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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2014–0041]

RIN 0579–AE01

Importation of Orchids in Growing Media From Taiwan

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of plants and plant products to add orchid plants of the genus *Oncidium* from Taiwan to the list of plants that may be imported into the United States in an approved growing medium, subject to specified growing, inspection, and certification requirements. We are taking this action in response to a request from the Taiwanese Government and after determining that the plants could be imported, under certain conditions, without resulting in the introduction into, or the dissemination within, the United States of a quarantine plant pest.

DATES: Effective March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Heather Coady, Regulatory Policy Specialist, Plants for Planting Policy, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 851–2076.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation of certain plants and plant products into the United States to prevent the introduction of quarantine plant pests. The regulations contained in ''Subpart—Plants for Planting,'' §§ 319.37 through 319.37–14 (referred to below as the regulations), prohibit or restrict, among other things, the importation of living plants, plant parts, and seeds for propagation or planting.

The regulations differentiate between prohibited articles and restricted articles. Prohibited articles are plants for planting whose importation into the United States is not authorized due to the risk the articles present of introducing or disseminating plant pests. Restricted articles are articles authorized for importation into the United States, provided that the articles are subject to measures to address such risk.

Conditions for the importation into the United States of restricted articles in growing media are found in § 319.37–8. Within that section, the introductory text of paragraph (e) lists taxa of restricted articles that may be imported into the United States in approved growing media, subject to the provisions of a systems approach. Paragraph (e)(1) of § 319.37–8 lists the approved growing media, while paragraph (e)(2) contains the provisions of the systems approach. Within paragraph (e)(2), paragraphs (i) through (viii) contain provisions that are generally applicable to all the taxa listed in the introductory text of paragraph (e). Paragraphs (i) through (viii) collectively:

- Require the plants to be grown in accordance with written agreements between the Animal and Plant Health Inspection Service (APHIS) and the national plant protection organization (NPPO) of the country where the plants are grown and between the foreign NPPO and the grower;
- Require the plants to be rooted and grown in a greenhouse that meets certain requirements for quarantine pest exclusion and that is used only for plants being grown in compliance with § 319.37–8(e);
- Restrict the source of the seeds or parent plants used to produce the plants, and require grow-out or treatment of parent plants imported into the exporting country from another country;
- Specify the sources of water that may be used on the plants, the height of the benches on which the plants must be grown, and the conditions under which the plants must be stored and packaged; and
- Require that the plants be inspected in the greenhouse and found free of evidence of quarantine plant pests no more than 30 days prior to the exportation of the plants to the United States.

A phytosanitary certificate issued by the NPPO of the country in which the plants were grown that declares that the above conditions have been met must accompany the plants at the time of importation. These conditions have been used successfully to mitigate the risk of quarantine pest introduction associated with the importation into the United States of approved plants established in growing media.

In response to a request from the NPPO of Taiwan, we prepared a pest risk analysis (PRA) in order to identify the quarantine plant pests that could follow the importation of orchid plants of the genus *Oncidium* in approved growing media from Taiwan into the United States. (Under § 319.37–1 of the regulations, a quarantine plant pest is a plant pest that is of potential economic importance to the United States and not yet present in the United States, or present but not widely distributed and being officially controlled.)

Based on the findings of the PRA, we prepared a risk management document (RMD) to determine whether phytosanitary measures exist that would address this quarantine plant pest risk. The RMD suggested that the risk would be addressed if the plants met the general conditions of § 319.37–8(e)(2).

As a result, on December 3, 2014, we published in the **Federal Register** (79 FR 71703–71705, Docket No. APHIS–2014–0041) a proposal [1] to amend the regulations by adding *Oncidium* spp. orchids from Taiwan to the list of plants for planting in approved growing media that may be imported into the United States.

We solicited comments concerning our proposal for 60 days ending February 2, 2015. We reopened and extended the deadline for comments until March 18, 2015, in a document published in the **Federal Register** on March 12, 2015 (80 FR 12954, Docket No. APHIS–2014–0041). We received 50 comments on the proposed rule by that date. They were from members of Congress, representatives of State governments, industry organizations, and private citizens. Seven comments

[1] To view the proposed rule, its supporting documents, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0041.*

were supportive. Two commenters were generally opposed to the proposal but included no detailed objections to the action. The remainder of the comments are discussed below by topic.

