of downstream waters, streams and adjacent wetlands and open waters affect the physical integrity of downstream traditional navigable waters, interstate waters, or the territorial seas. This function can reduce flood peaks downstream and can also maintain downstream river baseflows by recharging alluvial aquifers.

Streams, wetlands, and open waters supply downstream waters with dissolved and particulate organic matter (*e.g.,* leaves, wood), which support biological activity throughout the river network. In addition to organic matter, streams, wetlands, and open waters can also export other food resources downstream, such as aquatic insects that are the food source for fish in downstream waters. The export of organic matter and food resources downstream is important to maintaining the food webs and thus the biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

Streams, wetlands, and open waters provide life-cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, and use as a nursery area) for species located in traditional navigable waters, interstate waters, or the territorial seas. Many species require different habitats for different resources (*e.g.,* food, spawning habitat, overwintering habitat), and thus move throughout the river network over their life-cycles. For example, headwater streams can provide refuge habitat under adverse conditions, enabling fish to persist and recolonize downstream areas once conditions have improved. These upstream systems form integral components of downstream food webs, providing nursery habitat for breeding fish and amphibians, colonization opportunities for stream invertebrates, and maturation habitat for stream insects, including for species that are critical to downstream ecosystem function. The provision of life-cycle dependent aquatic habitat for species located in downstream waters significantly affects the biological integrity of those downstream waters.

Tributaries, adjacent wetlands, and open waters can perform multiple functions, including functions that change depending upon the season. For example, the same stream can contribute flow when evapotranspiration is low and can retain water when evapotranspiration is high. These functions, particularly when considered in aggregate with the functions of similarly situated waters in the region, can significantly affect the chemical, physical, or biological integrity of a traditional navigable water, interstate water, or the territorial seas. When considering the effect of an individual stream, wetland, or open water, all contributions and functions that the water provides should be evaluated cumulatively. For example, the same wetland retains sediment, removes excess nutrients, mitigates flooding, and provides habitat for amphibians that also live downstream; if any of these functions is ignored, the overall effect of that wetland would be underestimated. It is important to note, however, that a water or wetland can provide just one function that may significantly affect the chemical, physical or biological integrity of the downstream water.

2. Categories of Waters Determined to Have a Significant Nexus

In this rule, the agencies determine that: (1) Covered tributaries, in combination with other covered tributaries located in a watershed that drains to a traditional navigable water, interstate water, or the territorial seas, significantly affect the chemical, physical, and biological integrity of that water; and (2) covered adjacent waters, in combination with other covered adjacent waters located in a watershed that drains to a traditional navigable water, interstate water, or the territorial seas, significantly affect the chemical, physical, and biological integrity of that water.

a. Covered Tributaries

The agencies determine based on their scientific and technical expertise that waters meeting the definition of ''tributary'' in a single point of entry watershed are similarly situated and have a significant nexus because they significantly affect the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. As such, it is appropriate to conclude covered tributaries as a category are ''waters of the United States.'' *See* Technical Support Document. The agencies limited the tributaries that are ''waters of the United States'' to those that have both a bed and banks and another indicator of ordinary high water mark. That limitation served as a reasonable basis to consider covered tributaries similarly situated because those physical characteristics indicated sufficient flow that the covered tributaries are performing similar functions and located such that they are working together in the region to provide those functions to the nearest traditional navigable water, interstate water, or the territorial seas. Justice Kennedy noted that the requirement of a perceptible ordinary high water mark for tributaries, a measure that had been used by the Corps, ''may well provide a reasonable measure of whether specific minor tributaries bear a sufficient nexus with other regulated waters to constitute 'navigable waters' under the Act.'' 547 U.S. at 781, *see also id.* at 761. The science supports this.

The agencies analyzed the Science Report and other scientific literature to determine whether tributaries to traditional navigable waters, interstate waters, or the territorial seas have a significant nexus to constitute ''waters of the United States'' under the Act such that it is reasonable to assert CWA jurisdiction over all such tributaries by rule. Covered tributaries have a significant impact on the chemical, physical, or biological integrity of waters into which they eventually flow—for CWA purposes, traditional navigable waters, interstate waters, and the territorial seas. The great majority of covered tributaries are headwater streams, and whether they are perennial, intermittent, or ephemeral, they play an important role in the transport of water, sediments, organic matter, nutrients, and organisms to downstream waters. Covered tributaries serve to store water, thereby reducing flooding; provide biogeochemical functions that help maintain water quality; trap and transport sediments; transport, store and modify pollutants; provide habitat for plants and animals; and sustain the biological productivity of downstream rivers, lakes, and estuaries. Such waters have these significant effects whether they are natural, modified, or constructed.

Covered tributaries significantly affect the chemical integrity of traditional navigable waters, interstate waters, and the territorial seas. Covered tributaries influence the chemical composition of downstream waters, through the transport and removal of chemical elements and compounds, such as nutrients, ions, organic matter and pollutants. Ecosystem processes in

covered tributaries transform, remove, and transport these substances to downstream waters. In turn, these chemical compounds can influence water quality, sediment deposition, nutrient availability, and biotic functions in rivers. Because water flow transports chemical substances downstream, chemical effects are closely related to hydrological connectivity. Within covered tributaries, there are processes that occur that transform and export nutrients and carbon to downstream waters, serving important source functions that influence the chemical integrity of downstream waters. Organic carbon, in both dissolved and particulate forms, exported from covered tributaries is consumed by downstream organisms. The organic carbon that is exported downstream thus supports biological activity throughout the river network.

Covered tributaries act as both sinks and sources of chemical substances, further affecting the chemical integrity of traditional navigable waters, interstate waters, and the territorial seas. Covered tributaries provide sink functions by trapping chemicals through absorption to sediments in the stream substrate (*e.g.,* phosphorous adsorption to clay particles). They provide source functions by transporting chemicals to downstream traditional navigable waters, interstate waters, and the territorial seas as chemicals dissolved in the waters or as chemicals attached to suspended sediments.

Covered tributaries significantly affect the physical integrity of traditional navigable waters, interstate waters, and the territorial seas. Physical connections between covered tributaries and traditional navigable waters, interstate waters, and the territorial seas result from the hydrologic transport from covered tributaries to downstream waters of numerous materials, including water, sediment and organic matter such as leaves and wood. This transport affects the physical characteristics of downstream waters. Covered tributaries, even when seasonally dry, are the dominant source of water in most rivers, rather than direct precipitation or groundwater input to main stem river segments. One of the primary functions of covered tributaries is transporting sediment to downstream waters. Covered tributaries, particularly headwaters, shape and maintain river channels by accumulating and gradually or episodically releasing sediment and large woody debris into river channels. These effects occur even when the covered tributaries flow infrequently (such as ephemeral covered tributaries), and even when the covered tributaries are great distances from the traditional navigable water, interstate water, or the territorial sea (such as some headwater covered tributaries).

Covered tributaries significantly affect the biological integrity of traditional navigable waters, interstate waters, and the territorial seas. Covered tributaries, including intermittent and ephemeral streams, are critical in the life-cycles of many organisms capable of moving throughout river networks. In fact, many organisms, such as anadromous salmon, have complex life-cycles which involve migration through the river network, from headwaters to downstream rivers and oceans and back, over the course of their lives. In addition to providing critical habitat for complex life-cycle completion, covered tributaries provide refuge from predators and adverse physical conditions in rivers, and are reservoirs of genetic- and species-level diversity. Covered tributaries contribute materials to downstream food networks and supporting populations for aquatic species, including economically important species such as salmon. These effects occur even when the covered tributaries flow infrequently (such as ephemeral covered tributaries), and even when the covered tributaries are large distances from the traditional navigable waters, interstate waters, and the territorial seas (such as some headwater covered tributaries).

Similarly, modified and constructed tributaries perform the same functions as natural tributaries, especially the conveyance of water that carries nutrients, pollutants, and other constituents, both good and bad, to traditional navigable waters, interstate waters, and the territorial seas. Modified and constructed covered tributaries also provide corridors for movement of organisms between headwaters and traditional navigable waters, interstate waters, and the territorial seas. The important effect—and thus the significant nexus—between a covered tributary and a traditional navigable water, interstate water, and the territorial sea is not broken where the covered tributary flows through a culvert or other structure. The scientific literature recognizes that features that convey water, whether they are natural, modified, or constructed, provide substantial connectivity between streams and downstream waters. For example, ditches that meet the definition of tributary and are not excluded quickly move water downstream to traditional navigable waters, interstate waters, and the territorial seas due to their often straightened and channelized nature, transporting downstream sediment, nutrients, and other materials.

The CWA regulates and controls pollution at its source, in part because most pollutants do not remain at the site of the discharge, but instead flow and are washed downstream through the tributary system to endanger drinking water supplies, fisheries, and recreation areas. These fundamental facts about the movement of pollutants and the interconnected nature of the tributary system demonstrate why covered tributaries of traditional navigable waters, interstate waters, and the territorial seas, alone or in combination with other covered tributaries in a watershed, have a significant nexus with those downstream waters. Thus, in the rule the agencies assert CWA jurisdiction over all covered tributaries as defined. Those covered tributaries are ''waters of the United States'' without the need for further analysis.

b. Covered Adjacent Waters

Based on the agencies' review of the scientific literature and the law, the agencies determine that covered adjacent waters, as defined, have a significant nexus and are ''waters of the United States.'' The scientific literature, including the Science Report, consistently supports the conclusion that covered adjacent waters provide similar functions and work together to maintain the chemical, physical, and biological integrity of the downstream traditional navigable waters, interstate waters, and the territorial seas because of their hydrological and ecological connections to, and interactions with, those waters. Science demonstrates that this functional connectivity is particularly evident where covered adjacent waters are located within the floodplain of the traditional navigable water, interstate water, the territorial seas, covered tributary, or impoundment to which they are adjacent or are otherwise sufficiently proximate to waters with no floodplain, such as lakes and ponds. Location within the floodplain and proximity ensure that the aquatic functions performed by covered adjacent waters are effectively and consistently provided to downstream waters. *See* Technical Support Document.

The agencies conclude that all waters meeting the definition of ''adjacent'' in the rule are similarly situated for purposes of analyzing whether they have a significant nexus to a traditional navigable water, interstate water, or the territorial sea. Based on a review of the scientific literature, the agencies conclude that these bordering, contiguous, or neighboring waters

provide similar functions and function together to significantly affect the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, or the territorial seas. Further, because the definition of ''adjacent'' considers both the functional relationships and the proximity of the waters (*i.e.,* those that are located near traditional navigable waters, interstate waters, the territorial seas, impoundments, and covered tributaries), interpreting the term ''similarly situated'' to include all covered adjacent waters, as defined in the rule, is informed by the science and is a reasonable interpretation of the scope of the statute. The geographic proximity of an ''adjacent'' water relative to the traditional navigable waters, interstate waters, the territorial seas, impoundments, and covered tributaries is indicative of the relationship to it, with many of its defining characteristics resulting from the movement of materials and energy between the categories of waters. The scientific literature supports that waters, including wetlands, ponds, lakes, oxbow lakes, and similar waters, that are ''adjacent,'' as defined in the rule, to traditional navigable waters, interstate waters, the territorial seas, impoundments, and covered tributaries, are integral parts of stream networks because of their ecological functions and how they interact with each other, and with downstream traditional navigable waters, interstate waters, or the territorial seas.

Covered adjacent waters function together to maintain the chemical, physical, or biological health of traditional navigable waters, interstate waters, and the territorial seas to which they are directly adjacent or to which they are connected by the tributary system. This functional interaction can result from hydrologic connections or because covered adjacent waters can act as water storage areas holding damaging floodwaters or filtering harmful pollutants. These chemical, physical, and biological connections affect the integrity of downstream traditional navigable waters, interstate waters, and the territorial seas through the temporary storage and deposition of channel-forming sediment and woody debris, temporary storage of local groundwater sources of baseflow for downstream waters and their tributaries, and transformation and transport of organic matter. Covered adjacent waters improve water quality through the assimilation, transformation, or sequestration of pollutants, including excess nitrogen and phosphorus, and chemical contaminants such as pesticides and metals that can degrade downstream water integrity. In addition to providing effective buffers to protect downstream waters from pollution, covered adjacent waters form integral components of downstream food webs, providing nursery habitat for breeding fish and amphibians, colonization opportunities for stream invertebrates, and maturation habitat for stream insects. Covered adjacent waters serve an important role in the integrity of traditional navigable waters, interstate waters, and the territorial seas by subsequently releasing (desynchronizing) floodwaters and retaining large volumes of stormwater, sediment, nutrients, and contaminants that could otherwise negatively impact the condition or function of traditional navigable waters, interstate waters, and the territorial seas.

Floodplain areas connect aquatic environments through both surface and shallow subsurface hydrologic flowpaths. Waters in these areas are therefore uniquely situated in watersheds to receive and process water that passes over densely vegetated areas and through subsurface zones before reaching streams and rivers. When contaminants reach a floodplain water, they can be sequestered in sediments, assimilated into wetland plants and animals, transformed into less harmful and/or mobile forms or compounds, or lost to the atmosphere. Wetlands located in floodplains store large amounts of sediment and organic matter from upstream and upland areas. In addition, the primary function of many floodplain wetlands in the Western United States is sediment exchange, which can transform materials and compounds temporarily on floodplains.

Wetlands and other similar waters in floodplain areas act as buffers that are among the most effective tools for mitigating nonpoint source pollution. The literature shows that collectively, wetlands and other similar waters improve water quality through assimilation, transformation, or sequestration of nutrients, sediment, and other pollutants—such as pesticides and metals—that can affect downstream water quality. These pollutants enter floodplain wetlands from dry and wet atmospheric deposition, runoff from upland agricultural and urban areas, spray drift, subsurface water flows, outfalls, pipes, and ditches.

Floodplain waters, including wetlands, can reduce flood peaks by storing and desynchronizing floodwaters. They can also maintain river baseflows by recharging alluvial aquifers. Many studies have documented the ability of floodplain wetlands to reduce flood pulses by storing excess water from streams and rivers. One review of wetland studies reported that floodplain wetlands reduced or delayed floods in 23 of 28 studies. For example, peak discharges between upstream and downstream gaging stations on the Cache River in Arkansas were reduced 10–20 percent primarily due to floodplain water storage.

Ecosystem function within a river system is driven by interactions between the physical environment and the diverse biological communities living within the river system. Wetlands in floodplains become important seed sources for the river network, especially if catastrophic flooding scours vegetation and seed banks in other parts of the channel. Movements of organisms that connect aquatic habitats and their populations, even across different watersheds, are important for the survival of individuals, populations, and species, and for the functioning of the river ecosystem. For example, lateral expansion and contraction of the river in its floodplain results in an exchange of matter and organisms, including fish populations that are adapted to use floodplain habitat for feeding and spawning during high water. The organisms that live within the hyporheic zone for these mid- and large-sized river systems have a demonstrated connection outward to several miles within the floodplain. General field practice observations further indicate that covered adjacent waters with a close proximity have a significant nexus with the downstream waters.

Waters adjacent to impoundments and covered tributaries are integrally linked to the chemical, physical, and biological functions of the waters to which they are adjacent and, through those waters, are integrally linked to the chemical, physical, and biological functions of the downstream traditional navigable waters, interstate waters, or the territorial seas. Thus, where waters are adjacent to impoundments or covered tributaries, they also have a significant nexus to the downstream traditional navigable waters, interstate waters, or the territorial seas. The important functions that covered adjacent waters perform that impact downstream traditional navigable waters, interstate waters, and the territorial seas and their integrated behavior with the tributary system demonstrate why all waters adjacent to traditional navigable waters, interstate waters, or the territorial seas as well as impoundments and covered tributaries, alone or in combination with other

covered adjacent wetlands in a watershed have a significant nexus with those downstream waters.

Based on the science and their technical expertise and experience, the agencies determine it is appropriate to protect all covered adjacent waters because those waters are functioning as an integrated system with the downstream traditional navigable waters, interstate waters, or the territorial seas and significantly affect such downstream waters. Consequently, these waters are ''adjacent'' and therefore ''waters of the United States'' under the CWA. Covered adjacent waters are ''waters of the United States'' without the need for further analysis.

3. Case-Specific Significant Nexus Determinations

a. Two Exclusive Circumstances for Case-Specific Significant Nexus Determinations

The rule identifies two exclusive circumstances under which a significant nexus determination is made on a case-specific basis to determine whether the water is a ''water of the United States.'' First, there are five subcategories of waters—Prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands—that the agencies conclude must be analyzed ''in combination'' as ''similarly situated '' waters when making a case-specific significant nexus analysis. Second, there are waters for which the agencies have made no conclusions with respect to which waters are ''similarly situated'' but for which a case-specific significant nexus analyses may be undertaken. The rule establishes that case-specific determinations may be made for waters located within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas, and for waters located within 4,000 feet from the high tide line or the ordinary high water mark of traditional navigable waters, interstate waters, the territorial seas, impoundments, or tributaries.

b. Summary of Rationale for ''Similarly Situated'' Determinations

Based on the agencies' expertise and experience and available literature and data, the agencies have determined that waters in the five subcategories of waters identified in paragraph (a)(7) are similarly situated and must be combined with other waters in the same subcategory located in the same watershed that drains to the nearest traditional navigable water, interstate water, or the territorial seas. *See* Technical Support Document. The scientific literature shows that these subcategories of waters are frequently located together in a complex or are otherwise closely co-located and perform similar functions. The agencies specifically sought comment in the proposal on options to address these five subcategories of waters, including whether waters in these subcategories should be found ''similarly situated'' by rule.

Based on the body of scientific literature regarding the subcategories of waters specified in paragraph (a)(7) and their functions, the agencies determined that waters of the specified subcategories are similarly situated because they perform similar functions and they are located sufficiently close to each other to function together in affecting downstream waters and therefore reasonably be evaluated in combination with regard to their effects on the integrity of traditional navigable waters, interstate waters, or the territorial seas. The specified subcategories of waters perform similar functions as waters of the same subcategory in the same single point of entry watershed and collectively function together to affect a traditional navigable water, interstate water, or the territorial seas. Among the functions and relationships in the landscape the agencies considered to conclude that the subcategories are each similarly situated are the physical capacity of the waters to provide flood and sediment retention. In determining that the waters in each of the five subcategories are ''similarly situated,'' the agencies concluded that these subcategories of waters are co-located to each other or similar to the tributary system such that they have cumulative and additive effects on pollutant removal through parallel, serial, or sequential processing, such as the role of pocosins in maintaining water quality in estuaries. The subcategories of waters are sufficiently near each other or the tributary system to function as an integrated habitat that can support the life-cycle of a species or more broadly provide habitat to a large number of a single species.

The SAB expressed support for the agencies' option in the preamble of the proposed rule to identify certain subcategories of waters as similarly situated and highlighted these same five subcategories. It stated, ''[t]here is also adequate scientific evidence to support a determination that certain subcategories and types of 'other waters' in particular regions of the United States (*e.g.,* Carolina and Delmarva Bays, Texas coastal prairie wetlands, prairie potholes, pocosins, western vernal pools) are similarly situated (*i.e.,* they have a similar influence on the physical, chemical and biological integrity of downstream waters and are similarly situated on the landscape) and thus could be considered waters of the United States. Furthermore, as the science continues to develop, other sets of wetlands may be identified as 'similarly situated.' '' SAB 2014b at 3.

The agencies concluded that the specific subcategories of waters listed in paragraph (a)(7) are similarly situated for purposes of a case-specific significant nexus based on the following:

(i) Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets that are found in the central United States and Canada. In the United States, they are found from central Iowa through western Minnesota, Montana, eastern South Dakota, and North Dakota. Prairie potholes demonstrate a wide range of hydrologic permanence; some hold permanent standing water and others are wet only in years with high precipitation. This in turn influences the diversity and structure of their biological communities.

Prairie potholes generally accumulate and retain water effectively due to the low permeability of their underlying soil, which can modulate flow characteristics of nearby streams and rivers. One of the most noted hydrologic functions of Prairie potholes is water storage. Because most of the water outflow in Prairie potholes is via evapotranspiration, Prairie potholes can become water sinks, preventing flow to downstream waters. Prairie potholes also can accumulate chemicals in overland flow, thereby reducing chemical loading to other bodies of water. When Prairie potholes are artificially connected to streams and lakes through drainage, they become sources of water and chemicals to downstream waters. Prairie potholes also support a community of highly mobile organisms, from plants to invertebrates that move among Prairie potholes and that can biologically connect the entire complex to the river network.

Prairie potholes can be highly connected to other Prairie potholes via shallow subsurface connections and via surface hydrologic connections during the wet season. They can also be connected to the stream network via surface and shallow subsurface connections. Intense precipitation events or high cumulative precipitation over one or more seasons can result in temporary hydrologic connectivity between Prairie potholes and from

Prairie potholes to the tributary system via ''fill-and-spill'' events.

Their density across the landscape varies from region to region as the result of several factors, including patterns of glacial movement, topography, and climate. In some parts of the region, prairie pothole density is very high. Though their density varies across the landscape, Prairie potholes often act as a complex. They have similar functions that can collectively impact downstream waters.

Prairie potholes have been determined to be similarly situated based on the characteristics of Prairie potholes, including their density on the landscape, their interaction and formation as a complex of wetlands and open waters, their connections to each other and the tributary network, and their similar functions. In addition, their chemical, physical, and biological connections to downstream waters and the strength of their effects on the chemical, physical, or biological integrity of a traditional navigable water, interstate water, or the territorial seas support this determination that Prairie potholes are similarly situated by rule.

(ii) Carolina and Delmarva bays are ponded depressional wetlands that occur along the Atlantic coastal plain from northern Florida to New Jersey. Though Carolina and Delmarva bays are from the same category of wetland and perform similar functions, they are located in different parts of the Atlantic coastal plain and thus have unique names. Carolina bays are most abundant in North Carolina and South Carolina, while Carolina bays found in the Delmarva Peninsula are commonly referred to as Delmarva bays or Delmarva potholes.

Most bays receive water through precipitation, lose water through evapotranspiration, and lack natural surface outlets. Both mineral-based and peat-based bays have shown connections to shallow groundwater. Bays typically are in proximity to each other or to streams, providing for hydrologic connections to each other and to downstream waters in large rain events via overland flow or shallow subsurface connections. Some Delmarva bays have surface water connections to the Chesapeake Bay. In addition, human channeling and ditching of the bays are widespread and create surface connections to other waters, including the tributary system and estuaries. These ditches commonly connect the surface water of bays to other bays that are lower on the landscape, and ultimately, to streams.

The hydrology in bays allow for denitrification (chemical and biological processes that remove nitrogen from water), which can reduce the amount of nitrate in both groundwater and downstream surface waters. Because bays are frequently connected chemically to downstream waters through ditches, they can be sources of sediment and nutrients to downstream waters. Where they are not connected via confined surface connections, bays can act as sediment and nutrient sinks.

Fish are reported in bays that are known to dry out, indirectly demonstrating surficial connections. Amphibians and reptiles use bays extensively for breeding and for rearing young. These animals can disperse many feet on the landscape and can colonize, or serve as a food source to, downstream waters. Similarly, bays foster abundant insects that have the potential to become part of the downstream food chain. Humans have ditched and channelized a high percentage of bays, creating new surface connections to downstream waters and allowing transfer of nutrients, sediment, and other pollutants, such as methylmercury.

Carolina and Delmarva bays can occur in high density on the landscape and can act as a wetlands complex. Bays have similar functions to other bays and cumulatively these functions can impact downstream waters.

The agencies conclude that Carolina and Delmarva bays are similarly situated based on their close proximity to each other and the tributary network, their hydrologic connections to each other and the tributary network, their density on the landscape, and their similar functions.

(iii) The word pocosin comes from the Algonquin Native American word for ''swamp on a hill,'' and these evergreen shrub and tree-dominated wetlands are found from Virginia to northern Florida, but mainly in North Carolina. Typically, there is no standing water present in these peat-accumulating wetlands, but a shallow water table leaves the soil saturated for much of the year. They range in size from less than an acre to several thousand acres. The slow movement of water through the dense organic matter in pocosins removes excess nutrients deposited by rainwater. The same organic matter also acidifies the water. This water is slowly released to downstream waters and estuaries, where it helps to maintain the proper salinity, nutrients, and acidity.

Because pocosins are the topographic high areas on the regional landscape, they serve as the source of water for downstream waters. Pocosins often have seasonal connections to drainageways leading to estuaries or are adjoining other wetlands draining into perennial streams or estuaries. Other pocosins have been ditched and are directly connected to streams.

The agencies conclude that pocosins are similarly situated based on their close proximity to each other and the tributary network, their hydrologic connections to each other and the tributary network, their density on the landscape, and their similar functions.

(iv) Western vernal pools are shallow, seasonal wetlands that accumulate water during colder, wetter months and gradually dry up during warmer, drier months. Western vernal pools are seasonal wetlands from the Pacific Northwest to northern Baja California, Mexico associated with topographic depressions, soils with poor drainage, mild, wet winters and hot, dry summers. The agencies have determined that California vernal pools are ''similarly situated.''

Because their hydrology and ecology are so tightly coupled with the local and regional geological processes that formed them, western vernal pools in California typically occur within ''vernal pool landscapes,'' or complexes of pools in which swales connect pools to each other and to seasonal streams. Some common findings about the hydrologic connectivity of western vernal pools include evidence for temporary or permanent outlets, frequent filling and spilling of higher pools into lower elevation swales and stream channels, and conditions supporting subsurface flows through pools without perched aquifers to nearby streams.

Non-glaciated vernal pools in western states are reservoirs of biodiversity and can be connected genetically to other locations and aquatic habitats through wind- and animal-mediated dispersal. Animals and other organisms can move between western vernal pool complexes and streams. Insects and zooplankton can be flushed from vernal pools into streams and other waters during periods of overflow, carried by animal vectors (including humans), or dispersed by wind.

The agencies conclude that western vernal pools in California are similarly situated based on their close proximity to each other and the tributary network, their interaction and arrangement as a complex of wetlands, their hydrologic connections to each other and the tributary network, their density on the landscape, and their similar functions.

(v) Along the Gulf of Mexico from western Louisiana to south Texas, freshwater wetlands occur as a mosaic

of depressions, ridges, intermound flats, and mima mounds. These coastal prairie wetlands were formed thousands of years ago by ancient rivers and bayous and once occupied almost a third of the landscape around Galveston Bay, Texas. The term Texas coastal prairie wetlands is not used uniformly in the scientific literature but encompasses Texas prairie pothole (freshwater depressional wetlands) and marsh wetlands that are described in some studies that occur on the Lissie and Beaumont Geological Formations, and the Ingleside Sand.

Texas coastal prairie wetlands are locally abundant and in close proximity to other coastal prairie wetlands and function together cumulatively. Collectively as a complex, Texas coastal prairie wetlands can be geographically and hydrologically connected to each other via swales and connected to downstream waters, contributing flow to those downstream waters. Cumulatively, these wetlands can control nutrient release levels and rates to downstream waters, as they capture, store, transform, and pulse releases of nutrients to those waters.

The agencies conclude that Texas coastal prairie wetlands are similarly situated based on their close proximity to each other and the tributary network, their hydrologic connections to each other and the tributary network, their interaction and formation as a complex of wetlands, their density on the landscape, and their similar functions.