General Comments

A number of commenters stated that the specific orchid species that fall into the *Oncidium* genus, and that would therefore be authorized for importation from Taiwan under the proposed rule, were not clear. They pointed out that the *Oncidium* genus was recently rearranged based on an analysis of the boundaries of that genus. The commenters said that we must clarify which orchids are considered to be part of the genus *Oncidium* for purposes of the proposed rule, and that such clarification must be reflected in all supporting documents.

We agree with the commenters that the genus *Oncidium* has been subject to revision, and some taxa previously classified as *Oncidium* spp. have been relocated into different genera. For purposes of this rule, *Oncidium* species are those species currently agreed upon by the international taxonomic community to belong to the genus *Oncidium,* as well as interspecies hybrids within that genus. However, since the supporting documents that accompanied the proposed rule considered all the species that remain in the genus after the revision, as well as interspecies hybrids, we do not consider it necessary to revise the supporting documents as the commenters requested.

Several commenters stated that, because bare-rooted *Oncidium* spp. orchids from Taiwan are already authorized for importation into the United States, it is not necessary to authorize the importation of *Oncidium* spp. orchids in growing media.

Under the regulations in 7 CFR 319.5, the NPPO of a foreign country may request that APHIS authorize the importation of a plant or plant product that is not allowed importation into the United States, and APHIS will consider the request if it includes all the categories of information specified in § 319.5 for such requests. The NPPO of Taiwan made such a request for *Oncidium* spp. orchids in approved growing media.

Several commenters stated that the rule appears to be the byproduct of bilateral negotiations between the United States and Taiwan, and that the rule was linked to agreements authorizing the export of certain U.S. commodities to Taiwan. Because of this, the commenters expressed concern that APHIS did not adequately consider the risk associated with the importation of *Oncidium* spp. orchids from Taiwan in growing media. Similarly, other commenters stated that we issued the proposed rule solely because large-scale U.S. importers of orchids requested it.

While political and economic interests may stimulate consideration of the expansion of trade of agricultural commodities between countries, these did not lead us to issue the proposed rule. The United States is a member of the World Trade Organization (WTO), and a signatory to the WTO's Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) and the International Plant Protection Convention (IPPC). In these capacities, the United States has agreed that any prohibitions it places on the importation of plants for planting will be based on scientific evidence, and will not be maintained without sufficient scientific evidence indicating that the prohibitions are necessary to protect plant life and health within the United States.

The PRA and RMD that accompanied the proposed rule evaluated the quarantine plant risk associated with the importation of *Oncidium* spp. orchids in approved growing media from Taiwan into the United States. These documents provided scientific evidence that a prohibition on the importation of *Oncidium* spp. orchids in approved growing media is not necessary in order to protect plant life and health in the United States, and the risk associated with such importation could be addressed by requiring the orchids and growing media to be produced in accordance with § 319.37–8(e). This led us to issue the proposed rule.

We prepared the PRA and RMD in accordance with IPPC standards [2] and our own guidelines, and we are confident that they adequately evaluated the plant pest risk associated with the importation of *Oncidium* spp. orchids in approved growing media from Taiwan into the United States.

One commenter stated that certain life stages of quarantine plant pests can be difficult to detect at ports of entry into the United States, as can quarantine plant pests with unique feeding habits. For this reason, the commenter stated that we should prohibit the importation of *Oncidium* spp. orchids in approved growing media into the United States.

If the provisions of the proposed rule are adhered to, there will be a negligible risk that *Oncidium* spp. orchids in approved growing media from Taiwan that are imported into the United States will harbor quarantine plant pests.

That being said, pursuant to §§ 319.37–3 and 319.37–11 of the regulations, lots of *Oncidium* spp. orchids in approved growing media from Taiwan that consist of 13 or more plants must be imported to a United States Department of Agriculture plant inspection station for entry into the United States—we anticipate that almost all lots of *Oncidium* spp. orchids in approved growing media from Taiwan that are exported to the United States will consist of more than 13 plants. Personnel at plant inspection stations are trained to detect plant pests and signs and symptoms of plant pests, including those that are difficult to detect, and have access to personnel with scientific expertise in identifying plant pests.