IV. Definition of ''Waters of the United States''

A. Summary of the Rule

The rule revises the existing definition of ''waters of the United States'' consistent with the CWA, science, the agencies' technical expertise and experience, and Supreme Court decisions. The final rule establishes categories of waters that are jurisdictional and other categories of waters that are excluded, as well as categories of waters and wetlands that require a case-specific significant nexus evaluation to determine if they are ''waters of the United States'' and covered by the CWA. The rule also provides definitions for key terms used in the regulation. The final rule retains much of the structure of the agencies' longstanding definition of ''waters of the United States,'' and many of the existing provisions of that definition where revisions are not required in light of Supreme Court decisions or other bases for revision. All existing exclusions from the definition of ''waters of the United States'' are retained, and several exclusions reflecting longstanding agencies' practice are added to the regulation for the first time.

The agencies define ''waters of the United States'' in paragraph (a) of the rule for all sections of the CWA to include the traditional navigable waters (a)(1), interstate waters (a)(2), the territorial seas (a)(3), impoundments of jurisdictional waters (a)(4), covered tributaries (a)(5), and covered adjacent waters (a)(6). Waters in these categories are jurisdictional ''waters of the United States'' by rule—no additional analysis is required. This eliminates the need to make a case-specific significant nexus determination for covered tributaries or covered adjacent waters because the agencies determined that these waters have a significant nexus to waters identified in (a)(1) through (a)(3) of the rule and thus are ''waters of the United States.'' The agencies emphasize that the finding of jurisdiction for these covered tributaries and covered adjacent waters was not based on the mere connection of a water body to downstream waters, but rather a determination that the nexus, alone or in combination with other of these covered tributaries or covered adjacent waters in the watershed, is significant.

The agencies exclude specified waters from the definition of ''waters of the United States'' in paragraph (b) of the rule. The rule makes no substantive change to the existing exclusion for waste treatment systems designed consistent with the requirements of the CWA and makes no change to the existing exclusion for prior converted cropland. The rule excludes for the first time certain waters and features over which the agencies have generally not asserted CWA jurisdiction, as well as groundwater, which the agencies have never interpreted to be a ''water of the United States'' under the CWA. Codifying these longstanding practices supports the agencies' goals of providing greater clarity, certainty, and predictability for the regulated public and regulators, and makes rule implementation clear and practical.

This final rule provides clear exclusions for certain types of ditches. The final rule also expressly excludes stormwater control features created in dry land and certain wastewater recycling structures created in dry land. Waters and features that are excluded under paragraph (b) of the rule cannot be determined to be jurisdictional under any of the categories in the rule under paragraph (a).

In addition to waters that are categorically ''waters of the United States'' or categorically excluded under paragraphs (a) and (b), the rule identifies certain waters that can be ''waters of the United States'' only where a case-specific determination has found a significant nexus between the water and traditional navigable waters, interstate waters, or the territorial seas. First, paragraph (a)(7) of the rule specifies five types of waters (Prairie potholes, Delmarva and Carolina bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands) that the agencies have determined to be ''similarly situated,'' and thus are to be considered in combination in a significant nexus analysis. Second, paragraph (a)(8) specifies that waters located within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas, and waters located within 4,000 feet from the high tide line or the ordinary high water mark of traditional navigable waters, interstate waters, the territorial seas, impoundments, or covered tributaries may be found to have a significant nexus on a case-specific basis, but the agencies have not made a determination that the waters are ''similarly situated.'' As a result, a significant nexus analysis for these waters will include a case-specific assessment of whether there are any similarly situated waters, as well as whether the water, alone or in combination with any waters determined to be similarly situated, has a significant nexus to a traditional navigable water, interstate water, or territorial sea. The rule outlines at (c)(5)(i)–(ix) functions relevant to these case-specific significant nexus analyses.

Paragraph (c) of the rule provides definitions for key terms used in the regulation. Some of these are unchanged from the current regulations, including the definitions for ''wetlands'' at (c)(4), ''ordinary high water mark'' at (c)(6) and ''high tide line'' at (c)(7), although the latter two are existing, unchanged Corps' definitions added to EPA's regulations for the first time. 33 CFR 328.3(d)–(e). The rule also defines for the first time ''tributary'' and ''tributaries'' at (c)(3), ''neighboring'' (an aspect of adjacency) at (c)(2), and ''significant nexus'' at (c)(5).

This rule is effective on August 28, 2015. Under existing Corps' regulations and guidance, approved jurisdictional determinations generally are valid for five years. The agencies will not reopen existing approved jurisdictional determinations unless requested to do so by the applicant or, consistent with existing Corps' guidance, unless new information warrants revision of the determination before the expiration period. Similarly, consistent with existing regulations and guidance, approved jurisdictional determinations

associated with issued permits and authorizations are valid until the expiration date of the permit or authorization.

As a general matter, the agencies' actions are governed by the rule in effect at the time the agency issues a jurisdictional determination or permit authorization, not by the date of a permit application, request for authorization, or request for a jurisdictional determination. However, any jurisdictional determinations issued prior to the effective date of the rule and jurisdictional determinations associated with permit applications deemed by the Corps to have been complete on the date this rule is published in the **Federal Register**, including complete pre-construction notifications, will be made consistent with the existing rule, unless the applicant requests that its approved jurisdictional determination or permit authorization be decided after the effective date of the new rule. Reliance on preliminary jurisdictional determinations is also not affected by the issuance of this rule. All other jurisdictional determinations and requests for authorization requiring an approved jurisdictional determination issued on or after the effective date of this rule will be made consistent with this rule.

It is important to emphasize that the agencies do not anticipate being able to complete new jurisdictional determinations submitted after this rule is published before it becomes effective. As a result, requesters seeking jurisdictional determinations after the rule is published should expect the determination will be made consistent with this rule. The agencies recognize there are a number of requests for permit applications and requests for jurisdictional determinations pending at any time. The agencies expect only a small portion of those pending actions will require additional information from or work by the requester. As described in the Economic Analysis, the vast majority of requests address streams and adjacent wetlands, and the agencies do not expect new information or work will be needed to complete those requests. If any additional information is needed to assess these requests, the agencies will work proactively with permit applicants to reduce potential short-term disruptions in the permit process that may be associated with the rule.

B. Traditional Navigable Waters

The existing regulations include within the definition of ''waters of the United States'' all waters that are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. *See, e.g.,* 33 CFR 328.3(a)(1); 40 CFR 230.3(s)(1); 40 CFR 122.2 (''waters of the U.S.''). This paragraph of the regulation encompasses those waters that are often referred to as ''traditional navigable waters.'' The rule does not make any changes to this paragraph of the regulation.

For purposes of CWA jurisdiction, waters will be considered traditional navigable waters, and jurisdictional under (a)(1) of the rule, if they:

- Are subject to section 9 or 10 of the Rivers and Harbors Appropriations Act of 1899;
- Have been determined by a Federal court to be navigable-in-fact under Federal law;
- Are waters currently being used for commercial navigation, including commercial waterborne recreation (for example, boat rentals, guided fishing trips, or water ski tournaments);
- Have historically been used for commercial navigation, including commercial waterborne recreation; or
- Are susceptible to being used in the future for commercial navigation, including commercial waterborne recreation.

See Technical Support Document; ''U.S. Army Corps of Engineers Jurisdictional Determination Form Instructional Guidebook Appendix D, 'Traditional Navigable Waters,''' available at: *http://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/cwa_guide/app_d_traditional_navigable_waters.pdf.*

The agencies received several comments on the scope of traditional navigable waters. Some commenters observed that ''traditional navigable waters'' as a jurisdictional category is not based in science. Several commenters thought that the final rule should specify considerations to be taken into account when determining if a water is susceptible to being used in future commercial navigation. The agencies have not revised the regulation to address susceptibility, but observe that case law has provided a number of considerations and examples that are described further in the Technical Support Document and are reflected in longstanding agencies' practice.

C. Interstate Waters

The existing regulations define ''waters of the United States'' to include interstate waters, including interstate wetlands. The rule does not change that provision of the regulations. Therefore, interstate waters are ''waters of the United States'' even if they are not navigable for purposes of Federal regulation under (a)(1) and do not connect to such waters. Moreover, the rule protects impoundments of interstate waters, tributaries to interstate waters, waters adjacent to interstate waters, and waters adjacent to covered tributaries of interstate waters because they have a significant nexus to interstate waters. Protection of these waters is thus critical to protecting interstate waters.

The language of the CWA indicates that Congress intended the term ''navigable waters'' to include interstate waters without imposing a requirement that they be traditional navigable waters themselves or be connected to traditional navigable waters. The precursor statutes to the CWA subjected interstate waters and their tributaries to Federal jurisdiction. The text of the CWA, specifically CWA section 303, which establishes ongoing requirements for interstate waters, in conjunction with the definition of navigable waters, provides clear indication of Congress' intent to protect interstate waters that were previously subject to Federal regulation. Other provisions of the statute provide additional textual evidence of the scope of the primary jurisdictional term of the CWA.

The agencies also have a longstanding regulatory interpretation that interstate waters fall within the scope of CWA jurisdiction. The agencies' interpretation was promulgated contemporaneously with the passage of the CWA and is consistent with the statutory and legislative history of the CWA. Furthermore, the Supreme Court has never addressed the CWA's coverage of interstate waters, and it is not reasonable to read its decisions in *SWANCC* and *Rapanos* to question the jurisdictional status of interstate waters or to impose additional jurisdictional requirements on interstate waters. The assertion of jurisdiction over interstate waters is based on the statute and under predecessor statutes where ''interstate waters'' were defined as all rivers, lakes, and other waters that flow across, or form a part of, state boundaries. Pub. L. 80–845, sec. 10, 62 Stat. 1155, at 1161 (1948). The agencies will continue to implement the provision consistent with the intent of Congress. For additional discussion of the agencies' interpretation of the CWA with respect to interstate waters, *see* Appendix B of the proposed rule and the Technical Support Document.

It is reasonable to assert jurisdiction over tributaries, adjacent waters, and waters that have a significant nexus to interstate waters consistent with the framework set forth in Justice Kennedy's

opinion in *Rapanos* for establishing jurisdiction over waters with a significant nexus to traditional navigable waters. Waters and wetlands with a significant nexus to traditional navigable waters and interstate waters have important beneficial effects on those waters, and by recognizing that polluting or destroying waters with a significant nexus can harm downstream jurisdictional waters. Traditional navigable waters and interstate waters cannot be protected without also protecting the waters that have a significant nexus to those waters as identified in the rule. The rule thus defines ''waters of the United States'' to include tributaries to interstate waters, waters adjacent to interstate waters, waters adjacent to tributaries of interstate waters, and other waters that have a significant nexus to interstate waters.

The agencies received a number of comments on interstate waters. Some commenters asserted that interstate waters required a significant nexus to a traditional navigable water in order to be jurisdictional after *Rapanos.* The agencies disagree for the reasons described above, in Appendix B to the proposed rule, and in the Technical Support Document.

D. Territorial Seas

The CWA and its existing regulations include ''the territorial seas'' as a ''water of the United States.'' The rule makes no changes to that provision of the regulation other than to change the ordering to earlier in the regulation. The CWA defines ''navigable waters'' to include ''the territorial seas'' at section 502(7). The CWA goes on to define the ''territorial seas'' in section 502(8) as ''the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.'' The territorial seas establish the seaward limit of ''waters of the United States.'' The territorial seas are clearly covered by the CWA (they are also traditional navigable waters), and it is reasonable to protect their covered tributaries and covered adjacent waters.

Although some comments addressed the definition of ''territorial seas'' provided in the CWA suggesting that the distance thresholds be revised to reflect other resource statutes, the agencies do not have authority to revise statutory language.

E. Impoundments

The existing regulations provide that impoundments of ''waters of the United States'' remain ''waters of the United States,'' and the rule does not make any changes to the existing regulatory language.

Impoundments are jurisdictional because an impoundment of a ''water of the United States'' remains a ''water of the United States,'' and because scientific literature demonstrates that impoundments continue to significantly affect the chemical, physical, or biological integrity of downstream traditional navigable waters, interstate waters, and the territorial seas. *See* Technical Support Document. The Supreme Court has confirmed that damming or impounding a ''water of the United States'' does not make the water non-jurisdictional. *See S. D. Warren Co.* v. *Maine Bd. of Envtl. Prot.,* 547 U.S. 370, 379 n.5 (2006) (''[N]or can we agree that one can denationalize national waters by exerting private control over them.''). Similarly, when presented with a tributary to the Snake River which flows only about two months per year because of an irrigation diversion structure installed upstream, the Ninth Circuit noted ''it is doubtful that a mere man-made diversion would have turned what was part of the waters of the United States into something else and, thus, eliminated it from national concern.'' *U.S.* v. *Moses,* 496 F.3d 984, 988 (9th Cir. 2007), *cert. denied,* 554 U.S. 918 (2008). As a matter of policy and law, impoundments do not de-federalize a water, even where there is no longer flow below the impoundment. The agencies have analyzed stream networks, above and below impoundments, for connection to downstream traditional navigable waters, interstate waters, or the territorial seas. Scientific literature, as well as the agencies' scientific and technical expertise and experience confirm that impoundments have chemical, physical, and biological effects on downstream waters. *See* Technical Support Document.

The agencies also note that an impoundment of a water that is not a ''water of the United States'' can become jurisdictional if, for example, the impounded waters become navigable-in-fact and covered under paragraph (a)(1) of the rule.

By their nature, impoundments of jurisdictional waters would also often meet the definition of ''adjacent waters,'' as they are typically bordering or contiguous. Impoundments of ''waters of the United States'' are *per se* jurisdictional under paragraph (a)(4) of the rule without the need to determine if they are also adjacent under paragraph (a)(6). However, as described in section IV.G below, ''adjacent waters,'' as defined, have a significant nexus to traditional navigable waters, interstate waters, or the territorial seas, which bolsters the agencies' determination that impoundments of ''waters of the United States'' remain ''waters of the United States.''

Impoundments also may be one of the waters through which tributaries indirectly contribute flow to a traditional navigable water, interstate water, or territorial sea. As a matter of law and science, an impoundment does not cut off a connection between upstream tributaries and a downstream traditional navigable water, interstate water, or territorial sea, so covered tributaries above the impoundment are still considered a tributary to downstream traditional navigable waters, interstate waters, or the territorial seas even where the flow of water might be impeded due to the impoundment. *See* paragraph (a)(5).

The agencies received comments on impoundments, which generally explored the impacts of impoundments on connectivity to downstream waters. For the reasons described above and in the Technical Support Document, the agencies concluded that impoundments of ''waters of the United States'' remain ''waters of the United States.''

F. Tributaries

The existing definition of ''waters of the United States'' regulates all tributaries without qualification. The final rule protects only waters that have a significant effect on the integrity of traditional navigable waters, interstate waters, or the territorial seas. The rule establishes a definition of ''tributary,'' and provides that a water meeting the definition of tributary, unless it is excluded under paragraph (b), is a ''water of the United States'' without the need for a separate case-specific significant nexus evaluation. As explained in Section III above, covered tributaries and the functions they provide, alone or in combination with other tributaries in the watershed, significantly affect the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, or the territorial seas. See also Technical Support Document. This section describes the provisions of the rule addressing tributaries and changes made to the provisions in the proposed rule based on public comments.

1. What are the provisions in the rule?

The rule defines ''tributary'' by emphasizing the physical characteristics created by sufficient volume, frequency and duration of flow, and that the water contributes flow, either directly or through another water, to a traditional navigable water, interstate water, or the territorial seas. This definition is based on the best available science, intent of the CWA, and case law, and is consistent with current practice. As mentioned above in Section III, the Science Report concludes that ''[t]he scientific literature unequivocally demonstrates that streams, individually or cumulatively, exert a strong influence on the integrity of downstream waters.'' Science Report at ES–2.

First, to meet the rule's definition of ''tributary,'' a water must flow directly or through another water or waters to a traditional navigable water, interstate water, or the territorial seas. Waters through which a tributary may contribute flow indirectly include, for example, impoundments, wetlands, lakes, and other tributaries. A tributary may contribute flow through any number of downstream waters, including non-jurisdictional features, such as a ditch excluded under paragraph (b) of the rule, and jurisdictional waters that are not tributaries, such as an adjacent wetland—but it must be part of a tributary system that eventually flows to a traditional navigable water, an interstate water, or the territorial seas. This limitation on what constitutes a tributary for purposes of this rule is fundamental. If a water is not part of the tributary system of a traditional navigable water, interstate water, or the territorial seas, it does not meet the definition of ''tributary'' and is not jurisdictional under this provision of the rule. For example, an intermittent stream that exists wholly within one state, is not itself a traditional navigable water, and whose flows eventually ends without connecting to a traditional navigable water, interstate water, or the territorial seas is not a ''water of the United States'' as a ''tributary'' for purposes of this rule. To determine whether a water meets this aspect of the definition, the connection can be traced using direct observation, U.S. Geological Survey (USGS) data, stream datasets such as the National Hydrography Dataset, aerial photography or other reliable remote sensing information, or other appropriate information.

Under the rule, flow in the tributary may be perennial, intermittent, or ephemeral. The agencies received comments suggesting that the final rule provide definitions for the terms ephemeral flow, intermittent flow, and perennial flow. The agencies considered the request and determined that there was no need to include a definition since they are commonly used scientific terms. Longstanding agencies' practice considers perennial streams as those with flowing water year-round during a typical year, with groundwater or contributions of flow from higher in the stream or river network as primary sources of water for stream flow. Intermittent streams are those that have both precipitation and groundwater providing part of the stream's flow, and flow continuously only during certain times of the year (*e.g.,* during certain seasons such as the rainy season). Ephemeral streams have flowing water only in response to precipitation events in a typical year, and are always above the water table. Precipitation can include rainfall as well as snowmelt. Science shows that tributaries regardless of flow duration are very effective at transporting pollutants downstream, such as excess nutrients and sediment, which impact the integrity and character of traditional navigable waters, interstate waters, and the territorial seas. *See* Technical Support Document.

Second, the rule requires two physical indicators of flow: There must be a bed and banks and an indicator of ordinary high water mark. This definition of ''tributary'' includes only those waters the agencies have concluded are the type of waters that the CWA was intended to protect and which either individually or in combination with other covered tributaries in the watershed have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Thus, the agencies are not defining ''waters of the United States'' to include all streams that might be considered ''tributaries'' in the general scientific literature. To provide additional clarity and for ease of use for the public, the agencies are including the Corps' existing definition of ordinary high water mark in EPA's regulations as well. Under that existing Corps regulation, ordinary high water mark indicators include characteristics such as shelving, scour, changes in soil characteristics, and destruction of terrestrial vegetation, among others.

A bed and banks and other indicators of ordinary high water mark are physical indicators of water flow and are only created by sufficient and regular intervals of flow. These physical indicators can be created by perennial, intermittent, and ephemeral flows. *See* Technical Support Document. For purposes of the rule, ''bed and banks'' means the substrate and sides of a channel between which flow is confined. The banks constitute a break in slope between the edge of the bed and the surrounding terrain, and may vary from steep to gradual. Existing Corps regulations define ordinary high water mark as the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the banks, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. 33 CFR 328.3(e). That definition is not changed by the rule and is added to EPA's regulations.

Current Corps regulations and guidance identify bed and banks as indicators of the ordinary high water mark. The definition of ''tributary'' in this rule requires the presence of a bed and banks and an additional indicator of ordinary high water mark such as staining, debris deposits, or other indicator identified in the rule or agency guidance. In many tributaries, the bed is that part of the channel below the ordinary high water mark, and the banks often extend above the ordinary high water mark. For other tributaries, such as those that are incised, changes in vegetation, changes in sediment characteristics, staining, or other ordinary high water mark indicators may be found within the banks. In concrete-lined channels, the concrete acts as the bed and banks and can have other ordinary high water mark indicators such as staining and debris deposits. Indicators of an ordinary high water mark may vary from region to region across the country. *See* Technical Support Document.

Other evidence, besides direct field observation, may establish the presence of bed and banks and another indicator of ordinary high water mark. The agencies currently use many tools in identifying tributaries and will continue to rely on their experience and expertise in identifying the presence of a bed and banks and ordinary high water mark. For example, several reliable, well-established remote sensing sources of information or mapping can assist to establish the presence of water that contributes flow to a traditional navigable water, interstate water, or the territorial seas and provide evidence regarding the presence of a bed and banks and another indicator of ordinary high water mark. Among the types of remote sensing or mapping information that can assist in establishing the presence of water are USGS topographic

data, the USGS National Hydrography Dataset (NHD), Natural Resources Conservation Service (NRCS) Soil Surveys, and State or local stream maps, as well as the analysis of aerial photographs, and light detection and ranging (also known as LIDAR) data, and desktop tools that provide for the hydrologic estimation of a discharge sufficient to create an ordinary high water mark, such as a regional regression analysis or hydrologic modeling. These sources of information can sometimes be used independently to infer the presence of a bed and banks and another indicator of ordinary high water mark, or where they correlate, can be used to reasonably conclude the presence of a bed and banks and ordinary high water mark.

Both the USGS topographic data and the NHD data assist to delineate tributaries to traditional navigable waters, interstate waters, or the territorial seas. Where one or both of these sources have indicated a ''blue line stream,'' there is an indication that the tributary could exhibit a bed and banks and another indicator of ordinary high water mark. Where this information is combined with stream order,[11] more certainty can result. For example, a water that is a second-order stream will be more likely to exhibit a bed and banks and another indicator of ordinary high water mark as compared to a first-order stream. This information will vary in validity in different parts of the country, so care will be taken to evaluate additional information prior to reasonably concluding a bed and banks or other indicators of ordinary high water mark are associated with the stream. This will be particularly true for first-order streams and for many streams in the arid portions of the country. Supporting information that can be used to conclude the presence of a bed and banks and another indicator of ordinary high water mark would be the presence of USGS stream data on the NRCS county Soil Survey or local stream maps which are mapped independently of the USGS, aerial photography interpretation, or digital terrain depictions created from LIDAR. *See* Technical Support Document.

Tributaries are observable in aerial photography by their topographic expression, characteristic linear and curvilinear patterns, dark photographic tones, and the presence and pattern of riparian vegetation. The characteristic linear and curvilinear patterns and dark photographic tones observed on aerial photography can be caused by shadow cast from the banks of an incised stream or from water in the stream channel itself. In some cases stream channel morphology is visible, providing evidence of scour, materials sorting, and deposition, all characteristics of an ordinary high water mark. Visible persistent water (*e.g.,* multiple dates of aerial photography showing visible water) provides strong evidence of the sufficient frequency and duration of surface flow to create a bed and banks and other indicators of ordinary high water mark. Visible indicators of running water such as rapids, riffles, and pools all indicate the presence of a bed and banks and other indicators of ordinary high water mark. Other physical characteristics of an ordinary high water mark that may be visible on aerial photography include the destruction of terrestrial vegetation and the absence of vegetation in a channel. These indicators gleaned from aerial photography interpretation can be correlated with the presence of USGS streams data in reasonably concluding that a bed and banks and another indicator of ordinary high water mark are present. *See* Technical Support Document.

Additional desktop tools can assist in the identification of bed and banks and other indicators of ordinary high water mark. For instance, field staff use other methods for estimating ordinary high water mark, including, but not limited to, lake and stream gage data, flood predictions, historic records of water flow, and statistical evidence. Some desktop tools, such as a regional regression analysis and the Hydrologic Modeling System (HEC–HMS), provide for the hydrologic estimation of stream discharge sufficient to create an ordinary high water mark in tributaries under regional conditions. Such desktop tools are particularly useful for identifying presence of bed and banks and another indicator of ordinary high water mark when supported by additional remote sensing tools that indicate the presence of such physical features.

LIDAR is a powerful tool to analyze the characteristics of the land surface, including tributary identification and characterization. LIDAR data are becoming more and more widespread for engineering and land use planning purposes. Where LIDAR data have been processed to create a bare earth model, detailed depictions of the land surface are available. Bare earth models reveal subtle elevation changes and can clearly show a tributary's bed and banks and channel morphology. In many cases LIDAR can help delineate tributaries that would exhibit a bed and banks and another indicator of an ordinary high water mark in greater detail than aerial photography interpretation alone can. Visible linear and curvilinear incisions on a bare earth model are strong evidence that a tributary with a bed and banks and another indicator of an ordinary high water mark is present. LIDAR-indicated tributaries can be correlated with aerial photography interpretation and USGS stream data, to reasonably conclude the presence of a bed and banks and another indicator of an ordinary high water mark in the absence of a field visit. *See* Technical Support Document. The agencies have been using such remote sensing and desktop tools to delineate tributaries for many years where data from the field are unavailable or a field visit is not possible.

In addition, such desktop tools are critical in circumstances where physical characteristics of bed and banks and another indicator of ordinary high water mark are absent in the field, often due to unpermitted alteration of streams. In such cases where physical characteristics of bed and banks and another indicator of ordinary high water mark no longer exist, they may be determined by using other appropriate means that consider the characteristics of the surrounding areas. Such reliable methods that can indicate prior existence of bed and banks and other indicators of ordinary high water mark include, but are not limited to, lake and stream gage data, elevation data, spillway height, historic water flow records, flood predictions, statistical evidence, the use of reference conditions, or through the remote sensing and desktop tools described above.

The upper limit of the tributary is the point where a bed and banks and another indicator of ordinary high water mark cease to be identifiable. The ordinary high water mark establishes the lateral limits of a water, and its absence generally determines when a tributary's channel or bed and banks has ended, representing the upper limit of the tributary. However, a natural or constructed break in bed and banks or other indicator of ordinary high water mark does not constitute the upper limit of a tributary where bed and banks or other indicator ordinary high water mark can be found farther upstream. Note that waters, including wetlands, which are adjacent to a tributary at the

[11] Stream order is a method for stream classification based on relative position within a river network, when streams lacking upstream tributaries (*i.e.,* headwater streams) are first-order streams and the junction of two streams of the same order results in an increase in stream order (*i.e.,* two first-order streams join to form a second-order stream, and so on). When streams of different orders join, the order of the larger stream is retained. *See* Science Report and Technical Support Document.

upper limit of the channel are jurisdictional as ''adjacent waters.''

The definition of ''tributary'' includes tributaries that flow directly or indirectly through impoundments that are jurisdictional under paragraph (a)(4) of the rule. Tributaries to impoundments of ''waters of the United States'' are jurisdictional for the same reasons the impoundments themselves are jurisdictional. As discussed in section IV. E., under case law, an impoundment of a ''water of the United States'' remains a ''water of the United States,'' and scientific literature demonstrates that impoundments continue to significantly affect the chemical, physical, or biological integrity of downstream waters traditional navigable waters, interstate waters, and the territorial seas. Therefore, tributaries to such impoundments continue to have a significant nexus, alone or in combination with other covered tributaries in the watershed, to the downstream traditional navigable water, interstate water, or the territorial seas.

Waters that meet the rule definition of tributary remain tributaries even if there is a manmade or natural break at some point along the connection to the traditional navigable water, interstate water, or the territorial seas. In many tributaries, there are often natural or constructed breaks in the presence of a bed and banks or ordinary high water mark while hydrologic connectivity remains. For example, in some regions of the country where there is a very low gradient, the banks of a tributary may be very low or may even disappear at times. Many tributaries lose their ordinary high water mark when adjacent wetlands are contiguous with the stream channel. The definition of ''tributary'' addresses these circumstances and states that waters that meet the definition of tributary remain tributaries even if such breaks occur, so long as bed and banks and an ordinary high water mark are present upstream of the break. Under the rule, when a covered tributary flows through a wetland into another tributary (sometimes called a ''run-of-stream'' wetland), the covered tributary remains jurisdictional even though it lost its ordinary high water mark through the wetland. By looking to the presence of a bed and banks and an ordinary high water mark upstream, the rule ensures that a mere break in the ordinary high water mark does not render tributaries with a significant nexus to downstream waters not jurisdictional. Other breaks that do not sever jurisdiction include constructed breaks such as bridges, culverts, pipes, dams, or waste treatment systems, or natural breaks such as debris piles, boulder fields, or a stream that flows underground so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. Site specific conditions will continue to determine the distance up valley that needs to be evaluated to see if the break in bed and banks and ordinary high water mark is temporary or the start of the stream system.

The rule also clarifies that a water meets the definition of tributary if the water contributes flow through an excluded feature such as a ditch with ephemeral flow. While the water above and below the excluded feature is jurisdictional if it meets the definition of tributary, the excluded feature does not become jurisdictional. A water also continues to meet the definition of tributary if at some point the water contributes flow through a jurisdictional water that is not a tributary, such as an adjacent wetland or impoundment.

The agencies' longstanding interpretation of the CWA has included tributaries that are natural, modified, or constructed waters. While this rule at paragraph (b) excludes specific types of constructed waters from jurisdiction, it continues to interpret constructed tributaries as jurisdictional unless expressly excluded in paragraph (b). Natural, modified, and constructed tributaries provide many of the same functions, especially as conduits for the movement of water and pollutants to other tributaries or directly to traditional navigable waters, interstate waters, or the territorial seas. The discharge of a pollutant into a tributary generally has the same effect downstream whether the tributary waterway is natural, modified, or constructed. See discussion in section III.C. above and the Technical Support Document. Given the extensive human modification of watercourses and hydrologic systems throughout the country, it is often difficult to distinguish between natural watercourses and watercourses that are wholly or partly modified or constructed. For example, tributaries that have been channelized in concrete or otherwise have been modified may still meet the definition of tributaries under the rule so long as they have bed and banks and an ordinary high water mark, contribute flow to a traditional navigable water, interstate water, or the territorial seas, and are not excluded under paragraph (b). The important consideration for a modified or constructed water is whether it meets the definition of ''tributary'' and is not excluded under paragraph (b).

Ditches are one important example of constructed features that in many instances can meet the definition of tributary. Ditches are jurisdictional under the rule only if they both meet the definition of ''tributary'' and are not excluded under paragraph (b)(3) in the rule. Not all ditches meet the definition of a tributary, and others—as discussed in Section I—are expressly excluded from jurisdiction.

Ditches protected by the rule must meet the definition of tributary, having a bed and banks and ordinary high water mark, and contributing flow directly or indirectly through another water to a traditional navigable water, interstate water, or the territorial seas. Jurisdictional ditches include ditches such as the following:

- Ditches with perennial flow,
- Ditches with intermittent flow that are a relocated tributary, or are excavated in a tributary, or drain wetlands,
- Ditches, regardless of flow, that are excavated in or relocate a tributary.

The definition of tributary includes natural, undisturbed waters and those that have been man-altered or constructed, but which science shows function as a tributary. In addition, alteration or modification of natural streams and rivers for purposes such as flood control, erosion control, and other reasons does not convert the tributary to a ditch. A stream or river that has been channelized or straightened because its natural sinuosity has been altered, cutting off the meanders, is not a ditch. A stream that has banks stabilized through use of concrete or rip-rap (*e.g.,* rocks or stones) is not a ditch. The Los Angeles River, for example, is a ''water of the United States'' (and, indeed, a traditional navigable water) and remains a ''water of the United States'' and is not excluded under paragraph (b)(3) even where it has been ditched, channelized, or concreted.

A ditch that relocates a stream is not an excluded ditch under paragraph (b)(3), and a stream is relocated either when at least a portion of its original channel has been physically moved, or when the majority of its flow has been redirected. A ditch that is a relocated stream is distinguishable from a ditch that withdraws water from a stream without changing the stream's aquatic character. The latter type of ditch is excluded from jurisdiction where it meets the listed characteristics of excluded ditches under paragraph (b)(3). Agency staff can determine historical presence of tributaries using a variety of resources, such as historical maps, historic aerial photographs, local surface water management plans, street

maintenance data, wetlands and conservation programs and plans, as well as functional assessments and monitoring efforts. A ditch with intermittent flow that drains a wetland and otherwise meets the definition of ''tributary'' is a ''tributary'' and is not excluded under paragraph (b)(3). See IV.I. below.

Evidence, such as current or historic photographs, prior delineations, or USGS, state and local topographic maps, may be used to determine whether a ditch is an excluded ditch. Site characteristics may also be present to inform the determination of whether the water body is a ditch, such as shape, sinuosity, flow indications, etc., as ditches are often created in a linear fashion with little sinuosity and may or may not connect to another ''water of the United States.''

2. What changes did the Agencies make from the proposed rule based on public comments?

The rule's definition of ''tributary'' retains many elements from the proposed rule, but reflects public comments in several important ways. In particular, the rule emphasizes flow. The rule defines ''tributary'' by emphasizing physical characteristics created by water flow and requiring that the water contributes flow, either directly or through another water, to a traditional navigable water, interstate water, or the territorial seas. The rule also is clearer regarding the jurisdictional status of certain ditches, and clarifies that wetlands and waters such as ponds and lakes that contribute flow to a traditional navigable water, interstate water, or the territorial seas but typically lack a bed and banks and ordinary high water mark are considered ''adjacent'' but not a ''tributary.''

A number of commenters suggested that the agencies should exclude ephemeral streams from the definition of tributary, expressing concern that ephemeral waters that flow very rarely would be considered a jurisdictional tributary. The rule definition of ''tributary'' requires that flow must be of sufficient volume, frequency, and duration to create the physical characteristics of bed and banks and an ordinary high water mark. If a water lacks sufficient flow to create such characteristics, it is not considered a ''tributary'' under this rule. While some commenters expressed concern that a feature that flowed very rarely could meet the proposed definition of ''tributary,'' it is the agencies' judgment that such a feature is not a tributary under the rule because it would not form the physical indicators required under the definitions of ''ordinary high water mark'' and ''tributary.''

The rule includes ephemeral streams that meet the definition of tributary as ''waters of the United States'' because the agencies determined that such streams provide important functions for downstream waters, and in combination with other covered tributaries in a watershed significantly affect the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas. As noted by the SAB, and consistent with the scientific literature, tributaries as a group exert strong influence on the chemical, physical, and biological integrity of downstream waters, even though the degree of connectivity is a function of variation in the frequency, duration, magnitude, predictability, and consequences of chemical, physical, and biological processes. *See, e.g.,* SAB 2014b. These significant effects on traditional navigable waters, interstate waters, and the territorial seas occur even when the tributary is small, intermittent, or ephemeral.

In addition, the Science Report concludes that, ''[a]lthough less abundant, the available evidence for connectivity and downstream effects of ephemeral streams was strong and compelling, particularly in context with the large body of evidence supporting the physical connectivity and cumulative effects of channelized flows that form and maintain stream networks.'' Science Report at 6–13. For example, ephemeral headwater streams shape river channels in traditional navigable or interstate waters by accumulating and gradually or episodically releasing stored materials such as sediment and large woody debris. These materials help structure traditional navigable and interstate river channels by slowing the flow of water through channels and providing substrate and habitat for aquatic organisms.

Moreover, the agencies have historically considered ephemeral tributaries to be ''waters of the United States.'' For example, for many years EPA has reviewed and approved state water quality standards for ephemeral waters under CWA section 303(c), several Corps' Nationwide Permits under CWA section 404 address discharges of dredged or fill material into ephemeral waters, and the agencies' definition of ''waters of the United States'' prior to this rule included all tributaries without reference to flow regime.

Numerous commenters asked that the final rule define ''bed and banks,'' which are physical characteristics called for under the definition of tributary. Such commenters emphasized the importance of a definition of ''bed and banks,'' and some suggested definitional language. To increase clarity, the preamble in IV.F.1. above includes a definition of bed and banks adapted largely from longstanding agencies' practice as well as comments. Several commenters suggested that the rule should add a definition of ''ordinary high water mark.'' In response and to increase clarity, the rule adds the Corps' existing regulatory ordinary high water mark definition to EPA's regulations. Corps technical manuals are available to help identify ordinary high water mark, referenced above. Several commenters suggested that the agencies not require a tributary to have both bed and banks and ordinary high water mark, because bed and banks are themselves an indicator of ordinary high water mark, and because ordinary high water mark alone is an appropriate criterion for many streams in the arid west where the characteristic of bed and banks is less common. The agencies based their significant nexus determination for the covered tributaries in part on the amount of flow indicated where a tributary has both a bed banks and another indicator of ordinary high water mark, so the rule continues to require both physical indicators with the preamble at IV.F.1. above clarifying the means to conclude that those indicators exist.

Several commenters suggested that the rule exclude all constructed waters from the definition of ''waters of the United States.'' While the rule does exclude several types of constructed waters from jurisdiction, it continues to consider constructed tributaries as jurisdictional unless expressly excluded in paragraph (b) for the reasons described in section IV.I. and the Technical Support Document.

Many comments recommended that wetlands, ponds, and lakes that contribute flow to a traditional navigable water, interstate water, or the territorial seas but lack a bed and banks and ordinary high water mark not be considered as tributaries, because of the importance of those physical characteristics to the definition. Wetlands typically lack bed and banks and ordinary high water mark, while lakes and ponds typically have an ordinary high water mark and a bed but may lack banks. The proposed rule expressly sought comment on whether such waters should be considered as tributaries or as ''adjacent waters,'' recognizing that it might add an element of uncertainty to the definition of

''tributary'' to include waters that lacked the physical features called for in the definition. In addition, the SAB commented that tributaries are not typically defined to include lentic systems (still waters), and suggested that the agencies reconsider including ponds, lakes, and wetlands as covered adjacent waters instead of tributaries. SAB 2014b at 2. In response, the rule does not consider these waters to be tributaries, but defines covered adjacent waters to include wetlands, lakes, and ponds that connect segments of tributaries or are at the head of the tributary system. *See* section G for further discussion.

G. Adjacent Waters

Section III above explains the basis for the agencies' conclusion that covered adjacent waters have a significant nexus with traditionally navigable waters, interstate waters, or the territorial seas. The adjacency provision is based on the best available science, intent of the CWA, and case law, and is consistent with the experience of the agencies in making case-specific significant nexus determinations. As discussed above in Section III, the SAB concludes, ''[t]he available science supports [the agencies'] proposal to include adjacent waters and wetlands as waters of the United States.'' SAB 2014b at 2. This section describes the provisions of the rule governing adjacent waters, changes made to the adjacent waters provision based on comments on the proposed rule, and, finally, how science and the law support the agencies' conclusions in the final rule.

1. What are the provisions of the rule?

Under the rule, ''adjacent'' means bordering, contiguous, or neighboring, including waters separated from other ''waters of the United States'' by constructed dikes or barriers, natural river berms, beach dunes, and the like. Waters adjacent to a traditional navigable water, interstate water, territorial sea, impoundment, or tributary, are ''waters of the United States.'' For purposes of adjacency, an adjacent water includes wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a traditional navigable water, interstate water, the territorial seas, an impoundment, or a tributary. Therefore, waters that connect segments of a traditional navigable water, interstate water, the territorial seas, an impoundment, or a tributary or are located at the head of a traditional navigable water, interstate water, the territorial seas, an impoundment, or a tributary may be determined to be bordering, contiguous, or neighboring, and thus adjacent. ''Adjacent waters'' include wetlands, ponds, lakes, oxbows, impoundments, and similar water features. ''Adjacent waters'' do not include any water excluded under paragraph (b) of the rule. Note also that a water that does not meet the definition of ''adjacent waters'' may be determined to be a ''water of the United States'' on a case-specific basis under paragraph (a)(8) of the rule.

Within the definition of ''adjacent,'' the terms bordering and contiguous are well understood, and for continuity and clarity the agencies continue to interpret and implement those terms consistent with the current policy and practice. Waters separated by a berm or other similar feature remain ''adjacent'' under the definition.

Some waters included under the definition of ''tributary'' in the proposed rule, after consideration of public comment, are ''adjacent'' in the final rule. Specifically, waters that connect segments of, or are at the head of, a traditional navigable water, interstate water, the territorial seas, an impoundment, or a tributary are adjacent to that water. For example, a pond that is the source water to a tributary and borders the tributary at its uppermost reach is jurisdictional as an adjacent water. Further, the rule states that an adjacent water includes wetlands within or abutting its ordinary high water mark. This language is designed to ensure that if there is a fringe wetland abutting that pond that is the source water to a tributary, that wetland is considered part of the pond under the rule and such pond as a whole, including any abutting wetlands, is jurisdictional as an adjacent water.

For purposes of adjacency, including all three provisions of the definition of ''neighboring,'' the entire water is adjacent if any part of the water is bordering, contiguous or neighboring. Therefore, the entire wetland is ''adjacent'' if any part of it is within the distance thresholds established in the definition of ''neighboring.'' For example, if a tributary has a 1,000 foot wide 100-year floodplain, then a water that is located within 1,000 feet of the ordinary high water mark of a covered tributary and extends to 2,000 feet is jurisdictional in its entirety as ''neighboring.'' In addition, for purposes of determining whether a water is ''adjacent'' artificial features (such as roads) do not divide a water; rather, the water is treated as one entire water.

The definition of ''adjacent'' in the rule does not include those waters in which established, normal farming, silviculture, and ranching activities occur. Wetlands and farm ponds in which normal farming activities occur, as those terms are used in section 404(f) of the Clean Water Act and its implementing regulations, are not jurisdictional under the Act as an ''adjacent'' water. Waters in which normal farming, ranching, and silviculture activities occur instead will continue to be subject to case-specific review, as they are today. These waters may be determined to have a significant nexus on a case-specific basis under paragraph (a)(7) or (a)(8). Recognizing the vital role of farmers in providing the nation with food, fiber, and fuel, the Clean Water Act in Section 404(f) exempts many normal farming activities such as seeding, harvesting, cultivating, planting, soil and water conservation practices, and other activities from the Section 404 permitting requirement. ''Normal'' farming, ranching, and silviculture is clarified in the agencies' implementing regulations to mean established and ongoing activities to distinguish from activities needed to convert an area to farming, silviculture, or ranching and activities that convert a water to a non-water. 40 CFR 232.3(c)(1). The rule reflects this framework by clarifying the waters in which the activities Congress exempted under Section 404(f) occur are not jurisdictional as ''adjacent.'' It is important to recognize that ''tributaries,'' including those ditches that meet the tributary definition, are not ''adjacent'' waters and are jurisdictional by rule.

This provision interprets the intent of Congress and reflects the intent of the agencies to minimize potential regulatory burdens on the nation's agriculture community, and recognizes the work of farmers to protect and conserve natural resources and water quality on agricultural lands. While waters in which normal farming, silviculture, or ranching practices occur may be determined to significantly affect the chemical, physical, or biological integrity of downstream navigable waters, the agencies believe that such determination should be made based on a case-specific basis instead of by rule. The agencies also recognize that waters in which normal farming, silviculture, or ranching practices occur are often associated with modifications and alterations including drainage, changes to vegetation, and other disturbances the agencies believe should be specifically considered in making a significant nexus determination.

The rule establishes a definition of ''neighboring'' for purposes of determining adjacency. In the rule, the

agencies identify three circumstances under which waters would be ''neighboring'' and therefore ''waters of the United States.''

First, the term ''neighboring'' includes all waters located in whole or in part within 100 feet of the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, an impoundment, or a covered tributary.

Second, the term ''neighboring'' includes all waters within the 100-year floodplain of a traditional navigable water, interstate water, the territorial seas, an impoundment, or a covered tributary that is located in whole or in part within 1,500 feet of the ordinary high water mark of that jurisdictional water. In this rule, the agencies interpret ''100-year floodplain'' to mean ''the area that will be inundated by the flood event having a one percent chance of being equaled or exceeded in any given year.'' This is consistent with the Federal Emergency Management Agency's (FEMA) definition of ''100-year flood.'' If the 100-year floodplain is greater than 1,500 feet from the ordinary high water mark, only those waters that are located in whole or in part within 1,500 feet of the ordinary high water mark are ''neighboring.'' In addition, if the 100-year floodplain is less than 1,500 feet from the ordinary high water mark, only those waters located in whole or in part within the floodplain are ''neighboring'' under this provision.

Third, the rule defines ''neighboring'' to include all waters located in whole or in part within 1,500 feet of the high tide line of a traditional navigable water or the territorial seas, and all waters located within 1,500 feet of the ordinary high water mark of the Great Lakes. This provision defines waters that begin within 1,500 feet of a tidally-influence traditional navigable water or the territorial seas and waters within 1,500 feet of the ordinary high water mark of the Great Lakes as ''waters of the United States.'' To provide clarity for this aspect of the definition, the agencies incorporated the Corps' existing definition of high tide line into EPA's regulations at paragraph (c)(7) in the rule.

As noted above, the rule provides that with respect to the boundaries for covered adjacent waters the entire water is jurisdictional as long as the water is at least partially located within the distance threshold, and the agencies interpret the rule to apply to any single water or wetland that may straddle a distance threshold. Low-centered polygonal tundra and patterned ground bogs (also called strangmoor, string bogs, or patterned ground fens) are considered a single water for purposes of the rule because their small, intermingled wetland and non-wetland components are physically and functionally integrated. These areas often have complex micro-topography with repeated small changes in elevation occurring over short distances. Science demonstrates that these wetlands function as a single wetland matrix having clearly hydrophytic vegetation, hydric soils, and wetland hydrology. As a result, the agencies will continue to evaluate these wetlands as a single water under the rule. Where any portion of these wetland types is bordering, contiguous or neighboring, the entire wetland is a ''water of the United States.'' Similarly, for purposes of a case-specific determination under paragraph (a)(8), wetlands of these types constitute a single water when making a significant nexus determination. Other wetlands may also have intermingled wetland and non-wetland components that are so physically and functionally integrated they can be considered a single water for purposes of the rule. Groups of wetlands that are simply part of a complex of wetlands would not be considered a single water for purposes of the rule.

The final rule also makes some ministerial changes to the definition of ''adjacent.'' The existing regulation defined ''adjacent'' to mean ''bordering, contiguous, or neighboring,'' and had a second sentence that clarified that wetlands separated by berms and the like remain adjacent wetlands. The final rule combines those sentences without changing the scope of adjacency.

When determining the jurisdictional boundaries under the CWA for ''adjacent waters,'' the agencies will rely on published FEMA Flood Zone Maps to identify the location and extent of the 100-year floodplain. *https://msc.fema.gov/portal.* These maps are publicly available and provide a readily accessible and transparent tool for the public and agencies to use in locating the 100-year floodplain. It is important to recognize, however, that much of the United States has not been mapped by FEMA and, in some cases, a particular map may be out of date and may not accurately represent existing circumstances on the ground. The agencies will determine if a particular map is no longer accurate based on factors, such as streams or rivers moving out of their channels with associated changes in the location of the floodplain. In the absence of applicable FEMA maps, or in circumstances where an existing FEMA map is deemed by the agencies to be out of date, the agencies will rely on other available tools to identify the 100-year floodplain, including other Federal, State, or local floodplain maps, Natural Resources Conservation Service (NRCS) Soil Surveys (Flooding Frequency Classes), tidal gage data, and site-specific modeling (*e.g.,* Hydrologic Engineering Centers River System Analysis System or HEC–RAS). *http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm* and HEC–RAS and *http://www.hec.usace.army.mil/software/hec-ras/.* Additional supporting information can include historical evidence, such as photographs, prior delineations, topographic maps, and existing site characteristics. Because identifying the 100-year floodplain is an important aspect of establishing jurisdiction under the rule and the reliable and appropriate tools for identifying the 100-year floodplain may vary, the agencies will coordinate with other federal and state agencies to develop additional information for EPA and Corps field staff to further improve tools for identifying the 100-year floodplain in a consistent, predictable, and scientifically valid manner.

When determining the outer distance threshold for an ''adjacent water'' the line is drawn perpendicular to the ordinary high water mark or high tide line of the traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary and extended landward from that point. If there are breaks in the ordinary high water mark, the line should be extrapolated from the point where the ordinary high water mark is observed on the downstream side to the point where the ordinary high water mark is lost on the upstream side. Therefore, waters may meet the definition of neighboring even where, for example, a tributary temporarily flows underground.

The agencies emphasize that they fully support efforts by States and tribes to protect under their own laws any additional waters, including locally special waters that may not be within the Federal protections of the CWA as the agencies have interpreted its scope in this rule. In promulgating the adjacent water boundaries, the agencies have balanced protection and clarity, scientific uncertainties and regulatory experience, and established boundaries that are, in their judgment, reasonable and consistent with the statute and its goals and objectives.

If waters identified in this section are determined to be adjacent, no case-specific significant nexus evaluation is required.

2. What changes did the agencies make from the proposed rule based on public comments?

In the proposal, the agencies sought comment on a number of ways to address and clarify jurisdiction over ''adjacent waters,'' including establishing a floodplain interval and providing clarity on reasonable proximity as an important aspect of adjacency. In light of the comments, the science, the agencies' experience, and the Supreme Court's consistent recognition of the agencies' discretion to interpret the bounds of CWA jurisdiction, the agencies have made some revisions in the final rule designed to more clearly establish boundaries on the scope of ''adjacent waters.''

Under the proposal and the final rule, ''adjacent waters'' are jurisdictional based on the conclusion that they have a significant nexus to traditional navigable waters, interstate waters, or the territorial seas, and there is no need for additional analysis. Some commenters wanted a case-specific analysis for all ''adjacent waters'' as they believed that the waters would not individually have a significant nexus to an adjacent ''water of the United States,'' while others noted that their functional relationship to the downstream traditional navigable waters, interstate waters, or the territorial seas warranted the conclusion that they were all jurisdictional. Based on a review of the science, the agencies' expertise and experience, and the law, the agencies determined that ''adjacent waters,'' as defined, alone or in combination with other covered ''adjacent waters'' in a watershed have a significant nexus to a traditional navigable water, interstate water or the territorial seas and therefore are ''waters of the United States'' without the need for any additional analysis. However, the rule also provides for case-specific analysis of some waters that do not meet the definition of ''neighboring'' established by the rule. See section IV.H.

The proposal included wetlands, ponds, lakes, and impoundments that contribute flow, directly or indirectly, to the downstream traditional navigable waters, interstate waters, or the territorial seas in the definition of ''tributary.'' Some commenters expressed concern that since such waters generally do not have both an ordinary high water mark and a bed and banks, the definition of tributary was contradictory and confusing. The agencies sought comment on whether to treat these waters as ''adjacent waters'' instead of tributaries, since they not only contribute flow, but they also border or are contiguous to the waters to which they contribute flow. The SAB in particular commented that the agencies ''may want to consider whether flow-through lentic systems should be included as ''adjacent waters'' and wetlands, rather than as tributaries.'' SAB 2014b at 2. In light of the comments and to provide additional clarity, the agencies revised the definitions of ''adjacent'' and ''tributary'' to include these waters as ''adjacent.''

Under the existing rule, there is no definition for the term ''neighboring,'' and the public commented that not having a definition created a lack of clarity and inconsistent field practices across the nation. In the proposal, ''neighboring'' was defined to include waters located within the riparian area or floodplain of a traditional navigable water, interstate water, territorial sea, impoundment, or tributary; waters with a shallow subsurface hydrologic connection to a jurisdictional water; and waters with a confined surface hydrologic connection to a jurisdictional water. Although the definitions were scientifically-based for the terms ''riparian area'' and ''floodplain'' to define the lateral reach of the term ''neighboring,'' some commenters indicated that the proposed definitions to clarify neighboring were not clear. Those commenters requested that a specific floodplain interval or other limitation should be established to more clearly identify the outer limit of neighboring. Some commenters stated that the proposed definition of ''neighboring'' was unclear, while other commenters found the definition helped clarify CWA jurisdiction and were supportive of including a broad definition, based on ecological interconnectedness.

Some commenters stated that the proposed definitions of ''riparian area'' and ''floodplain'' were vague or ambiguous, broad or effectively limitless, beyond the agencies' authority or difficult or impossible to implement in the field. Other commenters were supportive of using the riparian area as a basis for adjacency. Some commenters asked why the agencies were proposing a new definition of ''floodplain'' that was inconsistent with the definition used by other Federal agencies like NRCS or FEMA. Some commenters suggested that if the agencies use floodplains as a means to define ''neighboring,'' it should be limited to the area inundated by the 2-year, 5-year, 10-year, or 20-year flood, while other commenters supported the use of the 100-year floodplain as a component of ''neighboring.'' Some commenters supported including all wetlands and other waters in the 100-year floodplain as categorically jurisdictional. Other commenters requested that floodplain size be based on tributary size, while others suggested that it should be based on soil and geologic features, and some suggested the use of the FEMA flood zone maps. Some commenters stated that ''reasonable proximity'' was neither defined nor clarified adjacency, noting that adjacency should not apply to waters separated from a ''water of the United States'' by great distances.

In response to comments and to provide greater clarity and consistency, in the rule the agencies establish a definition of neighboring which provides additional specificity requested by some commenters, including establishing a floodplain interval and providing specific boundaries from traditional navigable waters, interstate waters, the territorial seas, impoundments, and tributaries. In the proposal, the agencies requested comment on whether the rule should provide greater specificity with regard to how the agencies will determine if a water is located in the floodplain of a jurisdictional water. 79 FR 22209. As recommended by the public and based on science, the agencies' boundaries for ''neighboring'' are based largely on use of the 100-year floodplain. The agencies concluded that the use of the riparian area was unnecessarily complicated and that as a general matter, waters in the riparian area will also be in the 100-year floodplain. Further, should the riparian area on occasion extend beyond the 100-year floodplain, the agencies have the ability to perform a case-specific significant nexus analysis on a water out to 4,000 feet from the ordinary high water mark or high tide line of a traditional navigable water, interstate water, the territorial sea, impoundment, or tributary. The agencies have drawn these lines based on their technical expertise and experience in order to provide a rule that is practical to understand and implement and protects those waters that significantly affect the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, or the territorial seas. Because science indicates that connectivity is on a gradient, the agencies have also identified limited circumstances in which waters that do not meet the definition of ''neighboring'' may be determined on a case-specific basis to have a significant nexus. See section IV.I.

First, the rule establishes as ''neighboring'' waters that occur within 100 feet from traditional navigable

waters, interstate waters, the territorial seas, impoundments, and tributaries.

Second, the rule utilizes a specific floodplain and also establishes maximum distances for purposes of ''neighboring.'' Studies have found that waters within the floodplain are dynamically connected and frequently interact with the downstream traditional navigable water, interstate water, territorial sea, impoundment, or tributary. Some commenters indicated that a specific floodplain or other designation should be set to define the outer boundary of ''neighboring.'' Further, some commenters requested that the 100-year floodplain designation be used to define the outer boundary of adjacency because the public understands this concept. Several commenters recommended that FEMA or NRCS maps be used to support the analysis as these maps are easily accessible to the public. Because FEMA maps exist for many areas of the country and the NRCS Soil Survey maps do as well, the agencies decided that defining ''neighboring'' based in part on a particular floodplain or recurrence interval was a reasonable means of ensuring the consistency and certainty that is important to the public and for implementation of the CWA. In drawing lines, the agencies chose the 100-year floodplain in part because FEMA and NRCS together have generally mapped large portions of the United States, and these maps are publicly available, well-known and well-understood.