One commenter stated that Taiwan cannot be trusted to adhere to the provisions of the proposed rule.

Like the United States, Taiwan is a signatory to the SPS Agreement. As such, it has agreed to respect the phytosanitary measures the United States imposes on the importation of plants and plant products from Taiwan when the United States demonstrates the need to impose these measures in order to protect plant health within the United States. The PRA that accompanied the proposed rule provided evidence of such a need.

One commenter stated that the NPPO of Taiwan should have to demonstrate adherence to the proposed systems approach with small shipments of orchids before we allow more widespread export of *Oncidium* spp. orchids from Taiwan under the provisions of the systems approach.

We do not consider this sort of provisional authorization necessary. We authorize the importation of many plants and plant products from Taiwan into the United States, and have not encountered any issues to suggest the NPPO of Taiwan will not or cannot adhere to the requirements of our export programs for such commodities.

Comments Regarding the Pest Risk Analysis

General Comment

As we mentioned above, we prepared a PRA in support of the proposed rule. The purpose of the PRA was to identify the quarantine plant pests that could follow the importation of *Oncidium* spp. orchid plants in approved growing media from Taiwan to the United States.

One commenter pointed out that the PRA was completed in May of 2012.

[2] For the relevant IPPC standards, see International Standards for Phytosanitary Measures (ISPM) No. 11, found at *http://www.acfs.go.th/sps/downloads/34163_ISPM_11_E.pdf.*

The commenter asked whether there have been any additional quarantine pests associated with *Oncidium* spp. orchids detected in Taiwan since it was completed.

There have not been any such detections.

Comments Regarding the Pest List

As part of the PRA, we prepared a list of plant pests that are associated with *Oncidium* spp. orchids and that we determined to occur in Taiwan.

One commenter asked why we limited the list to plant pests. The commenter asked whether APHIS had considered whether zoonotic diseases could follow the pathway on *Oncidium* spp. orchids in growing media, and, more generally, whether APHIS had considered the potential risks to human and animal health associated with such importation.

We limit our PRAs to evaluating plant pest risk; this is consistent with our PRA guidelines related to this specific class of plant commodity and also with IPPC standards. However, the environmental assessment that accompanied the proposed rule evaluated the potential environmental consequences associated with authorizing the importation of *Oncidium* spp. orchids in approved growing media. This includes potential human or animal health risks.

Several commenters pointed out that, while some plant pests on the list were identified to the species level, others were identified only to the genus level. The commenters stated that certain species within a genus of plant pests can be significantly more destructive than other species within that genus, and asked us to revise the pest list to identify all plant pests of *Oncidium* spp. orchids that we believe to occur in Taiwan to the species level.

The commenters are correct that certain plant pest species within a particular genus can be significantly more destructive than other species in the same genus. For this reason, as we stated in the PRA, the taxonomic level for organisms listed in our PRAs is usually the species. This is consistent with both our standards as well as with the IPPC standards for PRAs, which suggest that, within PRAs, the identity of the organism should be clearly defined to ensure that the assessment is being conducted on distinct organisms.[3]

Accordingly, within the PRA, all plant pests that we determined to be associated with *Oncidium* spp. orchids in growing media and to occur in Taiwan were identified to the species level. If we listed the genus or family level of the pest in the PRA, this is because a pest in that genus or family was intercepted on bare-rooted *Oncidium* spp. orchids from Taiwan, but we could not identify the genus or family as occurring in Taiwan or being associated with *Oncidium* spp. orchids. We included entries for these genera and families in the PRA for the sake of transparency and completeness, but do not consider further classification of the intercepted pests to be necessary.

One commenter pointed out that our PRA included not only a pest list, but also a list of plant pests that have been intercepted on bare-rooted *Oncidium* spp. orchids at ports of entry into the United States between 1985 and 2010. The commenter asked why the pest list did not include all pests listed on this latter list.

If the pest list did not include a particular plant pest for which we have pest interception records, it was because we could either find no evidence that the pest occurs in Taiwan, or could find no additional evidence suggesting the pest is associated with *Oncidium* spp. orchids.