Because the 100-year floodplain can be very wide in some areas of the country, particularly near large rivers, the agencies chose to provide increased clarity and certainty while ensuring that waters that provide important functions significantly affecting the chemical, physical, and biological integrity of the downstream traditional navigable waters, interstate waters, or the territorial seas are protected by establishing a 1,500 foot maximum distance for neighboring waters in the rule. Waters within the 100-year floodplain to a maximum of 1,500 feet of the ordinary high water mark are adjacent without regard to the presence of berms or other barriers. However, because the science demonstrates that floodplain waters provide important functions for downstream waters, the agencies have established a provision under paragraph (a)(8) for case-specific significant nexus evaluations of waters located in the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas beyond 1,500 feet.

The rule also establishes a separate bright line for including as jurisdictional those waters that occur within 1,500 feet of tidally-influenced traditional navigable waters or the territorial seas.

The proposal defined ''neighboring'' to include waters with a surface connection to jurisdictional waters and some commenters recommended eliminating surface hydrologic connectivity as a basis for adjacency. The definition of neighboring does not include a provision defining ''neighboring'' based on a surface hydrologic connection. However, waters with confined surface hydrologic connections are considered adjacent where they are bordering, contiguous, or neighboring a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary. For example, a water with a confined surface hydrologic connection to a traditional navigable water that is 1,200 feet from the high tide line of that water would meet the definition of neighboring and be considered an adjacent water. In circumstances where a water does not meet the definition of neighboring but is located within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas, or within 4,000 feet of a jurisdictional water, a confined surface hydrologic connection may be an important factor in evaluating a case-specific significant nexus under paragraph (a)(8). See section H. below.

The proposal defined ''neighboring'' to include waters connected with a shallow subsurface connection, and some commenters recommended eliminating subsurface hydrologic connectivity as a basis for adjacency. For example, some commenters asserted that, because the CWA does not apply to groundwater, the agencies do not have the authority to assert jurisdiction over waters connected to other ''waters of the United States'' via a shallow subsurface hydrologic connection. Some commenters were concerned that the distinction between ''groundwater'' and a ''shallow subsurface connection'' was unclear and questioned whether using a shallow subsurface connection as a basis for adjacency is contradictory to excluding groundwater—including groundwater drained through subsurface drainage systems—as a ''water of the United States.'' Some commenters supported use of shallow subsurface connectivity for adjacency, since the significant nexus test would be employed to make the determination of jurisdiction. Several commenters suggested that the rule should protect groundwater and shallow subsurface flow, due to its connectivity to other ''waters of the United States'' and particularly since altering it could affect the downstream waters. A few commenters simply requested clarifications regarding issues such as how to determine whether a subsurface connection exists; the meaning of ''shallow;'' distinguishing between ''shallow'' and ''deep;'' whether there were any boundaries on adjacency via hydrologic connectivity; and determining whether the connection was ''sufficient'' to establish adjacency. In order to provide more certainty to the public, the rule does not include a provision defining neighboring based on shallow subsurface flow, though such flow may be an important factor in evaluating a water on a case-specific basis under paragraph (a)(8), as appropriate.

Some commenters expressed concern that the agencies' proposed definition of ''neighboring,'' ''riparian area,'' and ''floodplain'' would mean that all land within the floodplain or riparian area would become regulated. In fact, only waters, not land, in the floodplain or riparian area would have been considered adjacent under the proposed rule. Similarly, under the final rule, only waters, not land, are adjacent. In response, the agencies have eliminated the definitions of floodplain and riparian area and have provided a definition of neighboring which is clear that only waters in specified circumstances may be ''waters of the United States.''

The agencies also eliminated a parenthetical from the existing ''adjacent wetlands'' regulatory provision. The phrase ''other than waters that are themselves wetlands'' was intended to preclude asserting CWA jurisdiction over wetlands that were simply adjacent to a non-jurisdictional wetland. Such waters do not meet the definition of ''adjacent'' under the rule since waters must be adjacent to a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary, so the phrase is unnecessary and confusing. With this change, the agencies are protecting all waters that meet the definition of ''adjacent'' as ''waters of the United States,'' and eliminating confusion caused by the parenthetical. For example, where the 100-year floodplain is greater than 1,500 feet, all wetlands within 1,500 feet of the tributary's ordinary high water mark are jurisdictional because they are ''neighboring'' to the tributary, regardless of the wetlands' position relative to each other.

Some commenters stated that the proposed rule was an expansion of jurisdiction because it would change the

provision from ''adjacent wetlands'' to ''adjacent waters.'' The agencies acknowledge that under the existing regulation, the adjacency provision applied only to wetlands adjacent to ''waters of the United States.'' However, also under the existing regulation, ''other waters'' (such as intrastate rivers, lakes and wetlands that are not otherwise jurisdictional under other sections of the rule) could be determined to be jurisdictional if the use, degradation or destruction of the water could affect interstate or foreign commerce. This provision of the existing regulation reflected the agencies' interpretation at the time of the jurisdiction of the CWA to extend to the maximum extent permissible under the Commerce Clause of the Constitution. Therefore, while the language of the specific adjacency provision in the final rule may have changed from wetlands to waters, that does not represent an expansion of jurisdiction as a whole in comparison to the existing regulation, since adjacent non-wetland waters would have been subject to jurisdiction under the ''other waters'' provision. The final rule does not protect all waters that were protected under the ''other waters'' provision of the existing regulation, and therefore the inclusion of adjacent ponds, for example, in the ''adjacent waters'' provision of the final rule does not reflect an overall expansion of jurisdiction when compared to the existing regulation.

3. How do science and law support the rule?

Based on a review of the scientific literature and the agencies' expertise and experience the agencies determined that the categories of waters discussed below are integrally linked to the chemical, physical, or biological functions of waters to which they are adjacent and downstream to the traditional navigable waters, interstate waters or the territorial seas. Therefore, the agencies determined that the waters defined as adjacent have a significant nexus with traditional navigable waters, interstate waters or the territorial seas and are thus ''waters of the United States.'' Additional information, including citations, can be found in section III of the preamble, the Science Report, and the Technical Support Document for the rule.

a. Waters that are Bordering or Contiguous

As discussed in section III above, wetlands, ponds, lakes, oxbows, impoundments, and similar water features that are bordering or contiguous perform a myriad of critical chemical and biological functions associated with the downstream traditional navigable waters, interstate waters, or the territorial seas. Such waters are integrally linked with the jurisdictional waters to which they are adjacent. Because of their close physical proximity to nearby jurisdictional waters, bordering or contiguous waters readily exchange their waters through the saturated soils surrounding the traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary or through surface exchange. This commingling of waters allows bordering or contiguous waters to both provide chemically transformed waters to streams and to absorb excess stream flow, which in turn can significantly affect downstream traditional navigable waters, interstate waters, or the territorial seas. The close proximity also allows for the direct exchange of biological materials, including organic matter that serves as part of the food web of downstream traditional navigable waters, interstate waters, or the territorial seas. Waters that are bordering or contiguous are often located on the floodplain or within the riparian area of the waters to which they are adjacent. Bordering or contiguous waters include those that directly abut a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary. The Science Report and the Technical Support Document demonstrate that such waters are physically, chemically, and biologically integrated with downstream traditional navigable waters, interstate waters, or the territorial seas and significantly affect their integrity.

b. Waters Separated From Other ''Waters of the United States'' by Constructed Dikes or Barriers, Natural River Berms, Beach Dunes and the Like

Adjacent waters separated from a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary by constructed dikes or barriers, natural river berms, beach dunes, and the like continue to have a significant effect on downstream traditional navigable waters, interstate waters, or the territorial seas, either alone or in combination with other ''adjacent waters.'' Such waters continue to have a hydrologic connection to downstream waters. This is because constructed dikes or barriers, natural river berms, beach dunes, and the like typically do not block all water flow. This hydrologic connection can occur via seepage, or the flow of water through the soil pores, or via over-topping, where water from the nearby traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary periodically overtops the berm or other similar feature. Berm-like landforms known as natural levees occur naturally and do not isolate adjacent wetlands from the streams that form them. Natural levees and the wetlands and waters behind them are part of the floodplain. Natural levees are discontinuous, which allows for a hydrologic connection to the stream or river via openings in the levees and thus the periodic mixing of river water and backwater. Man-made levees and similar structures also do not isolate ''adjacent waters.'' Waters, including wetlands, separated from a jurisdictional water by a natural or man-made berm serve many of the same functions as other ''adjacent waters.'' Furthermore, even in cases where a hydrologic connection may not exist, there are other important considerations, such as chemical and biological functions, that result in a significant nexus between the adjacent wetlands or waters and the nearby ''waters of the United States,'' and traditional navigable waters, interstate waters, or the territorial seas. On this point, Justice Kennedy stated: ''In many cases, moreover, filling in wetlands separated from another water by a berm can mean that floodwater, impurities, or runoff that would have been stored or contained in the wetlands will instead flow out to major waterways. With these concerns in mind, the Corps' definition of adjacency is a reasonable one, for it may be the absence of an interchange of waters prior to the dredge and fill activity that makes protection of the wetlands critical to the statutory scheme.'' *Rapanos* at 775. For instance, covered adjacent waters behind berms can still serve important water quality functions, serving to filter pollutants and sediment before they reach downstream waters. Wetlands and open waters behind berms, where the system is extensive, can help reduce the impacts of storm surges caused by hurricanes. Such ''adjacent waters,'' including wetlands, separated from waters by berms and the like maintain ecological connection with those waters. It is not the existence of the dike, levee, and the like that makes these waters jurisdictional. Adjacent waters separated from the tributary network by constructed dikes or barriers, natural river berms, beach dunes, and the like continue to have a hydrologic connection to downstream waters.

Waters behind berms and the like can significantly affect the chemical, physical, and biologic integrity of traditional navigable waters, interstate waters, or the territorial seas.

c. Waters Within 100 Feet

All wetlands, ponds, lakes, oxbows, impoundments, and similar water features that are located in whole or in part within 100 feet of the ordinary high water mark of a jurisdictional water perform a myriad of critical chemical, physical, and biological functions associated with the downstream traditional navigable water, interstate water or the territorial seas and therefore the agencies have determined that they are ''neighboring'' and thus ''waters of the United States.'' Waters within 100 feet of a jurisdictional water are often located within the riparian area and are often connected via surface and shallow subsurface hydrology to the water to which they are adjacent. While the SAB was clear that distance is not the only factor that influences connections and their effects downstream, due to their close proximity to jurisdictional waters, waters within 100 feet are often located within a landscape position that allows for them to receive and process surface and shallow subsurface flows before they reach streams and rivers. These waters individually and collectively affect the integrity of downstream waters by acting primarily as sinks that retain floodwaters, sediments, nutrients, and contaminants that could otherwise negatively impact the condition or function of downstream waters. Wetlands and open waters within close proximity of jurisdictional waters improve water quality through assimilation, transformation, or sequestration of nutrients, sediment, and other pollutants that can affect the integrity of downstream traditional navigable waters, interstate waters, or the territorial seas. These waters, including wetlands, also provide important habitat for aquatic-associated species to forage, breed, and rest.

In order to provide greater clarity and consistency and based on a review of the science and the agencies' expertise and experience, the agencies identified a 100 foot threshold for neighboring waters to a traditional navigable water, interstate water, territorial sea, tributary, or impoundment. Further, the agencies determined that there is a significant nexus with the downstream traditional navigable waters, interstate waters, or the territorial seas, and these ''adjacent waters'' are ''waters of the United States.'' With respect to provision of water quality benefits downstream, non-floodplain waters within close proximity of the stream network often are able to have more water quality benefits than those located at a distance from the stream. Many studies indicate that the primary water quality and habitat benefits will generally occur within a several hundred foot zone of a water. In addition, the scientific literature indicates that to be effective, contaminant removal needs to occur at a reasonable distance prior to entry into the downstream traditional navigable waters, interstate waters, or the territorial seas. Some studies also indicate that fish, amphibians (*e.g.,* frogs, toads), reptiles (*e.g.,* turtles), and small mammals (*e.g.,* otters, beavers, etc.) will use at least a 100 foot zone for foraging, breeding, nesting, and other life cycle needs.

Based on a review of the scientific literature and the agencies' expertise and experience, there is clear evidence that the identified waters within 100 feet of the ordinary high water mark of a jurisdictional water, even when located outside the floodplain, perform critical processes and functions discussed in section III above. All waters within 100 feet of a jurisdictional water significantly affect the chemical, physical, or biological integrity of the waters to which they are adjacent, and those waters in turn significantly affect the chemical, physical, or biological integrity of the downstream traditional navigable waters, interstate waters, or the territorial seas. The agencies established a 100 foot threshold from the water's lateral limit in the definition of neighboring because, based on the agencies' expertise and experience implementing the CWA and in light of the science, the agencies concluded this was a reasonable and practical boundary within which to conclude the waters clearly significantly affected the integrity of traditional navigable waters, interstate waters, or the territorial seas, and these ''adjacent waters'' are ''waters of the United States.''

d. Floodplain Waters Within 1,500 Feet

As discussed in section III above, wetlands and open waters that are neighboring perform a myriad of critical chemical and biological functions associated with the downstream traditional navigable waters, interstate waters, or the territorial seas. The scientific literature supports that wetlands and open waters in floodplains are chemically, physically, and biologically connected to downstream traditional navigable waters, interstate waters, or the territorial seas and significantly affect the integrity of such waters. The Science Report concludes that wetlands and open waters located in ''floodplains are physically, chemically and biologically integrated with rivers via functions that improve downstream water quality, including the temporary storage and deposition of channel-forming sediment and woody debris, temporary storage of local ground water that supports baseflow in rivers, and transformation and transport of stored organic matter.'' Science Report at ES–2 to ES–3. Such waters act as the most effective buffer to protect downstream waters from nonpoint source pollution (such as nitrogen and phosphorus), provide habitat for breeding fish and aquatic insects that also live in streams, and retain floodwaters, sediment, nutrients, and contaminants that could otherwise negatively impact the condition or function of downstream waters.

For waters in the 100-year floodplain within 1,500 feet of the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary, the agencies determine there is a significant nexus with the downstream traditional navigable waters, interstate waters, or the territorial seas and these waters are critical to protect the downstream waters. Based on a review of the scientific literature, the agencies' technical expertise and experience, and the implementation value of drawing clear lines, the rule establishes a boundary for floodplain waters to meet the definition of ''neighboring'' and be ''waters of the United States'' by rule. This boundary was established in order to protect vitally important waters within a watershed while at the same time providing a practical and implementable rule. The agencies are not determining that waters in the floodplain farther than 1,500 feet from the ordinary high water mark never have a significant nexus. Rather, the agencies are using their technical expertise to promulgate a practical rule that draws reasonable boundaries in order to protect the waters that most clearly have a significant nexus while minimizing uncertainty about the scope of ''waters of the United States.'' Because waters beyond these boundaries may have a significant nexus, the rule also establishes areas in which a case-specific significant nexus determination must be made. *See* section IV.H.

e. Waters Within 1,500 Feet of Tidally-Influenced Traditional Navigable Waters or the Territorial Seas or the Great Lakes

Many tidally-influenced waters do not have floodplains, so the agencies

include a separate provision within the definition of ''neighboring'' to protect the ''adjacent'' waters that have a significant nexus to tidally-influenced traditional navigable waters or the territorial seas or the Great Lakes. Under *Riverside Bayview* and Justice Kennedy's opinion in *Rapanos,* waters adjacent to traditional navigable waters, including the territorial seas, are ''waters of the United States.'' Because the connection to a tidally-influenced traditional navigable water, the territorial seas, or the Great Lakes is so close, the rule defines ''neighboring'' to include waters within 1,500 feet of the high tide line or the ordinary high water mark of the Great Lakes. Wetlands, ponds, lakes, oxbows, impoundments, and similar water features within 1,500 feet of these waters are physically connected to such waters by surface and shallow subsurface flow. As demonstrated in section III above, these waters perform a myriad of critical chemical and biological functions associated with these nearby waters to which they are adjacent.

These waters in combination significantly affect the integrity of the connected tidally influenced traditional navigable water or the territorial seas or the Great Lakes by acting primarily as sinks that retain floodwaters, sediments, nutrients, and contaminants that could otherwise negatively impact the condition or function of those waters. Like floodplain waters, the scientific literature supports that wetlands and other similar waters within close proximity improve water quality through assimilation, transformation, or sequestration of nutrients, sediment, and other pollutants that can affect downstream water quality. These waters also provide important habitat for aquatic-associated species to forage, breed, and rest in.

For example, wetlands dominated by grass-like vegetation that occur in depressional areas between sand dunes or beach ridges along the territorial seas and the Great Lakes shoreline are dependent upon these waters for their water source. The waters, including wetlands, generally form when water levels of the territorial seas fall or the Great Lakes drop, creating swales that support a diverse mix of wetland vegetation and many endangered and threatened species. Many studies demonstrate that these waters have been shown to act in concert with the rising and lowering of the tide, and that the critical functions provided by these waters are similar and play an important role in maintaining the chemical, physical, or biological integrity of the nearby traditional navigable waters, interstate waters, or the territorial seas because of the hydrological and ecological connections to and interactions with those waters.

Science demonstrates that distance is a factor in the connectivity and the strength of connectivity of wetlands and open waters to downstream waters. Thus, waters that are more distant generally have less opportunity to be connected to downstream waters. Wetlands and open waters closer to the stream network generally will have greater hydrologic and biological connectivity than waters located farther from the same network. For instance, waters that are more closely proximate have a greater opportunity to contribute flow. Via their hydrologic connectivity, they also have chemical connectivity to and effects on these downstream waters and are more likely to impact water quality due to their close distance. Waters more closely located to these waters are also more likely to be biologically connected to such waters more frequently and by more species, including amphibians and other aquatic animals. Because tidally-influenced traditional navigable waters, the territorial seas, and the Great Lakes are generally much larger in size than other jurisdictional waters, the agencies believe that a 1,500 foot threshold is a reasonable distance to capture most wetlands and open waters that are so closely linked to these waters that they can properly be considered adjacent as neighboring waters.

Based on a review of the scientific literature and the agencies' expertise and experience, there is clear evidence waters within 1,500 feet of these waters, even when located outside the floodplain, perform critical processes and functions discussed in section III above. The agencies established a 1,500 foot threshold from the water's lateral limit, which would be either the high tide line or the ordinary high water mark, in the definition of neighboring because, based on the agencies' expertise and experience implementing the CWA and in light of the science, the agencies concluded this was a reasonable and practical boundary within which to conclude the waters most clearly significantly affected the integrity of the traditional navigable water or the territorial seas, and these covered adjacent waters are ''waters of the United States.'' Waters located within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas, and waters located more than 1,500 feet and less than 4,000 feet from the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, an impoundment, or a tributary, may still be determined to have a significant nexus on a case-specific basis under paragraph (a)(8) of the rule and therefore be a ''water of the United States.'' See section IV.H.

H. Case-Specific ''Waters of the United States''

The rule establishes two exclusive circumstances under which case-specific determinations will be made for whether a water has a ''significant nexus'' and is therefore a ''water of the United States.'' The proposed rule included a broad provision that allowed for a case-specific determination of significant nexus for any water that was not categorically jurisdictional or excluded. Many commenters expressed concern that such a broad opportunity for case-specific ''waters of the United States'' determinations would lead to too much uncertainty about the jurisdictional status of waters in broad areas throughout the country. The agencies have greatly reduced the extent of waters subject to this individual review by carefully incorporating the scientific literature and by utilizing agency expertise and experience to draw boundaries. The rule provides for case-specific determinations under more narrowly targeted circumstances based on the agencies' assessment of the importance of certain specified waters to the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, and the territorial seas.

First, the rule identifies at paragraph (a)(7) five subcategories of waters (Prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands) that the agencies have determined are ''similarly situated'' for purposes of a significant nexus determination. Second, the rule identifies at paragraph (a)(8) specific circumstances under which waters will be subject to a case-specific significant nexus determination but for which the agencies have not made a ''similarly situated'' determination: Waters within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas, and waters within 4,000 feet of the high tide line or the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundments, or tributaries, as defined. If any water meets the definition of ''adjacent'' waters it is jurisdictional under paragraph (a)(6) and no case-specific significant nexus is required. Waters that do not fall within the six categorically jurisdictional waters identified in paragraph (a)(1) through

(a)(6) of the rule or within these two case-specific provisions are not ''waters of the United States.''

This section first discusses the five subcategories of waters that the agencies determine are ''similarly situated'' for purposes of a significant nexus determination; second, the 100-year floodplain and 4,000 foot boundaries under which waters will be subject to a case-specific significant nexus determination but for which the agencies have not made a ''similarly situated'' determination; third, the definition of ''significant nexus'' and how the case-specific significant nexus determinations will be made under these two provisions; and, finally, the revisions made to the rule with respect to case-specific determinations and major comments.

1. Waters Determined To Be ''Similarly Situated'' by Rule for Which a Case-Specific Significant Nexus Determinations Is Required

In the rule, paragraph (a)(7) specifies the subcategories of waters (Prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands) that, if they are not otherwise jurisdictional under paragraphs (a)(1) through (a)(6), the agencies determine to be ''similarly situated'' by rule. In the proposal the agencies sought comment on a number of options to address remaining waters that did not fit within the jurisdictional categories, including whether to conclude that other waters were ''similarly situated'' in certain areas of the country or whether to conclude that specified subcategories of waters were jurisdictional. 79 FR 22215, 22216. The agencies concluded that waters within the five subcategories were ''similarly situated'' in the areas of the country in which they are located. The rationale for this determination is discussed above in Section III. Under paragraph (a)(7), Prairie potholes, Carolina and Delmarva bays, pocosins, western vernal pools in California, and Texas coastal prairie wetlands are jurisdictional when they have a significant nexus to a traditional navigable water, interstate water, or the territorial seas. Waters subject to normal farming, silviculture, and ranching activities that are within these subcategories will be assessed consistent with this provision of the rule. Waters in these subcategories are not jurisdictional as a class under the rule. However, because the agencies determined that these subcategories of waters are ''similarly situated,'' the waters within the specified subcategories that are not otherwise jurisdictional under paragraph (a)(6) of the rule must be assessed in combination with all waters of the same subcategory in the region identified by the watershed that drains to the nearest point of entry of a traditional navigable water, interstate water, or the territorial seas (hereinafter referred to as the point of entry watershed).

When performing a case-specific significant nexus evaluation for a water in the paragraph (a)(7) subcategories, the rule establishes which waters must be considered in combination. The similarly situated waters identified in the subparagraphs will be combined with other waters in the same subparagraph located in a single point of entry watershed. For example, under paragraph (a)(7) only western vernal pools can be analyzed with other western vernal pools in the same point of entry watershed. Waters identified in the subparagraphs that are otherwise jurisdictional under the rule cannot be considered in combination with paragraph (a)(7) waters for purposes of a case-specific significant nexus determination under paragraph (a)(7). Individual waters of the specified subcategories may be jurisdictional under other paragraphs of this rule (*e.g.,* a Prairie pothole that sits on a state border is an interstate water under paragraph (a)(2) or a western vernal pool that meets the definition of adjacent under paragraph (a)(6)). Where those individual waters are jurisdictional under paragraph (a)(1) through (a)(6) by rule, no case-specific significant nexus analysis is required. The rule also states that waters in paragraph (a)(7) shall not be combined with waters jurisdictional under paragraph (a)(6). Essentially, while Prairie potholes are an identified subcategory under paragraph (a)(7), that identification does not affect a Prairie pothole that borders a covered tributary and is jurisdictional as an adjacent water under paragraph (a)(6). Additionally, a Prairie pothole that is jurisdictional under paragraph (a)(6) cannot be combined with Prairie potholes that require a case-specific jurisdictional analysis under paragraph (a)(7) since ''adjacent waters'' have already been determined to have a significant nexus by rule. Finally, waters within the specified subcategories in paragraph (a)(7) are assessed under paragraph (a)(7) not under paragraph (a)(8); waters within the specified subcategories that are within the 100-year flood plain of a traditional navigable water, interstate water, or the territorial seas or within the 4,000 foot boundary established for case-specific determinations under paragraph (a)(8) remain ''similarly situated'' waters under paragraph (a)(7). These similarly situated waters are evaluated in combination for their effect on the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, or the territorial seas. Additional details about the case-specific significant nexus analysis are found in section 4 below.

2. Waters Within the 100-Year Floodplain of a Traditional Navigable Water, Interstate Water, or the Territorial Seas and Waters Within 4,000 Foot Boundary for Which a Case-Specific Significant Nexus Determination Is Required

Paragraph (a)(8) in the rule specifies that a water that does not otherwise meet the definition of adjacency is evaluated on a case-specific basis for significant nexus under this paragraph where it is located within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas or within 4,000 feet of the high tide line or ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary. Although these waters are not considered similarly situated by rule, waters under this paragraph can be determined on a case-specific basis to be similarly situated. This is a change from the proposal which would have allowed for a similarly situated analysis and significant nexus determination for any water, anywhere in the region. Under the rule, the waters specified in paragraph (a)(7) and waters that meet the requirements in paragraph (a)(8) are the only waters for which a case-specific significant nexus determination may be made.

Under paragraph (a)(8), only waters that are within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas or within the 4,000 foot boundary can be evaluated on a case-specific basis for significant nexus to a traditional navigable water, interstate water, or the territorial seas. If a portion of the water is located within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas or 4,000 feet of the ordinary high water mark or high tide line of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary, the entire water will be considered to be within the boundaries for paragraph (a)(8) and will undergo a case-specific significant nexus determination. Under this provision, if the 100-year floodplain of a traditional navigable water,

interstate water, or the territorial seas extends beyond 4,000 feet of the ordinary high water mark, a water, that is not otherwise jurisdictional under the rule, within that floodplain will be evaluated under the 100-year floodplain boundary of paragraph (a)(8). A water within the boundaries must be evaluated on a case-specific basis for not only a significant nexus but also for a determination of whether there are any waters with which the waters is similarly situated. Waters identified in paragraph (a)(8) may not be combined with waters identified in paragraph (a)(6) for purposes of the significant nexus analysis, but may be combined with similarly situated waters located in the same point of entry watershed. If waters identified in paragraph (a)(8) also meet the definition of adjacency under paragraph (a)(6), they are jurisdictional as ''adjacent waters'' and do not need a case-specific significant nexus analysis. Under paragraph (a)(8), for example, the agencies would evaluate on a case-specific basis whether a low-centered polygonal tundra and patterned ground bog in an area with a small floodplain and located beyond the 1,500 foot boundary but within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas or within the 4,000 foot boundary, or a wetland in which normal farming, ranching, or silviculture activities occur, as those terms are used in section 404(f) of the Clean Water Act and its implementing regulations, has a significant nexus as defined in the rule.

Waters identified in the subcategories in paragraph (a)(7) are evaluated under paragraph (a)(7) only; the provisions of paragraph (a)(8), including the boundaries in paragraph (a)(8), do not apply to paragraph (a)(7) waters. The significant nexus analysis for waters under paragraph (a)(8) will then consider the waters individually or, if it is determined that there are similarly situated waters, as a group of waters within a point of entry watershed for their effect on the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, or the territorial seas.

Some commenters asked how wetlands underlain by permafrost would be treated under this rule. Waters subject to case-specific review under paragraph (a)(8) will include areas determined to meet the technical definition of ''wetlands'' because they have the required hydrology, vegetation, and soils. The presence of permafrost is not itself determinative of whether a particular area satisfies the three parameter requirement needed to be wetlands under the rule. This is true under existing regulations and remains unchanged in this rule. Because the definition of wetland does not change under the rule, the agencies do not anticipate the rule will alter the current scope of CWA jurisdiction over wetlands underlain by permafrost.

a. Summary of Rationale for Case-Specific Significant Nexus Analysis Within 100-Year Floodplain of a Traditional Navigable Water, Interstate Water, or the Territorial Seas

As discussed in Section III, above, the scientific literature supports that wetlands and open waters in floodplains are physically, chemically, and biologically connected to downstream traditional navigable waters, interstate waters, or the territorial seas and significantly affect the integrity of such waters. The Science Report concludes that wetlands and open waters located in ''floodplains are physically, chemically and biologically integrated with rivers via functions that improve downstream water quality, including the temporary storage and deposition of channel-forming sediment and woody debris, temporary storage of local ground water that supports baseflow in rivers, and transformation and transport of stored organic matter.'' Science Report at ES–2 to ES–3. As described in the Science Report and the Technical Support Document, such waters act as the most effective buffer to protect downstream waters from nonpoint source pollution (such as nitrogen and phosphorus), provide habitat for breeding fish and aquatic insects that also live in streams, and retain floodwaters, sediment, nutrients, and contaminants that could otherwise negatively impact the condition or function of downstream waters. As discussed above, in defining waters as adjacent, and therefore categorically jurisdictional, the agencies established a 1,500 foot boundary for waters located within the 100-year floodplain of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary in order to protect vitally important waters while at the same time providing a practical and implementable rule. In light of the science on the functions provided by floodplain waters and wetlands, waters and wetlands within the 100-year floodplain of traditional navigable waters, interstate waters, or the territorial seas are likely to provide those functions for traditional navigable waters, interstate waters, or the territorial seas. However, because the 100-year floodplain of a traditional navigable water can, in some case be quite large, the agencies concluded it was reasonable to subject waters and wetlands in the 100-year floodplain that are beyond 1,500 feet of the ordinary high water mark, and therefore do not meet the definition of ''neighboring,'' to a case-specific significant nexus analysis rather than concluding that such waters are categorically jurisdictional. This inclusion of a case-specific analysis for such floodplain waters is supported by the SAB. The SAB concluded that ''distance should not be the sole indicator used to evaluate the connection of 'other waters' to jurisdictional waters.'' SAB 2014b at 3. In allowing the case-specific evaluation of waters within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas that do not meet the definition of adjacency, the agencies are allowing for the functional relationship of those floodplain waters to be considered regardless of distance. The SAB also supported the Science Report's conclusion that ''the scientific literature strongly supports the conclusions that streams and 'bidirectional' floodplain wetlands are physically, chemically, and/or biologically connected to downstream navigable waters; however, these connections should be considered in terms of a connectivity gradient.'' SAB 2014a at 1. In addition, the SAB noted, ''the literature review does substantiate the conclusion that floodplains and waters and wetlands in floodplain settings support the physical, chemical, and biological integrity of downstream waters.'' *Id.* at 3.

The agencies do not anticipate that there will be numerous circumstances in which this provision will be utilized because relatively few traditional navigable waters will have floodplains larger than 4,000 feet (the other threshold in paragraph (a)(8) for waters regardless of floodplain). Further, the agencies recognize that extensive areas of the nation's floodplains have been affected by levees and dikes which reduce the scope of flooding. In these circumstances, the scope of the 100-year floodplain is also reduced and is reflected in FEMA mapping used by the agencies. In circumstances where there is little or no alteration of the floodplain and it remains relatively broad, the agencies will explicitly consider distance between the water being evaluated and traditional navigable water, interstate water, or the territorial seas when making a case-specific significant nexus determination. Based on the science concerning the important functions provided by floodplain waters and wetlands, the agencies established this provision to ensure that truly

important waters may still be protected on a case-specific basis. By using the 100-year floodplain and limiting the provision to traditional navigable waters, interstate waters, or the territorial seas, the agencies are reasonably balancing the protection of waters that may have a significant nexus with the goal of providing additional certainty.

b. Summary of Rationale for Case-Specific Significant Nexus Analysis Within 4,000 Foot Boundary

The agencies establish a provision in the rule for case-specific significant nexus determinations because the agencies concluded that some waters located beyond the distance limitations established for ''adjacent waters'' can have significant chemical, physical, and biological connections to and effects on traditional navigable waters, interstate waters, or the territorial seas. The agencies reasonably identified the 4,000 foot boundary for these case-specific significant nexus determinations by balancing consideration of the science and the agencies' expertise and experience in making significant nexus determinations with the goal of providing clarity to the public while protecting the environment and public health. The agencies' experience has shown that the vast majority of waters where a significant nexus has been found, and which are therefore important to protect to achieve the goals of the Act, are located within the 4,000 foot boundary. Moreover, because of the unique status under the CWA of traditional navigable waters, interstate waters, and the territorial seas, the 100-year floodplain boundary for these waters provides another means of identifying on a case-specific basis those waters that significantly affect traditional navigable waters, interstate waters or the territorial seas. The agencies' balancing of these considerations is consistent with the statute and the Supreme Court opinions. The agencies decided that it is important to promulgate a rule that not only protects the most vital of our Nation's waters, but one that is practical and provides sufficient boundaries so that the public reasonably understands where CWA jurisdiction ends.

The agencies' decision to establish a provision that authorizes case-specific significant nexus analysis for waters within 4,000 feet is based on a number of factors. These waters may be located within the floodplain of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary. Section IV.G. and the Technical Support Document discuss the importance of floodplain waters on the chemical, physical, and biological integrity of downstream traditional navigable waters, interstate waters, or the territorial seas. For purposes of clarity and to provide regulatory certainty, the agencies decided to use distance boundaries within the 100-year floodplain to define adjacency for floodplain waters. Under the rule, the only floodplain waters that are specifically identified as being jurisdictional as ''adjacent'' are those located in whole or in part within the 100-year floodplain and not more than 1,500 feet of the ordinary high water mark of jurisdictional waters.

Similarly, due to the many functions that waters located within 4,000 feet of the high tide line of a traditional navigable water or the territorial seas provide and their often close connections to the surrounding traditional navigable waters, science supports the agencies' determination that such waters are rightfully evaluated on a case-specific basis for significant nexus to a traditional navigable water or the territorial seas. Waters within 4,000 feet of the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary may fall within the riparian areas of such waters. As discussed in section IV.G., in response to comments regarding the uncertainty of the term ''riparian area,'' the agencies removed the term from the definition of ''neighboring.'' However, the agencies continue to recognize that science is clear that wetlands and open waters in riparian areas individually and cumulatively can have a significant effect on the chemical, physical, or biological integrity of downstream waters. Thus, the rule allows for a case-specific determination of significant nexus for waters located within 4,000 feet of the high tide line or the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary.

The agencies have always recognized that adjacency is bounded by proximity, and the rule adds additional clarity to adjacency by bounding what can be considered neighboring. The science is clear that a water's proximity to downstream waters influences its impact on those waters. The Science Report states, ''[s]patial proximity is one important determinant of the magnitude, frequency and duration of connections between wetlands and streams that will ultimately influence the fluxes of water, materials and biota between wetlands and downstream waters.'' Science Report at ES–11. Generally, waters that are closer to a jurisdictional water are more likely to be connected to that water than waters that are farther away. A case-specific analysis for waters located within 4,000 feet of the high tide line or the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary allows such waters to be considered jurisdictional only where they meet the significant nexus requirements. Even where not within a 100-year floodplain, waters within 4,000 feet of the high tide line or the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary can have significant chemical, physical, and biological connections with traditional navigable waters, interstate waters, or the territorial seas.

As noted previously, in response to comments concerned that there were no bounds in the proposed rule on how far a surface hydrologic connection could be for purposes of adjacency, the agencies did not include surface hydrologic connections as its own factor for determining adjacency in the final rule. Such connections, however, are relevant in a case-specific significant nexus determination under paragraph (a)(8). For example, waters located within 4,000 feet of the high tide line or the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary that contribute confined surface flow to a downstream water can have important hydrologic connections to and effects on that downstream water such as the attenuation and cycling of nutrients that would otherwise effect downstream water quality.

The agencies' decision to establish the case-specific provision at paragraph (a)(8), including the boundaries, was also informed by the knowledge that waters located within 4,000 feet of the high tide line or the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary can have a confined surface or shallow subsurface connection to such a water. In order to provide the clarity and certainty that many commenters requested regarding ''adjacent waters,'' the rule does not define ''neighboring'' to include all waters with confined surface or shallow subsurface connections.

However, the agencies recognize that the science demonstrates that waters with a confined surface or shallow subsurface connection to jurisdictional

waters can have important effects on downstream waters. For purposes of a case-specific significant nexus analysis under the rule, a shallow subsurface hydrologic connection is lateral water flow over a restricting layer in the top soil horizons, or a shallow water table which fluctuates within the soil profile, sometimes rising to or near the ground surface. In addition, water can move within confined man-made subsurface conveyance systems such as drain tiles and storm sewers, and in karst topography. Confined subsurface systems can move water, and potential contaminants, directly to surface waters and rapidly without the opportunity for nutrient or sediment reduction along the pathway.

Shallow subsurface connections move quickly through the soil and impact surface water directly within hours or days rather than the years it may take long pathways to reach surface waters. *See* Technical Support Document. Tools to assess shallow subsurface flow include reviewing the soils information from the NRCS Soil Survey, which is available for nearly every county in the United States. When assessing whether a water within the 4,000 foot boundary performs any of the functions identified in the rule's definition of significant nexus, the significant nexus determination can consider whether shallow subsurface connections contribute to the type and strength of functions provided by a water or similarly situated waters. However, neither shallow subsurface connections nor any type of groundwater, shallow or deep, are themselves ''waters of the United States.''

The proposed rule did not set a distance threshold for case-specific waters to be evaluated for a significant nexus. Some commenters argued that there should be a limitation on areas subject to case-specific analysis while others contended that the agencies lack discretion to set regulatory limits that would exclude from jurisdiction *any* water meeting the significant nexus test. The agencies disagree that the agencies lack the authority to establish reasonable boundaries to determine what areas are subject to case-specific significant nexus analysis. Nothing in the CWA or case law mandates that the agencies require every water feature in the nation be subject to analysis for significant nexus. The Supreme Court has made clear that the agencies have the authority and responsibility to determine the limits of CWA jurisdiction, and establishing boundaries based on agency judgment, expertise and experience in administering the statute is at the core of the agencies authority and discretion.

After weighing the scientific information about these waters' connectivity and importance to protecting downstream waters, the agencies' considerable experience making jurisdictional determinations, the objective of enhancing regulatory clarity and consistent with the statute and the caselaw, the agencies decided to set a boundary of 4,000 feet for case-specific significant nexus analysis for waters that do not otherwise meet the requirements of paragraphs (a)(1) through (a)(7). Tying this provision for case-specific significant nexus analysis to distance informed by the science, and the agencies' experience and expertise, as spatial proximity is a key contributor to connectivity among waters. Science Report at ES–11. Distance is by no means the sole factor, and aquatic functions will play a prominent role in determining whether specific waters covered under this aspect of paragraph (a)(8) have a significant nexus. In light of the role spatial proximity plays in connectivity and the objective of enhancing regulatory clarity, predictability and consistency, the agencies conclude that establishing a boundary for this aspect of waters subject to case-specific significant nexus analysis based on distance is reasonable.

While, for purposes of this national rule, distance is a reasonable and appropriate measure for identifying where this case-specific significant nexus analysis will be conducted, the science does not point to any particular bright line delineating waters that have a significant nexus from those that do not. The Science Report concluded that connectivity of streams and wetlands to downstream waters occurs along a gradient. The evidence unequivocally demonstrates that the stream channels and floodplain wetlands or open waters that together form river networks are clearly connected to downstream waters in ways that profoundly influence downstream water integrity. The connectivity and effects of non-floodplain wetlands and open waters are more variable and thus more difficult to address solely from evidence available in peer-reviewed studies. Science Report at ES–5. Because of this variability, with respect to waters that are not covered by paragraphs (a)(1) through (a)(7) of the rule, the science does not provide a precise point along the continuum at which waters provide only speculative or insubstantial functions to downstream waters.

Like connectivity itself, there is also a continuum of outcomes associated with picking a distance threshold. A smaller threshold increases the likelihood that waters that could have a significant nexus will not be analyzed and therefore not subject to the Act; a larger threshold reduces that possibility, but also means that agency and the public's resources are expended conducting significant nexus analyses on waters that have a lower likelihood of meriting the Act's protection.

Recognizing that there is no optimal line, in selecting both the 100-year floodplain for and the 4,000 foot boundaries the agencies looked principally to the extensive experience the Corps has gained in making significant nexus determinations since the *Rapanos* decision. As noted in Section III above, since the *Rapanos* decision, the agencies have developed extensive experience making significant nexus determinations, and that experience and expertise informed the judgment of the agencies in establishing both the 100-year floodplain boundary and the 4,000 foot boundary. The agencies have made determinations in every state in the country, for a wide range of waters in a wide range of conditions. The vast majority of the waters that the Corps has determined have a significant nexus are located within 4,000 feet of a jurisdictional tributary, traditional navigable or interstate water, or the territorial seas. Therefore, the agencies conclude that the 100-year floodplain and 4,000 foot boundaries in the rule will sufficiently capture for analysis those waters that are important to protect to achieve the goals of the Clean Water Act.

The agencies acknowledge that, as with any meaningful boundary, some waters that could be found jurisdictional lie beyond the boundary and will not be analyzed for significant nexus. The agencies minimize that risk by also establishing a provision in paragraph (a)(8) for case-specific significant nexus analysis of waters located within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas. While in the agencies' experience the vast majority of wetlands with a significant nexus are located within the 4,000 foot boundary, it is the agencies' experience that there are a few waters that have been determined to be jurisdictional that are located beyond this boundary, typically due to a surface or shallow subsurface hydrologic connections. Nonetheless, the agencies have weighed these considerations and concluded that the value of enhancing regulatory clarity, predictability and consistency through a distance limit outweigh the likelihood that a distinct minority of waters that might be shown

to meet the significant nexus test will not be subject to analysis. In the agencies' experience, requiring an evaluation of significant nexus for waters covered by paragraph (a)(8) should capture the vast majority of waters having a significant nexus to the downstream waters. The agencies therefore conclude that that adoption of the 4,000 foot boundary is reasonable.

The rule's requirements for these waters, coupled with those for ''adjacent waters,'' create an integrated approach that tailors the regulatory regime based on the science and the agencies' policy objectives. Determining by rule that covered adjacent waters have a significant nexus follows the science, achieves regulatory clarity and predictability, and avoids expenditure of agency and public resources on case-specific significant nexus analysis. Similarly, providing for case-specific significant nexus analysis for waters that are not adjacent but within the 4,000 foot distance limit, as well as those within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas, is consistent with science and agency experience, will ensure protection of the important waters whose protection will advance the goals of the Clean Water Act, and will greatly enhance regulatory clarity for agency staff, regulated parties, and the public.

For these reasons, the agencies decided to allow case-specific determinations of significant nexus for waters located within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas and for waters located within 4,000 feet of the high tide line or the ordinary high water mark of a traditional navigable water, an interstate water, the territorial seas, an impoundment, or a covered tributary. Under the rule, these waters are jurisdictional only where they individually or cumulatively (if it is determined that there are other similarly situated waters) have a significant nexus to traditional navigable waters, interstate waters, or the territorial seas. Additional scientific and policy rationale for including such waters as waters that can be evaluated on a case-specific basis can be find in the Technical Support Document.

The agencies emphasize that they fully support efforts by States and tribes to protect under their own laws any additional waters, including locally special waters that may not be within the jurisdiction of the CWA as the agencies have interpreted its scope in this rule. Indeed, the promulgation of the 100-year floodplain and 4000 foot boundaries for purposes of a case-specific analysis of significant nexus does not foreclose states from acting consistent with their state authorities to establish protection for waters that fall outside of the protection of the CWA. In promulgating the 4,000 foot boundary, the agencies have balanced protection and clarity, scientific uncertainties and regulatory experience, and established a line that is, in their judgment, reasonable and consistent with the statute and its goals and objectives.

3. Case-Specific Significant Nexus Determinations

Only waters identified in paragraphs (a)(7) or (a)(8) of the rule require a case-specific determination of significant nexus. This section discusses the definition of significant nexus in the rule and how the agencies will make case-specific significant nexus determinations under the rule.

a. Definition of Significant Nexus

Paragraph (c)(5) of the rule defines the term ''significant nexus'' to mean a significant effect (more than speculative or insubstantial) on the chemical, physical, or biological integrity of a traditional navigable water, interstate water, or the territorial seas. Waters, including wetlands, are evaluated either alone, or in combination with other similarly situated waters in the region, based on the functions the evaluated waters perform. Functions to be considered for the purposes of determining significant nexus are sediment trapping, nutrient recycling, pollutant trapping, transformation, filtering and transport, retention and attenuation of floodwaters, runoff storage, contribution of flow, export of organic matter, export of food resources, and provision of life-cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in traditional navigable waters, interstate waters, or the territorial seas.

The agencies' definition of significant nexus is based upon the language in *SWANCC* and *Rapanos.* The definition is also consistent with current practice, where field staff evaluate the functions of the waters in question and the effects of these functions on downstream waters. In order to add clarity and transparency to the definition of significant nexus, the agencies have listed in the definition the functions that will be considered in a significant nexus analysis. These functions are consistent with the agencies' scientific understanding of the functioning of aquatic ecosystems. A water does not need to perform all of the functions listed in paragraph (c)(5) in order to have a significant nexus. Depending upon the particular water and the functions it provides, if a water, either alone or in combination with similarly situated waters, performs just one function, and that function has a significant impact on the integrity of a traditional navigable water, interstate water, or the territorial seas, that water would have a significant nexus.

Case-specific determinations of significant nexus require paragraph (a)(7) or (a)(8) waters to be evaluated either alone, or in combination with other similarly situated waters in the region. In the rule, the agencies interpret the phrase ''in the region'' to mean the watershed that drains to the nearest traditional navigable water, interstate water, or the territorial seas through a single point of entry. See Section III. In circumstances where the single point of entry watershed includes waters that are identified under paragraph (a)(7) and waters that are subject to analysis under paragraph (a)(8), those waters will be analyzed separately under the provisions of those paragraphs.

In a case-specific analysis of significant nexus, the agencies determine whether the water they are evaluating, in combination with other similarly situated waters in the region, has a significant effect on the chemical, physical, or biological integrity of the nearest traditional navigable water, interstate water, or the territorial seas. As noted previously, the agencies evaluate the listed functions in paragraph (c)(5) as part of that evaluation to determine if the water has an impact that is more than speculative or insubstantial.

b. Conducting Case-Specific Significant Nexus Determinations Under Paragraphs (a)(7) and (a)(8)

The significant nexus analysis for waters assessed under paragraphs (a)(7) and (a)(8) is a three-step process: First, the region for the significant nexus analysis must be identified—under the rule, it is the watershed which drains to the nearest traditional navigable water, interstate water or territorial sea; second, any similarly situated waters must be identified—under the rule, that is waters that function alike and are sufficiently close to function together in affecting downstream waters; and third, the waters are evaluated individually or in combination with any identified similarly situated waters in the single point of entry watershed to determine if they significantly impact the chemical, physical or biological integrity of the traditional navigable water, interstate water or the territorial seas.

i. ''In the Region''—The Point of Entry Watershed

As discussed in Section III of the preamble and established in the definition of ''significant nexus,'' the region for purposes of a significant nexus analysis is the watershed that drains to the nearest traditional navigable water, interstate water, or the territorial seas. The first step of the analysis is to identify the point of entry watershed that the water being evaluated under paragraphs (a)(7) or (a)(8) drains to. This point of entry approach identifies the nearest traditional navigable water, interstate water, or the territorial seas that the water being evaluated and any similarly situated waters flow to and delineates the watershed of that nearest traditional navigable water, interstate water, or the territorial seas. The point of entry watershed is the area drained by the nearest traditional navigable water, interstate water, or the territorial seas and is typically defined by the topographic divides between one traditional navigable water, interstate water, or the territorial seas and another.

Available mapping tools, such as those that are based on the NHD, topographic maps, and elevation data, can be used to demarcate boundaries of the single point of entry watershed. As discussed in Section III and in the Technical Support Document, the single point of entry watershed represents the scientifically appropriate sized area for conducting a case-specific significant nexus evaluation in most cases.

In the arid West, the agencies recognize there may be situations where the single point of entry watershed is very large, and it may be reasonable to evaluate all similarly situated waters in a smaller watershed. Under those circumstances, the agencies may demarcate adjoining catchments surrounding the water to be evaluated that, together, are generally no smaller than a typical 10-digit hydrologic unit code (HUC–10) watershed in the same area. The area identified by this combination of catchments would be the ''region'' used for conducting a significant nexus evaluation under paragraphs (a)(7) or (a)(8) under those situations. The basis for such an approach in very large single point of entry watersheds in the arid West should be documented in the jurisdictional determination.

ii. ''Similarly Situated''

Second, the agencies determine if the water or waters to be evaluated are similarly situated. The waters identified in paragraph (a)(7) are similarly situated by rule and shall be combined with other waters of the same category located in the same watershed that drains to the nearest traditional navigable water, interstate water, or the territorial seas with no need for a case-specific similarly situated finding. Under paragraph (a)(7), only waters of the same subparagraph in the point of entry watershed can be considered as similarly situated. For example, only pocosins may be evaluated with other pocosins in the same point of entry watershed. Pocosins in different point of entry watersheds cannot be combined, and pocosins cannot be combined with Carolina bays under paragraph (a)(7), even where they occur in the same point of entry watershed.

Unlike waters evaluated under paragraph (a)(7), the waters specified at paragraph (a)(8) require a determination whether they are similarly situated. Under this step, the agencies apply factors in the determination of when waters evaluated under paragraph (a)(8) should be considered either individually or in combination for purposes of a significant nexus analysis. A determination of ''similarly situated'' requires an evaluation of whether a group of waters in the region that meet the distance thresholds set out under paragraph (a)(8) can reasonably be expected to function together in their effect on the chemical, physical, or biological integrity of downstream traditional navigable waters, interstate waters, or the territorial seas.

Similarly situated waters can be identified as sufficiently close together for purposes of this paragraph of the regulation when they are within a contiguous area of land with relatively homogeneous soils, vegetation, and landform (*e.g.,* plain, mountain, valley, etc.). In general, it would be inappropriate, for example, to consider waters as ''similarly situated'' under paragraph (a)(8) if these waters are located in different landforms, have different elevation profiles, or have different soil and vegetation characteristics, unless the waters perform similar functions and are located sufficiently close to a ''water of the United States'' to allow them to consistently and collectively function together to affect a traditional navigable water, interstate water, or the territorial seas. In determining whether waters under paragraph (a)(8) are sufficiently close to each other the agencies will also consider hydrologic connectivity to each other or a jurisdictional water.

In determining whether groups of waters under paragraph (a)(8) perform ''similar functions'' the agencies will consider functions such as habitat, water storage, sediment retention, and pollution sequestration. In addition, consideration of wetland/water type and landscape location are relevant for determining if the waters are similarly situated. For example, Texas coastal sand sheet wetlands that form a complex of wetlands with other wetlands of the same type on the landscape and are densely located may very well be similarly situated and considered in combination with other Texas coastal sand sheet wetlands in the same single point of entry watershed. However, under paragraph (a)(8), waters do not need to be of the same type (as they do in paragraph (a)(7)) to be considered similarly situated. As described above, waters are similarly situated under paragraph (a)(8) where they perform similar functions or are located sufficiently close to each other, regardless of type. The agencies will consider the hydrologic, geomorphic, and ecological characteristics and circumstances of the waters under consideration. Examples include: Documentation of chemical, physical, or biological interactions of the similarly situated waters; aerial photography; USGS and state and local topographical or terrain maps and information; NRCS soil survey maps and data; other available geographic information systems (GIS) data; National Wetlands Inventory maps where wetlands meet the CWA definition; and state and local information. The evaluation will use any available site information and pertinent field observations where available, relevant scientific studies or data, or other relevant jurisdictional determinations that have been completed in the region.

Only those waters that do not meet the requirements in paragraph (a)(1) through (a)(6) are to be considered in case-specific significant nexus determinations; subcategory waters that meet the provisions in paragraph (a)(1) through (a)(6) are *per se* jurisdictional without the need for a significant nexus determination. For example, waters that are identified under paragraph (a)(6) are adjacent and are not subject to a case-specific significant nexus evaluation under paragraph (a)(7) or (a)(8). Waters evaluated under paragraph (a)(7) cannot be combined with waters identified in paragraph paragraph (a)(6) or (a)(8), and waters evaluated under paragraph (a)(8) cannot be combined with waters identified in paragraph (a)(6) or (a)(7). For example, Prairie potholes being evaluated under paragraph (a)(7) may not be combined with Prairie potholes that are per se jurisdictional under paragraph (a)(6) that meet the definition

of adjacent. When a water meets the specifications at both paragraphs (a)(7) and (a)(8), it can only be evaluated under paragraph (a)(7). That is, for example, if a wetland is a Western vernal pool and is also within 4,000 feet of the ordinary high water mark of a covered tributary, it can only be assessed for significant nexus under paragraph (a)(7) in combination with other Western vernal pools in the point of entry watershed. Unlike paragraph (a)(8), there is no distance threshold for waters evaluated under paragraph (a)(7)—that is, waters in the paragraph (a)(7) subcategories that are more than 4,000 feet from the high tide line or the ordinary high water mark of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary or are beyond the 100-year floodplain of an traditional navigable water, interstate water, or the territorial seas are to be included in combination in a significant nexus analysis.

iii. Significant Nexus Analysis for Paragraph (a)(7) and (a)(8) Waters

Third, the agencies evaluate waters individually or in combination with any identified similarly situated waters in the single point of entry watershed to determine if they significantly impact the chemical, physical, or biological integrity of the traditional navigable water, interstate water, or the territorial seas. For purposes of determining significant nexus under paragraph (a)(7), all waters of the specified subcategory are to be considered in combination in the point of entry watershed, as those waters are similarly situated. For purposes of determining significant nexus under paragraph (a)(8), depending on the results of step two, a water within the boundaries in paragraph (a)(8) is evaluated either alone or in combination with other similarly situated waters in the region. For example, in the case where the agencies have determined that a particular water under paragraph (a)(8) is not similarly situated, it is evaluated individually for significant nexus; the water cannot be aggregated if it is not similarly situated with other such waters.

The analysis will include an evaluation of the functions listed in paragraph (c)(5) of the rule, which defines significant nexus. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest traditional navigable water, interstate water, or the territorial seas. A water may be determined to have a significant nexus based on performing any of the following functions: sediment trapping, nutrient recycling, pollutant trapping, transformation, filtering, and transport, retention and attenuation of floodwaters, runoff storage, contribution of flow, export of organic matter, export of food resources, or provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a traditional navigable water, interstate water, or the territorial seas.

For purposes of paragraph (c)(5)(ix), a species is located in a traditional navigable water, interstate water, or the territorial seas if such a water is a typical type of habitat for at least part of the life cycle of the species. For example, amphibians and many reptiles can use a traditional navigable water, interstate water, or the territorial seas for part of their life cycle needs.

When evaluating a water individually or in combination with other similarly situated waters for the presence of a significant nexus to a traditional navigable water, interstate water, or the territorial seas, a variety of factors will influence the chemical, physical, or biological connections the water has with the downstream traditional navigable water, interstate water, or the territorial seas, including distance from a jurisdictional water, the presence of surface or shallow subsurface hydrologic connections, and density of waters of the same type (if it has been concluded that such waters can be evaluated in combination). The likelihood of a significant connection is greater with increasing size and decreasing distance from the identified traditional navigable water, interstate water, or the territorial seas, as well as with increased density of the waters for such waters that can be considered in combination as similarly situated waters. In addition, the presence of a surface or shallow subsurface hydrologic connection can influence the impact that a water has with downstream waters.