Several commenters expressed concern that the pest list may be incomplete, and that unidentified quarantine pests could be introduced into the United States through the importation of *Oncidium* spp. orchids from Taiwan in approved growing media.

We compiled the pest list in the PRA from multiple sources, including information provided by the NPPO of Taiwan, pest detection records, and our own review of scientific literature. We are confident that the list has identified all quarantine pests associated with *Oncidium* spp. orchids in approved growing media that occur in Taiwan.

A commenter expressed concern that, if quarantine pests of *Oncidium* spp. orchids that were not listed in the PRA are subsequently detected in Taiwan, the systems approach in the proposed rule may not contain measures that mitigate these plant pest risks.

If this occurs, we will take appropriate measures to address such risk. This could include additional restrictions on the importation of *Oncidium* spp. orchids in growing media from Taiwan and/or suspension of the export program for *Oncidium* spp. orchids in growing media from Taiwan until APHIS and the NPPO of Taiwan jointly agree that the risk has been addressed.

One commenter pointed out that no nematodes were included in the pest list. The commenter asked us to explain their omission.

As we mentioned above, the list was of plant pests that are associated with *Oncidium* spp. and that we determined to occur in Taiwan. There are no species of nematodes that meet these two criteria.

A commenter pointed out that the pest list had only included one species of *Fusarium* (a genus of pathogenic fungi), *Fusarium oxysporum.* The commenter stated that APHIS had previously indicated that multiple species of *Fusarium* occur in Taiwan, but that we lack diagnostic tools to identify all of these species conclusively. The commenter questioned this discrepancy.

At this time, we are aware that multiple species of *Fusarium* occur in Taiwan. However, only one of these *Fusarium* species—*F. oxysporum*—is known to be associated with *Oncidium* spp. orchids.

The same commenter stated that we had also previously indicated that we take no action at ports of entry to the United States on commodities determined to be affected with *Fusarium* spp., and questioned this policy.

Under the Plant Protection Act (PPA, 7 U.S.C. 7711 *et seq.*), with limited exceptions, we may apply remedial measures to plants or plant products that are in the process of being imported into the United States only in order to prevent the dissemination of a plant pest that is new or not known to be widely prevalent or distributed within and throughout the United States. When we have detected *Fusarium* spp. on commodities at ports of entry into the United States, the species detected have been ones that are widely prevalent within the United States.

One commenter pointed out that the PRA stated that we have intercepted springtails of the family Sminthuridae on bare-rooted *Oncidium* spp. orchids from Taiwan. The commenter asked whether we had intercepted *Sminthurus viridis,* the Lucerne earth flea. If so, the commenter suggested that we should add *S. viridis* to the pest list.

We have not intercepted *S. viridis.* Moreover, there is no evidence that *S. viridis* exists in Taiwan or is associated with *Oncidium* spp. orchids.

Several commenters pointed out that biting midges (*Ceratopoginidae =Culicoides* spp., *Forcipomyia* spp.) were not included on the pest list in the PRA. The commenters stated that biting midges occur in Taiwan, and could be imported in sphagnum moss, which is listed in § 319.37–8 as an approved growing medium. The commenters stated that midges can vector arboviruses, filarial worms, other

[3] See ISPM No. 11.

parasites, and, while prevalent in the United States, are not established throughout their geographical range. The commenters stated that immature midges could enter greenhouses where *Oncidium* spp. orchids intended for export to the United States are produced and develop in sphagnum moss, and would be able to survive transit from Taiwan to the United States in moist sphagnum. The commenters asked that the pest list be revised to include biting midges, and biting midge-specific mitigations be added to the systems approach of the proposed rule.

We disagree that sphagnum moss is a hospitable host for biting midges, and that biting midges are likely to follow the pathway on such moss when it is used as a growing medium for plants for planting. We approved the use of sphagnum moss as a growing medium for plants for planting in 1980 (45 FR 31572–31597). Given the worldwide prevalence of biting midges, we would expect to have detected biting midges during port-of-entry inspections of orchids and other plants for planting in sphagnum moss by this time. We have had no such detections.