In many cases, the presence of a hydrologic connection increases the strength of the impact of the downstream traditional navigable water, interstate water, or the territorial seas. However, a hydrologic connection is not necessary to establish a significant nexus, because, as Justice Kennedy stated, in some cases the lack of a hydrologic connection would be a sign of the water's function in relationship to the traditional navigable water, interstate water, or the territorial seas. These functional relationships include retention of floodwaters or pollutants that would otherwise flow downstream to the traditional navigable water, interstate water, or the territorial seas. *See* 547 U.S. at 775 (citations omitted) (J. Kennedy) (''it may be the absence of an interchange of waters prior to the dredge and fill activity that makes protection of the wetlands critical to the statutory scheme''). The Science Report concludes, ''[s]ome effects of non-floodplain wetlands on downstream waters are due to their isolation, rather than their connectivity. Wetland 'sink' functions that trap materials and prevent their export to downstream waters (*e.g.,* sediment and entrained pollutant removal, water storage) result because of the wetland's ability to isolate material fluxes.'' Science Report at ES–4. For example, a report that reviewed the results of multiple scientific studies concluded that depressional wetlands lacking a surface outlet functioned together to significantly reduce or attenuate flooding. *See* Science Report and Technical Support Document. Even when they lack a surface hydrologic connection to downstream traditional navigable waters, interstate waters, or the territorial seas, Prairie potholes, for instance, cumulatively can store large volumes of water, impacting streamflow and reducing flooding downstream, and several studies have quantified the large storage capacity of Prairie pothole complexes. This water storage function is estimated to hold tens of millions of cubic meters of water, including for example Prairie potholes located in the watersheds of Devils Lake and the Red River of the North, which have both had a long history of flooding. Where Prairie potholes lack a surface hydrologic connection, this water storage capacity is particularly effective in reducing downstream flooding and can have a significant effect on downstream traditional navigable waters, interstate waters, or the territorial seas. Thus, even when lacking a surface hydrologic connection, a water can still have a significant effect on the chemical or the biological integrity of downstream traditional navigable waters, interstate waters, or the territorial seas.

The rule recognizes that not all waters have the requisite connection to traditional navigable waters, interstate waters, or the territorial seas sufficient to be determined jurisdictional. Waters with a significant nexus must significantly affect the chemical, physical, or biological integrity of a downstream traditional navigable water,

interstate water, or the territorial seas, and the requisite nexus must be more than ''speculative or insubstantial.'' *Rapanos* at 780.

Evidence of chemical connectivity and the effect on waters can be found by identifying the properties of the water in comparison to the identified traditional navigable water, interstate water, or the territorial seas; signs of retention, release, or transformation of nutrients or pollutants; and the effect of landscape position on the strength of the connection to the nearest ''water of the United States,'' and through it to a traditional navigable water, interstate water, or the territorial seas. In addition, relevant factors influencing chemical connectivity include hydrologic connectivity (see physical factors, below), surrounding land use and land cover, the landscape setting, and deposition of chemical constituents (*e.g.,* acidic deposition).

Evidence of physical connectivity and the effect on traditional navigable waters, interstate waters, or the territorial seas can be found by identifying evidence of physical connections, such as flood water or sediment retention (flood prevention). Presence of indicators of hydrologic connections between the other water and jurisdictional water are also indicators of a physical connection. Factors influencing physical connectivity include rain intensity, duration of rain events or wet season, soil permeability, and distance of hydrologic connection between the paragraph (a)(7) or (a)(8) water and the traditional navigable water, interstate water, or the territorial seas, depth from surface to water table, and any preferential flowpaths.

Evidence of biological connectivity and the effect on waters can be found by identifying: Resident aquatic or semi-aquatic species present in the case-specific water and the tributary system (*e.g.,* amphibians, aquatic and semi-aquatic reptiles, aquatic birds); whether those species show life-cycle dependency on the identified aquatic resources (foraging, feeding, nesting, breeding, spawning, use as a nursery area, etc.); and whether there is reason to expect presence or dispersal around the case-specific water, and if so whether such dispersal extends to the tributary system or beyond or from the tributary system to the case-specific water. Factors influencing biological connectivity include species' life history traits, species' behavioral traits, dispersal range, population size, timing of dispersal, distance between the case-specific water and a traditional navigable water, interstate water, or the territorial seas, the presence of habitat corridors or barriers, and the number, area, and spatial distribution of habitats. Non-aquatic species or species such as non-resident migratory birds do not demonstrate a life cycle dependency on the identified aquatic resources and are not evidence of biological connectivity for purposes of this rule.

For practical administrative purposes, the rule does not require evaluation of all similarly situated waters under paragraph (a)(7) or (a)(8) when concluding that those waters have a significant nexus to a traditional navigable water, interstate water, or territorial sea. When a subset of similarly situated waters provides a sufficient science-based justification to conclude presence of a significant nexus, for efficiency purposes a significant nexus analysis need not unnecessarily require time and resources to locate and analyze all similarly situated waters in the entire point of entry watershed. For example, if a single Carolina bay or a group of Carolina bays in a portion of the point of entry watershed is determined to significantly affect the chemical, physical, or biological integrity of a traditional navigable water, interstate water, or the territorial seas, the analysis does not have to document all of the similarly situated Carolina bays in the watershed in order to conduct the significant nexus analysis. A conclusion that significant nexus is lacking may not be based on consideration of a subset of similarly situated waters because under the significant nexus standard the inquiry is how the similarly situated waters in combination affect the integrity of the downstream water.

While the rule is clear that waters that are jurisdictional by rule cannot be combined with waters subject to a case-specific significant nexus analysis, the analysis may appropriately include the evaluation of functions of paragraph (a)(8) waters that reach covered waters through paragraph (a)(6) waters without consideration of the functions contributed by those paragraph (a)(6) waters. The hydrologic connections between paragraph (a)(8) waters and a covered tributary and eventually to a traditional navigable water, interstate water, or the territorial seas, can often occur through an adjacent water. This hydrologic connection is an appropriate part of the case-specific analysis as to whether the paragraph (a)(8) waters, alone or in combination with any similarly situated paragraph (a)(8) waters in the point of entry watershed, provide those functions downstream such that they significantly affect the chemical, physical or biological integrity of the traditional navigable water, interstate water, or the territorial seas. For example, when evaluating a wetland that is 2,500 feet from the ordinary high water mark of an paragraph (a)(5) water and that has surface or shallow subsurface connections to downstream traditional navigable waters, interstate waters, or the territorial seas via a wetland that is adjacent to an paragraph (a)(4) water, the existence of those connections is not ignored. However, while a water's connections to the traditional navigable water, interstate water, or the territorial seas through paragraph (a)(5) through (a)(7) waters can be considered in the significant nexus analysis in order to determine whether the functions of the paragraph (a)(8) waters are provided downstream, only the functions of the water, along with any similarly situated waters, being evaluated under paragraph (a)(8) on downstream water integrity can be included in the significant nexus analysis.

The administrative record for a jurisdictional determination for a water under paragraph (a)(7) or (a)(8) will include available information supporting the determination. In addition to location and other descriptive information regarding the water at issue, the record will include an explanation of the rationale for the jurisdictional conclusion and a description of the information used. Relevant information can come from many sources, and need not always be specific to the water whose jurisdictional status is being evaluated. Studies of the same type of water or similarly situated waters can help to inform a significant nexus analysis as long as they are applicable to the water being evaluated. In the case of paragraph (a)(8) waters, the administrative record will include the rationale behind the similarly situated analysis, including an explanation of the data or information examined.

The agencies expect that where waters are determined to be similarly situated in a single point of entry watershed, such similarly situated waters will often be found jurisdictional through the case-specific analysis of significant nexus. However, case-specific factors such as distance to the traditional navigable water, interstate water, or the territorial seas; density or number of similarly situated waters; individual and cumulative size of the similarly situated waters; soil permeability; climate; etc., may be considered in the determination, and there could be cases where even considering these waters in combination with similarly situated waters will not

be sufficient for waters to have a significant nexus.

Within a single point of entry watershed, over a period of time there will likely be multiple jurisdictional determinations. For paragraph (a)(7) waters, if a case-specific significant nexus determination has been made in the point of entry watershed, all waters in the subcategory in the point of entry watershed are jurisdictional. For paragraph (a)(8) waters, the case-specific significant nexus analyses must use information used in previous jurisdictional determinations, and if a significant nexus has been established for one water in the watershed, then other similarly situated waters in the watershed would also be found to have a significant nexus. This is because under Justice Kennedy's test, similarly situated waters in the region should be evaluated together. A positive significant nexus determination would then apply to all similarly situated waters within the point of the watershed. A negative case-specific significant nexus evaluation under paragraph (a)(7) or (a)(8) of all similarly situated waters in the point of entry watershed applies to all similarly situated waters in that watershed. However, as noted above, a conclusion that significant nexus is lacking may not be based on consideration of a subset of similarly situated waters, because under the significant nexus standard the inquiry is how the similarly situated waters in combination affect the integrity of the downstream water. The documentation for each case should be complete enough to support the specific jurisdictional determination, including an explanation of which waters were considered together as similarly situated and in the same region.

4. Summary of Revisions to Case-Specific Determinations of ''Waters of the United States'' and Major Comments

a. Significant Nexus

Some commenters stated concerns over the potential for inconsistent application of the significant nexus analysis in a jurisdictional determination. To address this concern within the regulatory framework, the agencies provide more detail regarding the definition of significant nexus in the rule and list the specific functions that will be considered in the analysis. This approach provides individual regulators who conduct the analysis clear and consistent parameters that they will consider during their review in making jurisdictional determinations and provides transparency to the regulated public over which factors will be considered.

Overall, there was support for the concept of the single point of entry watershed as the interpretation of ''in the region.'' Several commenters supported the approach that the single point of entry watershed was an appropriate scale to use to measure effect on traditional navigable waters, interstate waters, or the territorial seas. Other commenters felt the single point of entry watershed was too small to capture all the benefits that waters that do not meet the definition of adjacency contribute. Some of the SAB panel members thought that because surface and ground-watershed units may not align, watersheds might be problematic for defining ''in the region.'' These panel members suggested that a more scientifically justified approach would include surface and subsurface waters in a watershed delineation. The agencies have retained the single point of entry watershed from the proposed rule as the appropriate unit of analysis for significant nexus in the final rule as these watersheds are more easily understood and easier to delineate than those that map subsurface waters as the SAB suggested.

With respect to the agencies' approach to ''similarly situated waters,'' commenters offered support for assessing waters in combination based on their type and function, particularly waters such as Prairie potholes. Conversely, several commenters found that the ability to aggregate waters that do not meet the definition of adjacency is over-reaching and causes uncertainty to the regulated public. Some commenters also attributed uncertainty in which waters were regulated to subjectivity in review by Federal regulator(s). Similarly, some commenters were concerned that waters eligible for protection were based on an individual analyst's interpretation and wanted to know how the agencies would address consistency and potential bias. In response, the rule lists in paragraph (a)(7) a limited number of subcategories of waters where waters of the specified types have been determined by rule to be similarly situated for a significant nexus analysis. This will add consistency, predictability, and clarity, as the rule explicitly states that such waters are similarly situated for purposes of the significant nexus analysis. For waters identified under paragraph (a)(8), the agencies have established two limitations: Waters within the 100-year floodplain of a traditional navigable water, interstate water, or the territorial seas, and waters within 4,000 foot feet of a traditional navigable water, interstate water, the territorial seas, impoundment, or covered tributary. The agencies also have established within the definition of significant nexus at paragraph (c)(5) criteria for determining whether waters are similarly situated and should therefore be analyzed in combination. Waters identified under paragraph (a)(8) are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. The agencies have not determined that such waters are categorically similarly situated, so the agencies will base their case-specific determinations of whether a particular water has any similarly situated waters on the available information and science. The rule also clarifies that paragraph (a)(8) waters cannot be considered similarly situated with ''adjacent waters,'' which are jurisdictional by rule, and paragraph (a)(7) waters, which have been determined to be similarly situated by rule. These parameters will reduce inconsistency in reviews and add clarity.

Similarly, several commenters expressed concern that landowners would not know which water bodies on their property are subject to CWA jurisdiction due to aggregation, as waters on their property may be considered similarly situated with waters located off-site. While the rule does not eliminate the use of case-specific significant nexus analyses, and the concern arises from Justice Kennedy's phrase ''similarly situated,'' the parameters placed on waters requiring a case-specific determination and the clearer definition of significant nexus address the concerns about uncertainty and inconsistencies in reviews. In particular, waters that are not either one of the five identified subcategories in paragraph (a)(7) or within the thresholds in paragraph (a)(8) cannot be subject to a case-specific significant nexus analysis under the rule. Generally, jurisdictional determinations are conducted at the request of an applicant or landowner for specific waters. While the agencies cannot arbitrarily depart from a determination that waters are ''similarly situated,'' landowners may provide new information to inform subsequent jurisdictional determinations. In addition, owners with questions regarding jurisdiction of waters on their property may always consult their local Corps District or EPA Regional Office, which is not a change from longstanding practice.

b. Case-Specific Determinations

The rule provides more regulatory certainty by narrowing the scope of waters that can be assessed under a case-specific significant nexus evaluation as compared to the proposal. These changes still allow the scientific value of specific waters not covered in paragraph (a)(1) through (a)(6) to be evaluated on a case-specific basis.

In the proposal, the agencies solicited comment regarding a variety of approaches to the category of waters subject to a case-specific significant nexus analysis. In addition, the agencies solicited comment on additional scientific research and data that might further inform decisions about these waters. In particular the agencies solicited information about whether current scientific research and data regarding particular types of waters are sufficient to support the inclusion of subcategories of types of waters, either alone or in combination with similarly situated waters, that can appropriately be identified as always lacking or always having a significant nexus. One of these alternate approaches in the preamble to the proposed rule was to determine by rule that certain additional subcategories of waters would be jurisdictional rather than addressed with a case-specific basis for determining significant nexus.

Many commenters expressed support for the agencies' proposed approach to case-specific waters, included additional references to support these waters being protected by rule, and supported the treatment of certain categories of waters as similarly situated (that is, evaluating them in combination with similarly situated waters for the purposes of the significant nexus analysis). Some suggested the agencies establish jurisdiction over case-specific waters by rule and provided detailed information in support of their position. Other commenters suggested additional subcategories of waters be considered as jurisdictional or as similarly situated by rule, such as playa lakes, kettle lakes, and woodland vernal pools.

However, there was a concern raised by other commenters about what was termed regulatory overreach and uncertainty created by the ''other waters'' category in the proposal. Some commenters stated that the ''other waters'' category in the proposal would allow the agencies to regulate virtually any water. To address this concern, the rule places limits on which waters could be subject to a case-specific significant nexus determination, in recognition that case-specific analysis of significant nexus is resource-intensive and based on the body of science that exists. As noted above, the agencies also establish by rule subcategories of waters that are ''similarly situated'' for the purposes of a significant nexus analysis because science supports that the subcategory waters fall within a higher gradient of connectivity. By not determining that any one of the waters available for case-specific analysis is jurisdictional by rule, the agencies are recognizing the gradient of connectivity that exists and will assert jurisdiction only when that connection and the downstream effects are significant and more than speculative and insubstantial.

Waters are covered under the rule only where they are identified as jurisdictional in paragraphs (a)(1) through (a)(6), where they are not excluded under paragraph (b), or where they are within the limited number of subcategories listed in paragraphs (a)(7) and (a)(8) and have a case-specific significant nexus to a traditional navigable water, interstate water, or the territorial seas. These limits on jurisdiction reflect the case law and are in response to comments requesting greater regulatory certainty. Although some commenters suggested additional subcategories of waters for consideration, such as playa lakes and kettle lakes, the agencies at this time are not able to determine that the available science supports that the suggested additional subcategories of waters as a class have a significant nexus to traditional navigable waters, interstate waters, or the territorial seas. However, to be clear, under the rule, individual waters of the suggested additional subcategories are jurisdictional where they meet the requirements of paragraphs (a)(1) through (a)(6) or (a)(8) (*e.g.,* a playa lake that is an interstate water, a kettle lake that is an adjacent water, or a woodland vernal pool that is less than 4,000 feet from a jurisdictional tributary and is determined on a case-specific basis to have a significant nexus to a traditional navigable water, interstate water, or the territorial seas).

In consideration of the variety of views of the commenters, the Science Report, the input from the SAB, and the developing state of the science, the agencies reasonably decided not to establish jurisdiction over all waters that do not meet the requirements of paragraph (a)(1) through (a)(6) by rule. Instead, the agencies established case-specific provisions for some specified waters at paragraph (a)(7) and waters within the boundaries at paragraph (a)(8). This approach strikes a balance between requests for clear boundaries and limited case-specific reviews with scientific support.

I. Waters and Features That Are Not ''Waters of the United States''

In the rule, the agencies identify a variety of waters and features that are not ''waters of the United States.'' Prior converted cropland and waste treatment systems have been excluded from this definition since 1992 and 1979, respectively, and they remain substantively and operationally unchanged. Only ministerial changes to delete an outdated cross reference are made to the exclusion for waste treatment systems. The agencies add exclusions for all waters and features identified as generally exempt in preamble language from **Federal Register** documents by the Corps on November 13, 1986, and by EPA on June 6, 1988. This is the first time these exclusions have been established by rule. In addition, under prior preamble language, the agencies retained the authority to determine that a particular feature generally considered non-jurisdictional was in fact a ''water of the United States.'' The agencies do not retain that authority for features excluded under the rule. The agencies for the first time also establish by rule that certain ditches are excluded from jurisdiction. The agencies add exclusions for groundwater and erosional features, as well as exclusions for some waters that were identified in public comments as possibly being found jurisdictional under proposed rule language where this was never the agencies' intent. These exclusions are reflective of current agencies' practice, and their inclusion in the rule furthers the agencies' goal of providing greater clarity over what waters are and are not protected under the CWA. Importantly, under the rule all waters and features identified in paragraph (b) as excluded will not be ''waters of the United States,'' even if they otherwise fall within one of the categories in paragraphs (a)(4) through (a)(8). For example, a ditch that is excluded under paragraph (b)(3)(i) or (b)(3)(ii) is not jurisdictional even when the ditch connects directly or through another water to a traditional navigable water, interstate water, or the territorial seas. The proposed rule referenced paragraphs (a)(1) through (a)(8), but the agencies did not intend to exclude any traditional navigable waters, for example, and the revision clarifies that. Finally, nothing in the rule is intended to change the way in which the Corps applies individual or nationwide permits.

The exclusions reflect the agencies' long-standing practice and technical judgment that certain waters and

features are not subject to the CWA. The exclusions are also guided by Supreme Court cases. The significant nexus standard arises from the case law and is used to interpret the terms of the CWA. Thus, a significant nexus determination is not a purely scientific inquiry, but rather is a determination by the agencies in light of the statutory language, the statute's goals, objectives and policies, the case law, the relevant science, and the agencies' technical expertise and experience. The plurality opinion in *Rapanos* also noted that there were certain features that were not primarily the focus of the CWA. See 547 U.S. at 734. In this section of the proposed rule, the agencies are drawing lines and concluding that certain waters and features are not subject to the jurisdiction of the Clean Water Act. The Supreme Court has recognized that clarifying the lines of jurisdiction is a difficult task: ''Our common experience tells us that this is often no easy task: The transition from water to solid ground is not necessarily or even typically an abrupt one. Rather, between open waters and dry land may lie shallows, marshes, mudflats, swamps, bogs—in short, a huge array of areas that are not wholly aquatic but nevertheless fall far short of being dry land. Where on this continuum to find the limit of 'waters' is far from obvious.'' *Riverside Bayview* at 132–33. The exclusions are an important aspect of the agencies' policy goal of providing clarity and certainty. Just as the categorical assertions of jurisdiction over covered tributaries and covered adjacent waters simplify the jurisdiction issue, the categorical exclusions will likewise simplify the process, and they reflect the agencies' determinations of the lines of jurisdiction based on science, the case law and the agencies' experience and expertise.

The existing exclusion for waste treatment systems moves to paragraph (b)(1) with no substantive changes. One ministerial change is the deletion of a cross-reference in the current language to an EPA regulation that no longer exists. Because the agencies are not addressing the substance of the exclusion, the agencies do not make conforming changes to ensure that each of the existing definitions of the ''waters of the United States'' for the various CWA programs have the exact same language with respect to the waste treatment system exclusion, with the exception of deleting the cross-reference.

Many commenters expressed concern about whether the agencies' insertion of a comma following this ministerial change unintentionally narrowed the exclusion such that all excluded waste treatment systems must be designed to meet the requirements of the Clean Water Act. The commenters indicated concerns that waste treatment systems built before the Clean Water Act or primarily for purposes of other environmental laws could not be exempt. The agencies do not intend to change how the waste treatment exclusion is implemented and have deleted this proposed comma. Continuing current practice, any waste treatment system built in a ''water of the United States'' would need a section 404 permit to be constructed and a section 402 permit for discharges from the waste treatment system into ''waters of United States.''

A number of commenters suggested the agencies clarify how the waste treatment system exclusion is currently implemented. Many comments raised questions about stormwater systems and wastewater reuse and whether such facilities qualified under the waste treatment system exclusion as part of a complete waste treatment system. For clarity, the agencies have identified related exclusions in paragraphs (b)(6) and (b)(7). Many commenters also suggested making substantive changes to the existing exclusion for waste treatment systems. Because the agencies are not making any substantive changes to the waste treatment system exclusion and these comments are outside the scope of the proposed rule, the final rule does not reflect changes suggested in public comments.

The existing exclusion for prior converted cropland moves to paragraph (b)(2) of the rule and is unchanged. A number of commenters suggested changes to the existing exclusion for prior converted cropland. As with waste treatment systems, the preamble to the proposed rule stated this rulemaking was not making changes to the exclusion for prior converted cropland. As a result, comments requesting changes to the prior converted cropland exclusion or seeking clarification of how the exclusion is implemented in the field are outside the scope of this rulemaking, and the rule does not reflect changes or respond to issues raised in public comments. The agencies will continue to implement this exclusion consistent with current policy and practice.

The agencies identify excluded ditches in paragraph (b)(3). Jurisdictional ditches are discussed at more detail in section IV.F. The rule excludes all ditches with ephemeral flow that are not excavated in or relocate a tributary. The rule also excludes ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands, regardless of whether or not the wetland is a jurisdictional water. Finally, ditches that do not connect to a traditional navigable water, interstate water, or territorial sea either directly or through another water are excluded, regardless of whether the flow is ephemeral, intermittent, or perennial. These ditch exclusions are clearer for the regulated public to identify and more straightforward for agency staff to implement than the proposed rule or current policies. The ditch exclusions do not affect the possible status of a ditch as a point source.

Many comments addressed ditches, and many of these comments are reflected in the approach to ditches articulated in the rule. The majority of commenters requested that the agencies' ditch exclusion be clarified or broadened. Many commenters were confused by the term ''uplands'' and did not feel the term had a common understanding. For example, some commenters felt the term referred only to areas at higher elevations in the landscape. Many expressed concerns that all ditches would be jurisdictional under the proposed rule. Many groups especially called for exclusions of roadside ditches.

The revised exclusions reflect the agencies' careful consideration of these comments. First, the agencies have eliminated the term ''uplands'' in response to the questions the term created. Second, the agencies have instead provided a clearer statement of the types of ditches that are subject to exclusion—ditches that are not excavated in or relocate a tributary and ditches that do not drain a wetland. Eliminating the term ''uplands'' with this more straightforward description should improve clarity. Finally, the agencies have more clearly stated the flow regimes in ditches that are subject to the exclusions; these flow regimes are described earlier and have been used by the agencies consistently and are readily understood by field staff and the public.

As noted, the agencies received many comments asking that roadside ditches be addressed, and more specifically excluded, in the final rule. Like the proposed rule, the final rule does not include an explicit exclusion for roadside ditches, but the agencies believe the exclusions included in the final rule will address the vast majority of roadside and other transportation ditches. Moreover, since the agencies have focused in the final rule on the physical characteristics of excluded ditches, the exclusions will address all ditches that the agencies have

concluded should not be subject to jurisdiction, including certain ditches on agricultural lands and ditches associated with modes of transportation, such as roadways, airports, and rail lines.

As discussed in Section IV.F.1., the definition of tributary includes natural, undisturbed waters and those that have been man-altered or constructed, but which science shows function as a tributary. In addition, natural streams and rivers that are altered or modified for purposes as flood control, erosion control, and other reasons does not convert the tributary to a ditch. A stream or river that has been channelized or straightened because its natural sinuosity has been altered, cutting off the meanders, is not a ditch. A stream that has banks stabilized through use of concrete or rip-rap (*e.g.,* rocks or stones) is not a ditch. The Los Angeles River, for example, is a ''water of the United States'' (and, indeed, a traditional navigable water) and remains a ''water of the United States'' and is not a excluded under paragraph (b)(3), even where it has been ditched, channelized, or concreted.

The rule excludes ditches with ephemeral flow except where a ditch is excavated in or relocates a covered tributary. Under the rule, that portion of a ditch with ephemeral flow actually excavated in or relocating the covered tributary would be considered jurisdictional. The jurisdictional status of upstream and downstream portions of the same ditch would have to be assessed based on the specific facts and under the terms of the rule to determine flow characteristics and whether or not the ditch is excavated in or relocates a tributary. This approach reasonably balances the exclusion with the need to ensure that covered tributaries, and the significant functions they provide, are preserved. A ditch that relocates a stream is not an excluded ditch under paragraph (b)(3), and a stream is relocated either when at least a portion of its original channel has been physically moved, or when the majority of its flow has been redirected. A ditch that is a relocated stream is distinguishable from a ditch that withdraws water from a stream without changing the stream's aquatic character. The latter type of ditch is excluded from jurisdiction where it meets the listed characteristics of excluded ditches under paragraph (b)(3). The agencies will determine historical presence of tributaries using a variety of resources, such as USGS and state and local maps, historic aerial photographs, local surface water management plans, street maintenance data, wetlands and conservation programs and plans, as well as functional assessments and monitoring efforts.

The rule also excludes ditches with intermittent flow except where a ditch is excavated in or relocates a covered tributary, or drains wetlands. Where an excluded ditch drains a wetland, the segment of the ditch that physically intersects the wetland would be considered jurisdictional. The jurisdictional status of upstream and downstream portions of the same ditch would have to be assessed based on the specific facts and under the terms of the rule to determine flow characteristics and whether or not the ditch drains a wetland. The provision of paragraph (b)(3) addressing draining of wetlands is specific to ditches with intermittent flow. As discussed previously, features that are ephemeral will flow only in response to precipitation events, such as rainfall or snowmelt. Ditches with ephemeral flow, therefore, do not typically have the flow characteristics characteristic of ditches that drain wetlands. The agencies have accordingly focused on intermittent ditches that drain wetlands.

In addition, the agencies clarify that a ditch drains a wetland when it physically intersects the wetland. If the ditch has been cut to carry only ephemeral flows, such as those following a storm event, the effect of the ditch is minimal as it carries only that flow that overtops the wetland during and immediately following the rain event. However, if the ditch has been cut to carry intermittent or perennial flows from the wetland, the ditch is serving as a conduit for transferring flow from the wetland to a downstream tributary. As a result of the cut ditch, the wetland's hydrologic regime is modified and can generally affect the natural functions performed by the wetland. When the ditch has been cut to carry intermittent or perennial flow from the wetland to the downstream tributary, the wetland soils and vegetation can shift into a community that supports less hydric soils and a mix of riparian or upland vegetation. Consequently, the ditch is draining the wetland and the wetland quality degrades and may cease to exist over time. Therefore, a ditch that carries intermittent flow and physically intersects with a wetland is not excluded under this provision.