Additionally, we note that there is no evidence that biting midges are plant pests.

Similarly, a commenter stated that sphagnum moss and organic fibers, which are also listed as an approved growing medium, can harbor nematodes and species of fire ants of quarantine significance, and that these pests could therefore follow the pathway on *Oncidium* spp. orchids imported from Taiwan in such material and become established in the United States. The same commenter also stated that sphagnum moss can harbor microorganisms that cause significant disease in plants. The commenter asked us to revise the pest list accordingly.

We have no evidence that sphagnum moss or organic fibers are a pathway for the pests mentioned by the commenter, nor did the commenter supply any such evidence. Since sphagnum moss and organic fibers were approved as growing media for plants for planting in 1980, there have been no detections of quarantine plant pests on these growing media that would suggest these growing media are a pathway for the introduction of quarantine plant pests.

Several commenters stated that many quarantine plant pests that are not associated with *Oncidium* spp. orchids are associated with bark, which is often used as a growing medium for *Oncidium* spp. orchids, and the pest list should be revised to take this into consideration.

Bark is not listed in § 319.37–8 as an approved growing medium.

Finally, several commenters stated that we should revise the pest list to indicate that several of the plant pests listed, while not quarantine plant pests, are not known to occur in Hawaii.

This practice would be inconsistent with IPPC standards for PRAs, which suggest that pests should be classified based on whether or not they are quarantine pests.[4] It would also be inconsistent with our own PRA guidelines and regulatory practices.

Comments Regarding the List of Quarantine Pests

Based on the pest list, the PRA identified 14 quarantine pests as occurring in Taiwan and potentially following the pathway on *Oncidium* spp. orchids in approved growing media:

- *Tetranychus kanzawai* Kishida, a spider mite.
- *Amsacta lactinea* Cramer, a tiger moth.
- *Spodoptera litura* (Fabricius), the Oriental leafworm moth.
- *Scirtothrips dorsalis* Hood, the chili thrips.
- *Thrips palmi* Karny, the melon thrips.
- *Lissachatina fulica* (Bowdich), a snail.
- *Deroceras laeve* (Muller), the marsh slug.
- *Parmarion martensi* Simroth, a semislug.
- *Petalochlamys vesta* (Pfeiffer), a snail.
- *Meghimatium bilineatus* (Benson), a slug.
- *Meghimatium pictum* Stoliczka, a slug.
- *Laevicaulis alte* (Férussac), the tropical leatherleaf.
- *Pectobacterium cypripedii* (Hori) Brenner et al., a bacterial leaf-disease of orchids.
- *Bipolaris zizaniae* (Y. Nisik.) Shoemaker, a fungus.

One commenter stated that *L. fulica* is a high-risk pest, and could cause significant damage to domestic agriculture if it became established throughout the United States. The commenter opined we should therefore not authorize the importation of *Oncidium* spp. orchids in approved growing media because of this plant pest risk.

We agree that *L. fulica* is a high risk pest. However, if the provisions of the proposed rule are adhered to, there is a negligible risk that *L. fulica* will be introduced into the United States through the importation of *Oncidium* spp. orchids in approved growing media from Taiwan.

One commenter stated that several of the pests that were listed on the pest list, but not identified as quarantine pests, are known to occur in Hawaii. The commenter pointed out that APHIS' regulations in 7 CFR 318.13–1 impose a general prohibition on the interstate movement of plants for planting from Hawaii in order to prevent the introduction or further dissemination of plant pests within the United States. The commenter further pointed out that § 318.13–1 refers to this prohibition as a quarantine. The commenter concluded that, because of this quarantine, all plant pests of *Oncidium* spp. orchids that occur in Hawaii are quarantine pests. The commenter asked us to reevaluate the pest list in light of this consideration, and to revise the list of quarantine pests of *Oncidium* spp. orchids that occur in Taiwan and potentially could follow the pathway on *Oncidium* spp. orchids in approved growing media accordingly.