A number of commenters expressed concern that a ditch could be viewed as both a point source and a ''water of the United States.'' However, the approach that ditches can be considered both reflects the CWA itself as well as longstanding agency policy.

Paragraph (b)(4) of the rule identifies features and waters that the agencies have identified as generally not ''waters of the United States'' in previous preambles or guidance documents. Codifying these longstanding practices supports the agencies' goals of providing greater clarity, certainty, and predictability for the regulated public and the regulators. The agencies' 1986 and 1988 preambles indicated that these waters could be determined on a case-specific basis to be ''waters of the United States.'' This rule does not allow for this case-specific analysis to be used to establish jurisdiction—these waters are categorically excluded from jurisdiction. Some of the exclusions have been modified slightly to address public comments and improve clarity. The following features are not ''waters of the United States'':

- Artificially irrigated areas that would revert to dry land should application of irrigation water to that area cease
- Artificial, constructed lakes or ponds created by excavating and/or diking dry land such as farm and stock watering ponds, irrigation ponds, settling basins, log cleaning ponds, cooling ponds, or fields flooded for rice growing
- Artificial reflecting pools or swimming pools created by excavating and/or diking dry land
- Small ornamental waters created by excavating and/or diking dry land for primarily aesthetic reasons
- Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand or gravel that fill with water
- Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways
- Puddles

Several of these exclusions use the phrase ''dry land.'' This phrase appears in the 1986 and 1988 preambles, and the agencies believe the term is well understood based on the more than 30 years of practice and implementation. But in keeping with the goal of providing greater clarity, the agencies state that ''dry land'' refers to areas of the geographic landscape that are not water features such as streams, rivers, wetlands, lakes, ponds and the like. However, it is important to note that a ''water of the United States'' is not considered ''dry land'' just because it lacks water at a given time. Similarly, an area remains ''dry land'' even if it is wet after a rainfall event. The agencies received comments suggesting that the

final rule provide a definition of ''dry land'' as it relates to the exclusion for stormwater control features. The agencies considered the request and determined that there was no agreed upon definition given geographic and regional variability. The agencies concluded that further clarity on this issue can be provided during implementation.

In the exclusion for artificial lakes or ponds, the agencies have removed language regarding ''use'' of the ponds, including the term ''exclusively.'' In most cases, the ''use'' of the pond is captured in its name. More importantly, the agencies recognize that artificial lakes and ponds are often used for more than one purpose and can have other beneficial purposes, such as animal habitat, water retention or recreation. For example, rice growing is typically facilitated by land leveling and inundation that floods vast areas. The fields are flooded for the purpose of weed control and to facilitate rice cultivation, but these rice fields are often extensively used by waterfowl and other wildlife. The agencies agree with commenters who raised concern that rice fields ''used'' both for rice growing and waterfowl habitat should continue to be excluded even where they are not used ''exclusively'' for a single purpose. The change to the exclusion reflects the agencies' practice and ensures that waters the agencies have historically not treated as jurisdictional do not become so because of another incidental beneficial use.

The agencies have also added farm ponds, log cleaning ponds, and cooling ponds to the list of excluded ponds in the rule based on public comments. The list of ponds has always been illustrative rather than exhaustive, and the additions respond to requests to clarify that farm ponds, and log cleaning ponds [12] created in dry land are excluded. The agencies have also added cooling ponds created in dry land to the list of excluded waters. The agencies also note that cooling ponds that are created under section 404 in jurisdictional waters and that have NPDES permits are subject to the waste treatment system exclusion, which is not changing. Cooling ponds created to serve as part of a cooling water system with a valid state permit constructed in waters of the United States prior to enactment of the Clean Water Act and currently excluded from jurisdiction remain excluded under the new rule. Additional ponds will also likely fall under the exclusion based on site specific evaluation, including, for example, fire control ponds and fishing ponds excavated from dry land. Artificial lakes and ponds created in dry land that do not connect to jurisdictional waters are covered by this exclusion. Where these ponds do connect and discharge to jurisdictional waters, the agencies will evaluate factors such as the potential for introduction of pollutants and coverage under an issued NPDES permit. As a general matter, ponds created in dry land that discharge to ''waters of the United States'' are covered by the exclusion where such discharge is regulated under a NPDES permit. Conveyances created in dry land that are physically connected to and are a part of the excluded feature are also excluded. These artificial features are working together as a system, and it is appropriate to treat them as one functional unit. The agencies emphasize that ponds excluded from ''waters of the United States'' can, in some circumstances, be point sources of pollution subject to section 301 of the Act.

The rule includes several refinements to the exclusion for water-filled depressions created as a result of certain activities. In addition to construction activity, the agencies have also excluded water-filled depressions created in dry land incidental to mining activity. This change is consistent with the agencies' 1986 and 1988 preambles, which generally excluded pits excavated for obtaining fill, sand or gravel, and there is no need to distinguish between features based on whether they are created by construction or mining activity.

The agencies also here clarify their longstanding view that only the specific land being directly irrigated that would revert to dry land should irrigation cease is exempt; it is not the case that all waters within watersheds where irrigation occurs are exempt.

The rule identifies all erosional features, including gullies and rills, as non-jurisdictional features. While the proposed rule specifically identified gullies and rills, the agencies intended that all erosional features would be excluded. The final rule makes this clear. Erosional features are not jurisdictional under the terms of paragraph (a) and the definitions in paragraph (c), especially the definition of tributary. These features are specifically excluded in the rule to avoid confusion, because preceding guidance identified them as non-jurisdictional and many commenters stated these exclusions were important to maintain in the rule.

Tributaries can be distinguished from erosional features by the presence of bed and banks and an ordinary high water mark. Concentrated surface runoff can occur within erosional features without creating the permanent physical characteristics associated with bed and banks and ordinary high water mark. *See* Technical Support Document. It should be noted that some ephemeral streams are colloquially called ''gullies'' or the like even when they exhibit a bed and banks and an ordinary high water mark; regardless of the name they are given locally, waters that meet the definition of tributary are not excluded erosional features.

The rule also excludes lawfully constructed grassed waterways. Grassed waterways are lawfully constructed for purposes of this rule either where they are on dry land and replace non-jurisdictional erosional features or, more commonly, where they have been lawfully converted from an intermittent or ephemeral stream under a CWA permit. Once converted to grassed waterways, these former streams segments no longer exhibit a bed and banks or ordinary high water mark and are excluded because they do not meet the definition of ''tributary.'' However, such conversion does not sever jurisdiction over the entire length of the tributary above and below the grassed waterway. Instead, the grassed waterway is considered a constructed break in the bed and banks and ordinary high water mark. This is reflected in the definition of tributary, which specifically addresses natural or man-made breaks in bed and banks and ordinary high water mark.

The final rule adds an exclusion for puddles. The proposed rule did not explicitly exclude puddles because the agencies have never considered puddles to meet the minimum standard for being a ''water of the United States,'' and it is an inexact term. A puddle is commonly considered a very small, shallow, and highly transitory pool of water that forms on pavement or uplands during or immediately after a rainstorm or similar precipitation event. However, numerous commenters asked that the agencies expressly exclude them in a rule. The final rule does so.

The agencies include an exclusion for groundwater, including groundwater drained through subsurface drainage systems. As discussed in the preamble to the proposed rule, the agencies have never interpreted ''waters of the United States'' to include groundwater. The exclusion does not apply to surface expressions of groundwater, as some commenters requested, such as where groundwater emerges on the surface and

[12] Log cleaning ponds are used to float logs for removal of twigs, branches, and large knots.

becomes baseflow in streams or spring fed ponds.

The final rule includes a new exclusion in paragraph (b)(6) for stormwater control features constructed to convey, treat, or store stormwater that are created in dry land. The agencies stated in the proposed rule that the exclusions were guided by decisions of the Supreme Court and were intended to further the agencies' goal of providing clarity and certainty. The agencies in the proposed rule sought to provide a ''full description'' of the waters that will not be ''waters of the United States.'' 79 FR at 22218. In response to the agencies' proposal, several commenters indicated additional clarity was needed, particularly with respect to stormwater control features and wastewater recycling facilities. This exclusion responds to numerous commenters who raised concerns that the proposed rule would adversely affect municipalities' ability to operate and maintain their stormwater systems, and also to address confusion about the state of practice regarding jurisdiction of these features at the time the rule was proposed.

The agencies' longstanding practice is to view stormwater control measures that are not built in ''waters of the United States'' as non-jurisdictional. Conversely, the agencies view some waters, such as channelized or piped streams, as jurisdictional currently even where used as part of a stormwater management system. Nothing in the proposed rule was intended to change that practice. Nonetheless, the agencies recognize that the proposed rule brought to light confusion about which stormwater control features are jurisdictional waters and which are not, and agree that it is appropriate to address this confusion by creating a specific exclusion in the final rule for stormwater controls features that are created in dry land.

Many commenters, particularly municipalities and other public entities that operate storm sewer systems and stormwater management programs, expressed concern that various stormwater control measures—such as stormwater treatment systems, rain gardens, low impact development/green infrastructure, and flood control systems—could be considered ''waters of the United States'' under the proposed rule, either as part of a tributary system, an adjacent water, or as a result of a case-specific significant nexus analysis. This exclusion should clarify the appropriate limits of jurisdiction relating to these systems. A key element of the exclusion is whether the feature or control system was built in dry land and whether it conveys, treats, or stores stormwater. Certain features, such as curbs and gutters, may be features of stormwater collection systems, but have never been considered ''waters of the United States.''

Stormwater control features have evolved considerably over the past several years, and their nomenclature is not consistent, so in order to avoid unintentionally limiting the exclusion, the agencies have not included a list of excluded features in the rule. The rule is intended to exclude the diverse range of control features that are currently in place and may be developed in the future.

Traditionally, stormwater controls were designed to direct runoff away from people and property as quickly as possible. Cities built systems to collect, convey, or store stormwater, using structures such as curbs, gutters, and sewers. Often, cities used existing stream networks as part of the stormwater drainage network. Retention and detention stormwater ponds were built to store excess stormwater until it could be more safely released.

Recently, treatment of stormwater has become more prevalent to remove harmful pollutants before the stormwater is discharged. Even more recently, cities have turned to green infrastructure, using existing natural features or creating new features that mimic natural hydrological processes that work to infiltrate or evapo-transpirate precipitation, to manage stormwater at its source and keep it out of the conveyance system. These engineered components of stormwater management systems can address both water quantity and quality concerns, as well as provide other benefits to communities. This rule is designed to avoid disincentives to this environmentally beneficial trend in stormwater management practices. This exclusion does not cover transportation ditches; those ditches are addressed under paragraph (b)(3) of the rule. As discussed above, the exclusion in paragraph (b)(6) is intended to address engineered stormwater control structures in municipal or urban environments. Stormwater control features are designed to address runoff that occurs during and shortly after precipitation events; as a result, stormwater features that convey runoff are expected to only carry ephemeral or intermittent flow. For ease of implementation, the agencies want water features to be dealt with under only one provision of the rule. However, the agencies do not expect the scope of ditches excluded to be different under paragraphs (b)(3) and (b)(6), so there should be little practical need to distinguish between the two.

Paragraph (b)(7) of the rule clarifies that wastewater recycling structures constructed in dry land are excluded. This new exclusion clarifies the agencies' current practice that such waters and water features used for water reuse and recycling are not jurisdictional when constructed in dry land. The agencies recognize the importance of water reuse and recycling, particularly in areas like California and the Southwest where water supplies can be limited and droughts can exacerbate supply issues. This exclusion responds to numerous commenters and encourages water reuse and conservation while still appropriately protecting the chemical, physical, and biological integrity of the nation's water under CWA.

The agencies specifically exclude constructed detention and retention basins created in dry land used for wastewater recycling as well as groundwater recharge basins and percolation ponds built for wastewater recycling. Many commenters noted the growing interest in and commitment to water recycling and reuse projects. Detention and retention basins can play an important role in capturing and storing water prior to beneficial reuse. Similarly, groundwater recharge basins and percolation ponds are becoming more prevalent tools for water reuse and recycling. These features are used to collect and store water, which then infiltrates into groundwater via permeable soils. Though these features are often created in dry land, they are also often located in close proximity to tributaries or other larger bodies of water. The exclusion also covers water distributary structures that are built in dry land for water recycling. These features often connect or carry flow to other water recycling structures, for example a channel or canal that carries water to a percolation pond. The agencies have not considered these water distributary systems jurisdictional where they do not have surface connections back into, and contribute flow to, ''waters of the United States.'' In contrast, the agencies have consistently regulated aqueducts and canals as ''waters of the United States'' where they serve as tributaries, removing water from one part of the tributary network and moving it to another. The exclusion in paragraph (b)(7) codifies long-standing agency practice and encourages water management practices that the agencies agree are important and beneficial.

The agencies also received other suggestions for new exclusions that

were not adopted in the final rule. The agencies determined that it was not appropriate or necessary to add certain requested exclusions for one or more reasons, including: (1) The requested exclusion was so broadly characterized as to introduce significant confusion and potentially have the effect of excluding waters that the agencies have consistently determined should be covered as ''waters of the U.S.,'' (2) the requested exclusion was so site-specific or activity-based as to lack illustrative value, or (3) the requested exclusion was likely covered by another exclusion in the final rule.

It is important to note that while the waters listed in the exclusions are not ''waters of the United States,'' they can serve as a hydrologic connection that the agencies would consider under a case-specific significant nexus under paragraphs (a)(7) and (a)(8). For example, a wetland may be directly hydrologically connected to a covered tributary via flow through an excluded non-wetland swale. While the swale itself is excluded from jurisdiction, the connection of the wetland to the tributary is relevant for determining whether the wetland has a significant nexus to downstream traditional navigable waters, interstate waters, or the territorial seas. In addition, these geographic features may function as ''point sources'' under CWA section 502(14), such that discharges of pollutants to waters through these features would be subject to other CWA regulations (*e.g.,* CWA section 402).

V. Economic Impacts

This rule establishing the definition of ''waters of the United States,'' by itself, imposes no direct costs. The potential costs and benefits incurred as a result of this rule are considered indirect, because the rule involves a definitional change to a term that is used in the implementation of CWA programs (*i.e.,* sections 303, 305, 311, 401, 402, and 404). Entities currently are, and will continue to be, regulated under these programs that protect ''waters of the United States'' from pollution and destruction. Each of these programs may subsequently impose direct or indirect costs as a result of implementation of their specific regulations.

While the rule imposes no direct costs, the agencies prepared an economic analysis for informational purposes. In preparing the economic analysis to accompany the final rule, the agencies considered what should be the appropriate baseline for comparison. Existing regulations and historic practice in implementing them represent one appropriate baseline for comparison, and because the final rule is narrower in jurisdictional scope than the existing regulations, there would be no additional costs in comparison to this baseline. A comparison to recent field practice following the 2008 guidance is also an appropriate baseline, and the agencies prepared illustrative estimates of how the costs and benefits of various CWA programs may change with an increase in positive jurisdictional determinations relative to that baseline.

To estimate changes in potential costs and benefits of different CWA programs, the economic analysis utilizes available program data to estimate the extent to which assertion of jurisdiction might change under the associated final policies. The proposed rule analysis utilized CWA Section 404 jurisdictional determination and permit data from fiscal years 2009–2010 (post *SWANCC* and *Rapanos*), following issuance of program guidance in 2008 by the EPA and the Corps. The analysis for the final rule has been updated using data from fiscal years 2013–2014, providing a comparison to a more recent year of data, which responds to public comments. An estimate of how assertion of jurisdiction may change compared to the recent practice baseline, developed using updated data from fiscal years 2013–2014 jurisdictional determinations, is then applied to cost and benefit information for affected CWA programs. Additional updates to the economic analysis include a refined approach to calculating benefits from section 404 compensatory mitigation, differentiating between emergent and forested wetlands, as well as presenting results in ranges to reflect uncertainty. The agencies' economic analysis yielded the following key conclusions:

- Compared to the current regulations and historic practice of making jurisdictional determinations, the scope of jurisdictional waters will decrease, as would the costs and benefits of CWA programs.
- Compared to a baseline of recent practice, the agencies assessed two scenarios. Those scenarios result in an estimated increase of between 2.84 and 4.65 percent in positive jurisdictional determinations annually.
- The agencies' analysis indicates that for both scenarios, the change in benefits of CWA programs exceed the costs by a ratio of greater than 1:1.
- The economic analysis estimates that incremental annual costs for scenario 1 will range from $158M–$307M and incremental annual benefits will range from $339M–$350M and, for scenario 2, costs will range from $237M–$465M and benefits will range from $555M–$572M.

The agencies conducted this economic analysis to provide the public with information on the potential changes to the costs and benefits of various CWA programs that may result from a change in the number of positive jurisdictional determinations. The economic analysis was done for informational purposes only, and the final decisions on the scope of ''waters of the United States'' in this rulemaking are not based on consideration of the information in the economic analysis. The economic analysis fulfills the requirements of Executive Orders 13563 and 12866. An explanation of the data, methods, and assumptions used to estimate indirect costs and benefits can be found in the *Economic Analysis for the Clean Water Rule; Definition of ''Waters of the United States'' Under the Clean Water Act (Final Rule)* in the accompanying docket.

VI. Related Acts of Congress, Executive Orders, and Agency Initiatives

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' Accordingly, EPA and the Army submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

In addition, EPA and the Army prepared an analysis of the potential costs and benefits associated with this action. This analysis is contained in *Economic Analysis of the EPA-Army Clean Water Rule.* A copy of the analysis is available in the docket for this action.

B. Paperwork Reduction Act

This action does not impose any information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). 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 numbers for the CWA section 402 program may be found at 40 CFR 9.1. (OMB Control No. 2040–0004, EPA ICR No. 0229.19). For the CWA section 404 regulatory

program, the current OMB approval number for information requirements is maintained by the Corps of Engineers (OMB approval number 0710–0003). However, there are no new approval or application processes required as a result of this rulemaking that necessitate a new Information Collection Request (ICR).

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of this final action on small entities, ''small entity'' is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration's size standards (see 13 CFR 121.201); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this rule on small entities, we certify that this final rule will not have a significant economic impact on a substantial number of small entities. See, *e.g., Cement Kiln Recycling Coalition* v. *EPA,* 255 F.3d 855 (D.C. Cir. 2001); *Michigan* v. *EPA,* 213 F.3d 663 (D.C. Cir. 2000); *Am. Trucking Ass'n* v. *EPA,* 175 F.3d 1027 (D.C. Cir. 1999); *Mid-Tex Elec. Co-op, Inc.* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985).

Under the RFA, the impact of concern is any significant *adverse* economic impact on small entities, because the primary purpose of the initial regulatory flexibility analysis is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603. The scope of jurisdiction in this rule is narrower than that under the existing regulations. *See* 40 CFR 122.2 (defining ''waters of the United States''). Because fewer waters will be subject to the CWA under the rule than are subject to regulation under the existing regulations, this action will not affect small entities to a greater degree than the existing regulations. As a consequence, this action will not have a significant adverse economic impact on a substantial number of small entities, and therefore no regulatory flexibility analysis is required.

This rule is not designed to ''subject'' any entities of any size to any specific regulatory burden. Rather, it is designed to clarify the statutory scope of ''the waters of the United States, including the territorial seas,'' section 502(7), consistent with Supreme Court precedent. This question of CWA jurisdiction is informed by the tools of statutory construction and the geographical and hydrological factors identified in *Rapanos* v. *United States,* 547 U.S. 715 (2006), which are not factors readily informed by the RFA.

Nevertheless, the scope of the term ''waters of the United States'' is a question that has continued to generate substantial interest, particularly within the small business community, because permits must be obtained for many discharges of pollutants into those waters. In light of this interest, the EPA and the Army determined to seek wide input from representatives of small entities while formulating the proposed and final definition of this term that reflects the intent of Congress consistent with the mandate of the Supreme Court's decisions. Such outreach, although voluntary, is also consistent with the President's January 18, 2011 Memorandum on Regulatory Flexibility, Small Business, and Job Creation, which emphasizes the important role small businesses play in the American economy. This process has enabled the agencies to hear directly from these representatives, throughout the rule development, about how they should approach this complex question of statutory interpretation, together with related issues that such representatives of small entities may identify for possible consideration in separate proceedings. The agencies have prepared a report summarizing their small entity outreach, the results of this outreach, and how these results have informed the development of this rule. This report, *Report of the Discretionary Small Entity Outreach for the Revised Definition of Waters of the United States* (Docket Id. No. EPA–HQ–OW–2011–0880–1927), is available in the docket.

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538), and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments, or the private sector, and does not contain regulatory requirements that might significantly or uniquely affect small governments. The definition of ''waters of the United States'' applies broadly to CWA programs.

E. Executive Order 13132: Federalism

This rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

Keeping with the spirit of Executive Order 13132 and consistent with the agencies' policy to promote communications with state and local governments, the agencies consulted with state and local officials throughout the process and solicited their comments on the proposed action and on the development of the rule.

For this rule state and local governments were consulted at the onset of rule development in 2011, and following the publication of the proposed rule in 2014. In addition to engaging key organizations under federalism, the agencies sought feedback on this rule from a broad audience of stakeholders through extensive outreach to numerous state and local government organizations.

Early in the rulemaking process, EPA held two in-person meetings and two phone calls in the fall and winter of 2011. Organizations involved include the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the County Executives of America, the National Associations of Towns and Townships, the International City/County Management Association, and the Environmental Council of the States. Additionally, the National Association of Clean Water Agencies and the Association of Clean Water Administrators were invited to participate. The agencies held many additional calls and meetings with state and local governments and their associations, in preparation for the development of a proposed rule.

Similarly to the outreach conducted prior to the development of the rule, the agencies committed themselves to providing a transparent, comprehensive, and effective process for taking public comment on the proposed rule. As part of this consultation, EPA held a meeting on May 13, 2014 to seek technical input on the proposed rule from the largest

national representative organizations for State and local governments. During this process the agencies also extended its focused outreach to include a series of meetings with the Local Government Advisory Committee, and the Environmental Council of the States in conjunction with the Association of Clean Water Administrators and the Association of State Wetland Managers. In addition to engaging these key organizations, the agencies sought additional feedback on the proposed rule through broader public outreach to state and local government organizations during the public comment period.

During the consultation process, some participants expressed concern that the proposed changes may impose a resource burden on state and local governments. Some participants urged EPA to ensure that states are not unduly burdened by the regulatory revisions.

The agencies have prepared a report summarizing their voluntary consultation and extensive outreach to State, local, and county governments, the results of this outreach, and how these results have informed the development of today's rule. This report, *Report on the Discretionary Consultation and Outreach to State, Local, and County Governments on the Clean Water Rule: Definition of ''Waters of the United States;'' Final Rule* (Docket Id. No. EPA–HQ–OW–2011–0880) is available in the docket for this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Subject to the Executive Order (E.O.) 13175 (65 FR 67249, November 9, 2000), agencies generally may not issue a regulation that has tribal implications, (1) that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or the agencies consult with tribal officials early in the process of developing the proposed regulation and develop a tribal summary impact statement, or (2) that preempts tribal law unless the agencies consult with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

This action does not have tribal implications as specified in E.O. 13175. In compliance with the EPA Policy on Consultation and Coordination with Indian Tribes (May 4, 2011), the agencies consulted with tribal officials throughout the rulemaking process to gain an understanding of tribal views and solicited their comments on the proposed action and on the development of this rule. In the course of this consultation, EPA and the Corps jointly participated in aspects of the process.

The agencies began consultation with federally-recognized Indian tribes on the Clean Water Rule defining ''waters of the United States'' in October 2011. The consultation and coordination process, including providing information on the development of an accompanying science report on the connectivity of streams and wetlands, continued, in stages, over a four year period, until the close of the public comment period on November 14, 2014. EPA invited tribes to provide written input on the rulemaking throughout both the tribal consultation process and public comment period.

EPA specifically consulted with tribal officials to gain an understanding of, and to address, the tribal views on the proposed rule. In 2011, close to 200 tribal representatives and more than 40 tribes participated in the consultation process, which included multiple webinars and national teleconferences and face-to-face meetings. In addition, EPA received written comments from three tribes during the initial consultation period.

EPA continued to provide status updates to the National Tribal Water Council and the National Tribal Caucus during 2012 through 2014. The final consultation event was completed on October 23, 2014 as a national teleconference with the Office of Water's Deputy Assistant Administrator. Ultimately, EPA received an additional 23 letters from tribes/tribal organizations by the completion of the consultation period. The comments indicated that Tribes, overall, support increased clarity of waters protected by the Clean Water Act, but some expressed concern with the consultation process and the burden of any expanded jurisdiction. The agencies considered the feedback received through consultation and written comments in developing today's rule.

The agencies have prepared a report summarizing their consultation with tribal nations, and how these results have informed the development of this rule. This report, *Final Summary of Tribal Consultation for the Clean Water Rule: Definition of ''Waters of the United States'' Under the Clean Water Act; Final Rule* (Docket Id. No. EPA–HQ–OW–2011–0880), is available in the docket for this rule.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because the environmental health or safety risks addressed by this action do not present a disproportionate risk to children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs federal agencies to use voluntary consensus standards in regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs federal agencies to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This rule does not involve technical standards. Therefore, the agencies are not considering the use of any voluntary consensus standards.

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

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

The agencies have determined that the rule will not have disproportionately high and adverse

human health or environmental effects on minority or low-income populations, because it does not adversely affect the level of protection provided to human health or the environment.

The rule defines the scope of waters protected under the CWA. The increased clarity regarding the definition of ''waters of the United States'' is intended to benefit all regulators, stakeholders, and interested parties. In addition, this rule is national in scope and, therefore, is not specific to a particular geographic area.

In the spirit of E.O. 12898, input from environmental justice stakeholders was requested during the rule development process, through a series of stakeholder meetings between April and November 2014. On May 12, 2014, EPA held a focused teleconference with non-traditional stakeholders, including environmental justice and faith-based stakeholders, to solicit their individual input on the proposed rule. The agencies have used the feedback from public outreach as the source of early guidance and recommendations for refining the proposed rule. Stakeholder input received during public outreach events in combination with the written comments received during the public comment period have reshaped each of the definitions included in today's rule, and incorporate increased clarity for regulators, stakeholders, and the regulated public to assist them in identifying waters as ''waters of the United States.''

The agencies prepared a report summarizing their outreach to the environmental justice community, analysis of potential impacts, and how these results informed the development of the rule. This report, *Environmental Justice Report for the Clean Water Rule: Definition of ''Waters of the United States'' Under the Clean Water Act; Final Rule* (Docket Id. No. EPA–HQ–OW–2011–0880), is available in the docket for this rule.

K. Congressional Review Act

This action is subject to the Congressional Review Act (CRA), and the agencies will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is a ''major rule'' as defined by 5 U.S.C. 804(2) based on potential indirect costs.

L. Environmental Documentation

In this joint rulemaking, the agencies establish a definitional rule that clarifies the scope of the Clean Water Act. The definition will apply to all provisions of the Act, and this regulation specifically amends EPA regulations implementing sections 301, 304, 306, 311, 402 and 404, while the Army is making substantively identical revisions to its regulations under section 404 of the CWA. Section 511(c) of the Clean Water Act provides that, except for certain actions not relevant here, no action by EPA constitutes 'a major federal action significantly affecting the quality of the human environment within the meaning of [NEPA]''.

The Army has prepared a final environmental assessment and Findings of No Significant Impact consistent with the National Environmental Policy Act (NEPA). The Army has determined that the rule is not a major federal action significantly affecting the quality of the human environment that would require the preparation of an environmental impact statement. The assessment is contained in the record for this rulemaking. Furthermore, appropriate environmental documentation, including an EIS when required, is prepared by the Corps for general permits and specifically for each and every standard individual permit application before making final permit decisions.

M. Judicial Review

Section 509(b)(1) of the CWA provides for judicial review in the courts of appeals of specifically enumerated actions of the Administrator. The Supreme Court and lower courts have reached different conclusions on the types of actions that fall within section 509. *Compare, E.I. du Pont de Nemours and Co.* v. *Train,* 430 U.S. 112 (1977); *NRDC* v. *EPA,* 673 F.2d 400 (D.C. Cir. 1982); *National Cotton Council of Amer.* v. *EPA,* 553 F.3d 927(6th Cir. 2009) *cert denied* 559 U.S. 936 (2010) *with, Northwest Environmental Advocates* v. *EPA,* 537 F.3d 1006 (9th Cir. 2008); *Friends of the Everglades* v. *EPA,* 699 F.3d 1280 (11th Cir. 2012) *cert denied* 559 U.S. 936 (2010).

See **DATES** section for information regarding the timing for seeking judicial review of this rule.

List of Subjects

33 CFR Part 328

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Navigation, Water pollution control, Waterways.

40 CFR Parts 110, 112, 116, 117, 122, 230, 232, 300, 301, and 401

Environmental protection, Water pollution control.

Dated: May 27, 2015.

Gina McCarthy,

Administrator, Environmental Protection Agency.

Dated: May 27, 2015.

Jo-Ellen Darcy,

Assistant Secretary of the Army, (Civil Works), Department of the Army.

Title 33—Navigation and Navigable Waters

For the reasons set out in the preamble, title 33, chapter II of the Code of Federal Regulations is amended as follows:

PART 328—DEFINITION OF WATERS OF THE UNITED STATES

■ 1. The authority citation for part 328 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 2. Section 328.3 is amended by revising paragraphs (a) through (c), removing paragraphs (d) and (e), and redesignating paragraph (f) as paragraph (d) to read as follows:

§ 328.3 Definitions.

* * * * *

(a) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (b) of this section, the term ''waters of the United States'' means:

(1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters, including interstate wetlands;

(3) The territorial seas;

(4) All impoundments of waters otherwise identified as waters of the United States under this section;

(5) All tributaries, as defined in paragraph (c)(3) of this section, of waters identified in paragraphs (a)(1) through (3) of this section;

(6) All waters adjacent to a water identified in paragraphs (a)(1) through (5) of this section, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(7) All waters in paragraphs (a)(7)(i) through (v) of this section where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1) through (3) of this section. The waters identified in each of paragraphs (a)(7)(i) through (v) of this section are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (a)(1)

through (3) of this section. Waters identified in this paragraph shall not be combined with waters identified in paragraph (a)(6) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (a)(6), they are an adjacent water and no case-specific significant nexus analysis is required.

(i) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(ii) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(iii) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(iv) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(v) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(8) All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1) through (3) of this section and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (a)(1) through (5) of this section where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1) through (3) of this section. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (a)(1) through (3) of this section or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (a)(6) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (a)(6), they are an adjacent water and no case-specific significant nexus analysis is required.

(b) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (a)(4) through (8) of this section.

(1) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act.

(2) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(3) The following ditches:

(i) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(ii) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(iii) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (3) of this section.

(4) The following features:

(i) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(ii) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(iii) Artificial reflecting pools or swimming pools created in dry land;

(iv) Small ornamental waters created in dry land;

(v) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(vi) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(vii) Puddles.

(5) Groundwater, including groundwater drained through subsurface drainage systems.

(6) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(7) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(c) *Definitions.* In this section, the following definitions apply:

(1) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (a)(1) through (5) of this section, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (a)(1) through (5) of this section. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (a)(1) through (5) or are located at the head of a water identified in paragraphs (a)(1) through (5) of this section and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(2) *Neighboring.* The term *neighboring* means:

(i) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (a)(1) through (5) of this section. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(ii) All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1) through (5) of this section and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(iii) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of this section, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(3) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (a)(4) of this section), to a water identified in paragraphs (a)(1) through (3) of this section that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (b) of this

section. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (a)(1) through (3) of this section.

(4) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(5) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (a)(1) through (3) of this section. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (a)(1) through (3) of this section. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream paragraph (a)(1) through (3) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (c)(5)(i) through (ix) of this section. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (a)(1) through (3) of this section. Functions relevant to the significant nexus evaluation are the following:

(i) Sediment trapping,

(ii) Nutrient recycling,

(iii) Pollutant trapping, transformation, filtering, and transport,

(iv) Retention and attenuation of flood waters,

(v) Runoff storage,

(vi) Contribution of flow,

(vii) Export of organic matter,

(viii) Export of food resources, and

(ix) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (a)(1) through (3) of this section.

(6) *Ordinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(7) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

* * * * *

Title 40—Protection of Environment

For reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 110—DISCHARGE OF OIL

■ 3. The authority citation for part 110 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.,* 33 U.S.C. 1321(b)(3) and (b)(4) and 1361(a); E.O. 11735, 38 FR 21243, 3 CFR parts 1971–1975 Comp., p. 793.

■ 4. Section 110.1 is amended by removing the definition of ''wetlands'' and revising the definition of ''navigable waters'' to read as follows:

§ 110.1 Definitions.

* * * * *

Navigable waters means waters of the United States, including the territorial seas.

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (2) of this section, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (3)(iii) of this definition, of waters identified in paragraphs (1)(i) through (iii) of this definition;

(vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this section.

(i) Waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

(ii) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(iii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(v) Groundwater, including groundwater drained through subsurface drainage systems.

(vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this definition, the following terms apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(1) through (v) of this definition. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this section), to a water identified in paragraphs (1)(i) through (iii) of this definition that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this definition.

(vi) O*rdinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

* * * * *

PART 112—OIL POLLUTION PREVENTION

■ 5. The authority citation for part 112 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 6. Section 112.2 is amended by removing the definition of ''wetlands'' and revising the definition of ''Navigable waters'' to read as follows:

§ 112.2 Definitions.

* * * * *

Navigable waters means waters of the United States, including the territorial seas.

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (2) of this definition, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (3)(iii) of this definition, of waters identified in paragraphs (1)(i) through (iii) of this definition;

(vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) Prairie potholes. Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) Carolina bays and Delmarva bays. Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) Pocosins. Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) Western vernal pools. Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) Texas coastal prairie wetlands. Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the

100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this definition.

(i) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.

(ii) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(iii) Groundwater, including groundwater drained through subsurface drainage systems.

(iv) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(v) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this definition, the following terms apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(i) through (v) of this definition. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (1)(iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this definition), to a water identified in paragraphs (1)(i) through (iii) of this definition that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the

chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this section. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this definition.

(vi) *Ordinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

* * * * *

PART 116—DESIGNATION OF HAZARDOUS SUBSTANCE

■ 7. The authority citation for part 116 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 8. Section 116.3 is amended by revising the definition of ''Navigable waters'' to read as follows:

§ 116.3 Definitions.

* * * * *

Navigable waters is defined in section 502(7) of the Act to mean ''waters of the United States, including the territorial seas.''

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (2) of this definition, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (3)(iii) of this definition, of waters identified in paragraphs (1)(i) through (iii) of this definition;

(vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this definition.

(i) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(ii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.

(iii) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(iv) Groundwater, including groundwater drained through subsurface drainage systems.

(v) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vi) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this definition, the following terms apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(i) through (v) of this definition. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (1)(iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this definition), to a water identified in paragraphs (1)(i) through (iii) of this definition that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this section.

(vi) *Ordinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider

the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

* * * * *

PART 117—DETERMINATION OF REPORTABLE QUANTITIES FOR HAZARDOUS SUBSTANCES

■ 9. The authority citation for part 117 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.* and Executive Order 11735, superseded by Executive Order 12777, 56 FR 54757.

■ 10. Section 117.1 is amended by revising paragraph (i) to read as follows:

§ 117.1 Definitions.

* * * * *

(i) *Navigable waters* is defined in section 502(7) of the Act to mean ''waters of the United States, including the territorial seas.''

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (i)(2) of this section, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (i)(3)(iii) of this section, of waters identified in paragraphs (i)(1)(i) through (iii) of this section;

(vi) All waters adjacent to a water identified in paragraphs (i)(1)(i) through (v) of this section, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (i)(1)(vii)(A) through (E) of this section where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (i)(1)(i) through (iii) of this section. The waters identified in each of paragraphs (i)(1)(vii)(A) through (E) of this section are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (i)(1)(i) through (iii) of this section. Waters identified in this paragraph shall not be combined with waters identified in paragraph (i)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (i)(1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in (i)(1)(i) through (iii) of this section and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (i)(1)(i) through (v) of this section where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (i)(1)(i) through (iii) of this section. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (i)(1)(i) through (iii) of this section or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (i)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (i)(1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (i)(1)(iv) through (viii) of this section.

(i) Waste treatment systems, (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

(ii) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(iii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (i)(1)(i) through (iii) of this section.

(iv) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(v) Groundwater, including groundwater drained through subsurface drainage systems.

(vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this paragraph, the following terms apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (i)(1)(i) through (v) of this section, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (i)(1)(i) through (v) of this section. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (i)(1)(i) through (v) or are located at the head of a water identified in paragraphs (i)(1)(i) through (v) of this section and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (i)(1)(i) through (v) of this section. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (i)(1)(i) through (v) of this section and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (i)(1)(i) or (iii) of this section, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (i)(1)(iv) of this section), to a water identified in paragraphs (i)(1)(i) through (iii) of this section that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (i)(2) of this section. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (i)(1)(i) through (iii) of this section.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (i)(1)(i) through (iii) of this section. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (i)(1)(i) through (iii) of this section. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (i)(1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (i)(3)(v)(A) through (I) of this section. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (i)(1)(i) through (iii) of this section. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (i)(1)(i) through (iii) of this section.

(vi) O*rdinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

* * * * *

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

■ 11. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

■ 12. Section 122.2 is amended by:
■ a. Lifting the suspension of the last sentence of the definition of ''Waters of the United States'' published July 21, 1980 (45 FR 48620);
■ b. Removing the definition of ''wetlands'' and revising the definition of ''Waters of the United States'' and
■ c. Suspending the last sentence of the definition of ''Waters of the United States'' published July 21, 1980 (45 FR 48620).

The revision reads as follows:

§ 122.2 Definitions.

* * * * *

Waters of the United States or *waters of the U.S. means:*

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (2) of this definition, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (3)(iii) of this section, of waters identified in paragraphs (1)(i) through (iii) of this section;

(vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (v) of this definition. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this definition.

(i) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. [See Note 1 of this section.]

(ii) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(iii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(v) Groundwater, including groundwater drained through subsurface drainage systems.

(vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this definition, the following terms apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(i) through (v) of this definition. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this definition), to a water identified in paragraphs (1)(i) through (iii) of this definition that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this definition.

(vi) *Ordinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

* * * * *

PART 230—SECTION 404(b)(1) GUIDELINES FOR SPECIFICATION OF DISPOSAL SITES FOR DREDGED OR FILL MATERIAL

■ 13. The authority citation for part 230 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 14. Section 230.3 is amended by:

■ a. Removing paragraph (b) and reserved paragraphs (f), (g), (j) and (l).

■ b. Redesignating paragraphs (c) through (e) as paragraphs (b) through (d).
■ c. Redesignating paragraphs (h) and (i) as paragraphs (e) and (f).
■ d. Redesignating paragraph (k) as paragraph (g).
■ e. Redesignating paragraphs (m) through (q) as paragraphs (h) through (l).
■ f. Redesignating paragraph (q-1) as paragraph (m).
■ g. Redesignating paragraph (r) as paragraph (n).
■ h. Redesignating paragraph (s) as paragraph (o).
■ i. Revising newly redesignated paragraph (o).
■ j. Removing paragraph (t).

The revision reads as follows:

§ 230.3 Definitions.

* * * * *

(o) The term *waters of the United States* means:

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (o)(2) of this section, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (o)(3)(iii) of this section, of waters identified in paragraphs (o)(1)(i) through (iii) of this section;

(vi) All waters adjacent to a water identified in paragraphs (o)(1)(i) through (v) of this section, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (o)(1)(vii)(A) through (E) of this section where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (o)(1)(i) through (iii) of this section. The waters identified in each of paragraphs (o)(1)(vii)(A) through (E) of this section are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (o)(1)(i) through (iii) of this section. Waters identified in this paragraph shall not be combined with waters identified in paragraph (o)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (o)(1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (o)(1)(i) through (iii) of this section and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (o)(1)(i) through (v) of this section where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (o)(1)(i) through (iii) of this section. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (o)(1)(i) through (iii) of this section or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (o)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (o)(1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (o)(1)(iv) through (viii) of this section.

(i) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act are not waters of the United States.

(ii) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(iii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (o)(1)(i) through (iii) of this section.

(iv) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(v) Groundwater, including groundwater drained through subsurface drainage systems.

(vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this paragraph (o), the following definitions apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (o)(1)(i) through (v) of this section, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of

adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (o)(1)(i) through (v) of this section. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (o)(1)(i) through (v) or are located at the head of a water identified in paragraphs (o)(1)(i) through (v) of this section and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (o)(1)(i) through (v) of this section. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (o)(1)(i) through (v) of this section and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (o)(1)(i) or (iii) of this section, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (o)(1)(iv) of this section), to a water identified in paragraphs (o)(1)(i) through (iii) of this section that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (o)(2) of this section. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (o)(1)(i) through (iii) of this section.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (o)(1)(i) through (iii) of this section. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (o)(1)(i) through (iii) of this section. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (o)(1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (o)(3)(v)(A) through (I) of this section. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (o)(1)(i) through (iii) of this section. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (o)(1) through (3) of this section.

(vi) *Ordinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

* * * * *

PART 232—404 PROGRAMS DEFINITIONS; EXEMPT ACTIVITIES NOT REQUIRING 404 PERMITS

■ 15. The authority citation for part 230 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 16. Section 232.2 is amended by removing the definition of ''wetlands'' and revising the definition of ''Waters of the United States'' to read as follows:

§ 232.2 Definitions.

* * * * *

Waters of the United States means:

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (2) of this

definition, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (3)(iii) of this definition, of waters identified in paragraphs (1)(i) through (iii) of this definition;

(vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) Prairie potholes. Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) Carolina bays and Delmarva bays. Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) Pocosins. Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) Western vernal pools. Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) Texas coastal prairie wetlands. Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi) of this definition, they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this definition.

(i) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act are not waters of the United States.

(ii) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(iii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(v) Groundwater, including groundwater drained through subsurface drainage systems.

(vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this definition, the following terms apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(i) through (v) of this definition. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (1)(iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this definition), to a water identified in paragraphs (1)(i) through (iii) of this definition that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this definition.

(vi) *Ordinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

* * * * *

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINTENCY PLAN

■ 17. The authority citation for part 300 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 18. Section 300.5 is amended by revising the definition of ''navigable waters'' to read as follows:

§ 300.5 Definitions.

* * * * *

Navigable waters means the waters of the United States, including the territorial seas.

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (2) of this definition, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (3)(iii) of this definition, of waters identified in paragraphs (1)(i) through (iii) of this definition;

(vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition

where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this definition.

(i) Waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

(ii) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(iii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(v) Groundwater, including groundwater drained through subsurface drainage systems.

(vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this definition, the following terms apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(i) through (v) of this definition. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (1)(iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this definition), to a water identified in paragraphs (1)(i) through (iii) of this definition that is

characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this definition.

(vi) *Ordinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

* * * * *

■ 19. In appendix E to part 300, section 1.5 Definitions is amended by revising the definition of ''navigable waters'' to read as follows:

Appendix E to Part 300—Oil Spill Response

* * * * *

1.5 Definitions. * * *

Navigable waters means the waters of the United States, including the territorial seas.

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (2) of this definition, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (3)(iii) of this definition, of waters identified in paragraphs (1)(i) through (iii) of this definition;

(vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands

found predominantly along the Central Atlantic coastal plain.

(D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this definition.

(i) Waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

(ii) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(iii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(v) Groundwater, including groundwater drained through subsurface drainage systems.

(vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this definition, the following terms apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(i) through (v) of this definition. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (1)(iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this definition), to a water identified in paragraphs (1)(i) through (iii) of this definition that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified

in paragraphs (1)(i) through (iii) of this definition.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this section.

(vi) *Ordinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

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PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

■ 20. The authority citation for part 302 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 21. Section 302.3 is amended by revising the definition of ''Navigable waters'' to read as follows:

§ 302.3 Definitions.

* * * * *

Navigable waters means the waters of the United States, including the territorial seas.

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (2) of this definition, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (3)(iii) of this definition, of waters identified in paragraphs (1)(i) through (iii) of this definition;

(vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. For waters determined to have a significant nexus,

the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this definition.

(i) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.

(ii) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(iii) Groundwater, including groundwater drained through subsurface drainage systems.

(iv) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(v) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this definition, the following terms apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(i) through (v) of this definition. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this definition), to a water identified in paragraphs (1)(i) through (iii) of this definition that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with

similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this section.

(vi) *Ordinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

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PART 401—GENERAL PROVISIONS

■ 22. The authority citation for part 401 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 23. Section 401.11 is amended by revising paragraph (l) to read as follows:

§ 401.11 General definitions.

* * * * *

(l) The term *navigable waters* means the waters of the United States, including the territorial seas.

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (l)(2) of this section, the term ''waters of the United States'' means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (l)(3)(iii) of this section, of waters identified in paragraphs (l)(1)(i) through (iii) of this section;

(vi) All waters adjacent to a water identified in paragraphs (l)(1)(i) through (v) of this section, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (l)(1)(vii)(A) through (E) of this section where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this section. The waters identified in each of paragraphs (l)(1)(vii)(A) through (E) of this section are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (l)(1)(i) through (iii) of this section. Waters identified in this paragraph shall not be combined with waters identified in paragraph (l)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (l)(1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in (l)(1)(i) through (iii) of this section and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (l)(1)(i) through (v) of this section where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (l)(1)(i) through (iii) of this section. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (l)(1)(i) through (iii) of this section or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (l)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (l)(1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not ''waters of the United States'' even where they otherwise meet the terms of paragraphs (l)(1)(iv) through (viii) of this section.

(i) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(ii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (l)(1)(i) through (iii) of this section.

(iii) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(iv) Groundwater, including groundwater drained through subsurface drainage systems.

(v) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vi) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this paragraph (l), the following terms apply:

(i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (l)(1)(i) through (v) of this section, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (l)(1)(i) through (v) of this section. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (l)(1)(i) through (v) or are located at the head of a water identified in paragraphs (l)(1)(i) through (v) of this section and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) *Neighboring.* The term *neighboring* means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (l)(1)(i) through (v) of this section. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (l)(1)(i) through (v) of this section and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (l)(1)(i) or (iii) of this section, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (l)(1)(iv) of this section), to a water identified in paragraphs (l)(1)(i) through (iii) of this section that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (l)(2) of this section. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (l)(1)(i) through (iii) of this section.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (l)(1)(i) through (iii) of this section. The term ''in the region'' means the watershed that drains to the nearest water identified in paragraphs (l)(1)(i) through (iii) of this section. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (l)(3)(v)(A) through (I) of this section. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (l)(1)(i) through (iii) of this section. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,

(B) Nutrient recycling,

(C) Pollutant trapping, transformation, filtering, and transport,

(D) Retention and attenuation of flood waters,

(E) Runoff storage,

(F) Contribution of flow,

(G) Export of organic matter,

(H) Export of food resources, and

(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (l)(1)(i) through (iii) of this section.

(vi) O*rdinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

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Part III

The President

Executive Order 13698—Hostage Recovery Activities

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Presidential Documents

Title 3—

The President

Executive Order 13698 of June 24, 2015

Hostage Recovery Activities

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct as follows:

Section 1. *Purpose.* The 21st century has witnessed a significant shift in hostage-takings by terrorist organizations and criminal groups abroad. Hostage-takers frequently operate in unstable environments that challenge the ability of the United States Government and its partners and allies to operate effectively. Increasingly, hostage-takers target private citizens—including journalists and aid workers—as well as Government officials. They also utilize increasingly sophisticated networks and tactics to derive financial, propaganda, and recruitment benefits from hostage-taking operations. The United States is committed to securing the safe recovery of U.S. nationals held hostage abroad and deterring future hostage-takings by denying hostage-takers any benefits from their actions. Because such hostage-takings pose unique challenges, the United States Government must be organized and work in a coordinated effort to use all instruments of national power to achieve these goals, consistent with the United States Government's no concessions policy. Establishing a single United States Government operational body to coordinate all efforts for the recovery of U.S. nationals taken hostage abroad, with policy guidance coordinated through the National Security Council, will increase the likelihood of a successful recovery, allow for enhanced support to hostages and their families, promote foreign policy and national security interests abroad, and enhance the prospects of successful criminal prosecutions of hostage-takers. Dedicating a senior diplomatic representative to operate in support of this coordinated effort will further enhance the potential for the safe recovery of hostages.

Sec. 2. *Establishment and Responsibilities of the Hostage Recovery Fusion Cell.* (a) The Attorney General, acting through the Director of the Federal Bureau of Investigation (FBI), shall establish within the FBI for administrative purposes an interagency Hostage Recovery Fusion Cell (HRFC).

(b) The following executive departments, agencies, and offices (agencies) shall participate in the HRFC:

(i) the Department of State;

(ii) the Department of the Treasury;

(iii) the Department of Defense;

(iv) the Department of Justice;

(v) the Office of the Director of National Intelligence;

(vi) the FBI;

(vii) the Central Intelligence Agency; and

(viii) other agencies as the President or the Attorney General, acting through the Director of the FBI, from time to time, may designate.

(c) The HRFC shall have a Director, who shall be a full-time senior officer or employee of, or detailed to, the FBI. The HRFC shall also have a Family Engagement Coordinator and other officers or employees as appropriate. The head of each participating agency shall, to the extent permitted by law, make available for assignment or detail to the HRFC such personnel as the Attorney General, acting through the Director of the FBI and after consultation with the head of the agency, may request. Such personnel

so detailed or assigned will operate utilizing the clearances provided by their respective agencies.

(d) The HRFC shall coordinate efforts by participating agencies to ensure that all relevant information, expertise, and resources are brought to bear to secure the safe recovery of U.S. nationals held hostage abroad. The HRFC may also be tasked with coordinating the United States Government's response to other hostage-takings occurring abroad in which the United States has a national interest, as specifically referred to the HRFC by the Deputies Committee, as established in Presidential Policy Directive 1 of February 13, 2009 (Organization of the National Security Council System), or any successor. Pursuant to policy guidance coordinated through the National Security Council, the HRFC shall:

(i) identify and recommend hostage recovery options and strategies to the President through the National Security Council;

(ii) coordinate efforts by participating agencies to ensure that information regarding hostage events, including potential recovery options and engagements with families and external actors (including foreign governments), is appropriately shared within the United States Government to facilitate a coordinated response to a hostage-taking;

(iii) assess and track all hostage-takings of U.S. nationals abroad and provide regular reports to the President through the National Security Council on the status of such cases and any measures being taken toward the hostages' safe recovery;

(iv) provide a forum for intelligence sharing and, with the support of the Director of National Intelligence, coordinate the declassification of relevant information;

(v) coordinate efforts by participating agencies to provide appropriate support and assistance to hostages and their families in a coordinated and consistent manner and to provide families with timely information regarding significant events in their cases;

(vi) make recommendations to agencies in order to reduce the likelihood of U.S. nationals being taken hostage abroad and enhance United States Government preparation to maximize the probability of a favorable outcome following a hostage-taking; and

(vii) coordinate with agencies regarding congressional, media, and other public inquiries pertaining to hostage events.

Sec. 3. *Establishment of the Hostage Response Group.* (a) There shall be a Hostage Response Group (HRG) chaired by the Special Assistant to the President and Senior Director for Counterterrorism, to be convened on a regular basis and as needed at the request of the National Security Council to further the safe recovery of U.S. nationals held abroad. The HRG may also be tasked with coordinating the United States Government response to other hostage-takings occurring abroad in which the United States has a national interest, as specifically referred to the HRFC by the Deputies Committee.

(b) The regular members of the HRG shall include the Director of the HRFC, the HRFC's Family Engagement Coordinator, and senior representatives from the Department of State, Department of the Treasury, Department of Defense, Department of Justice, FBI, Office of the Director of National Intelligence, and other agencies as the President, from time to time, may designate.

(c) The HRG, in support of the Deputies Committee chaired by the Assistant to the President for Homeland Security and Counterterrorism, and consistent with the process outlined in Presidential Policy Directive 1 or any successor, shall:

(i) identify and recommend hostage recovery options and strategies to the President through the National Security Council, as consistent with

Presidential Policy Directive 30 of June 24, 2015 (U.S. Nationals Taken Hostage Abroad and Personnel Recovery Efforts);

(ii) coordinate the development and implementation of U.S. hostage recovery policies, strategies, and procedures, consistent with the policies set forth in Presidential Policy Directive 30;

(iii) receive regular updates from the HRFC on the status of U.S. nationals being held hostage abroad and measures being taken to effect the hostages' safe recovery;

(iv) coordinate the provision of policy guidance to the HRFC, including reviewing recovery options proposed by the HRFC and working to resolve disputes within the HRFC; and

(v) where higher-level guidance is required, make recommendations to the Deputies Committee.

Sec. 4. *Establishment of the Special Presidential Envoy for Hostage Affairs.* (a) There shall be a Special Presidential Envoy for Hostage Affairs (Special Envoy), appointed by the President, who shall report to the Secretary of State.

(b) The Special Envoy shall:

(i) lead diplomatic engagement on U.S. hostage policy;

(ii) coordinate all diplomatic engagements in support of hostage recovery efforts, in coordination with the HRFC and consistent with policy guidance communicated through the HRG;

(iii) coordinate with the HRFC proposals for diplomatic engagements and strategy in support of hostage recovery efforts;

(iv) provide senior representation from the Special Envoy's office to the HRFC and in the HRG; and

(v) in coordination with the HRFC as appropriate, coordinate diplomatic engagements regarding cases in which a foreign government confirms that it has detained a U.S. national but the United States Government regards such detention as unlawful or wrongful.

Sec. 5. *Reporting.* (a) Within 180 days of the date of this order, the HRG shall provide a status report to the Assistant to the President for Homeland Security and Counterterrorism on the establishment of the HRFC and its implementation of policy guidance communicated through the HRG.

(b) Within 1 year of the date of this order, the Director of the National Counterterrorism Center, in consultation with the Secretary of State, Secretary of Defense, Attorney General, and Director of the FBI, shall provide a status report to the Assistant to the President for Homeland Security and Counterterrorism on the implementation of this order. That report shall be informed by consultation with stakeholders outside of the United States Government, including former hostages and hostages' families, and shall, to the extent possible, be made available to the public.

Sec. 6. *Definition.* For purposes of this order, the term ''U.S. national'' means: (a) a U.S. national as defined in either 8 U.S.C. 1101(a)(22) or 8 U.S.C. 1408; or (b) a lawful permanent resident alien with significant ties to the United States.

Sec. 7. *General Provisions.* (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law, regulation, Executive Order, or Presidential Directive to any executive department, agency, or head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
June 24, 2015.

[FR Doc. 2015–16122
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