While we agree with the commenter that § 318.13–1 imposes a general quarantine on the interstate movement of plants for planting from Hawaii, including the interstate movement of *Oncidium* spp. orchids, we disagree that this means that all plant pests of *Oncidium* spp. orchids that occur in Hawaii are therefore quarantine plant pests. As we mentioned above, in order to meet our definition of a quarantine plant pest, a plant pest that is present in the United States must not be widely distributed and must be officially controlled. The general quarantine in § 318.13–1 does not constitute an official control program of all plant pests that occur in Hawaii.

Comments Regarding the Analysis of Quarantine Pests

The PRA also analyzed the likelihood that each of the 14 quarantine pests listed above would be introduced into the United States through the importation of *Oncidium* spp. orchids in approved growing media from Taiwan, as well as the consequences of such introduction.

One commenter stated that the PRA should be revised to evaluate the likelihood that snails and slugs in the families of Achatinidae, Succineidae, Philomycidae, Subulinidae, Veronicellidae, Camanidae, Helicarionidae, and Ariophantidae that occur in Taiwan will follow the pathway on *Oncidium* spp. orchids in approved growing media into the United States, as well as the consequences of such introduction.

[4] See ISPM No. 11.

The PRA contained an evaluation of the likelihood that quarantine snails and slugs that occur in Taiwan and are associated with *Oncidium* spp. orchids will follow the pathway on *Oncidium* spp. orchids in approved growing media to the United States. If the snails or slugs were considered to potentially follow the pathway, the PRA evaluated the likelihood of their introduction into the United States through this pathway, and the consequences of this introduction. However, evaluating the likelihood and consequences of the introduction into the United States of snails and slugs that occur in Taiwan and are associated with *Oncidium* spp. orchids, but are not of quarantine significance, is inconsistent with IPPC standards, as well as our own PRA guidelines. Moreover, evaluating the likelihood and consequences of introduction of quarantine snails and slugs that occur in Taiwan but are not associated with *Oncidium* spp.orchids is unnecessary. Such snails and slugs will not follow the pathway on *Oncidium* spp. orchids in approved growing media to the United States.

Several commenters stated that the PRA should have evaluated the likelihood of introduction and establishment in Hawaii of all plant pests on the pest list that could potentially follow the pathway on *Oncidium* spp. orchids and are not known to occur in Hawaii, regardless of whether the plant pests are of quarantine significance.

The PRA evaluated the likelihood of introduction and establishment in Hawaii of all quarantine plant pests that could potentially follow the pathway on *Oncidium* spp. orchids in approved growing media to the United States, as well as the consequences of such establishment. Evaluating the likelihood and consequences of establishment in Hawaii of plant pests that could potentially follow the pathway on *Oncidium* spp. into the United States but are not quarantine plant pests is inconsistent with IPPC standards, as well as our own PRA guidelines.

One commenter assumed that it was incumbent on the State of Hawaii to conduct an evaluation of the likelihood and consequences of establishment in Hawaii of plant pests that could potentially follow the pathway on *Oncidium* spp. into the United States but are not quarantine plant pests, but stated that, if the State were to conduct such an evaluation and identify potentially significant adverse consequences, the State had no recourse under the PPA to request Federal restrictions on the movement of *Oncidium* spp. orchids in approved growing media from Taiwan into Hawaii.

We disagree with the commenter. Pursuant to section 7711 of the PPA, APHIS has established the Federally Recognized State Managed Phytosanitary Program (FRSMP). Under the program, States may petition APHIS to recognize State-managed phytosanitary programs that are developed to eradicate, exclude, or contain plant pests that are of limited distribution within that State and that APHIS does not consider to be of quarantine significance.[5] If APHIS grants a State's FRSMP petition, when we determine that an article imported into the United States is infested with a FRSMP pest and destined for the State that submitted the petition, we will take appropriate remedial measures to address this plant pest risk.

Finally, a commenter who co-authored an article[6] referred to in this section of the PRA stated that we had cited the article in an erroneous manner. Whereas we suggested that the article indicates that approved growing media are not a conducive host for snails, the commenter stated that *Hollingsworth and Sewake* only evaluated the growing media in and of themselves, and not when they are used in association with plants for planting. The commenter stated that *Hollingsworth and Sewake* in fact included evidence suggesting that snail eggs can remain viable on coir, which is listed in § 319.37–8 as an approved growing medium, when the coir is used as a growing medium for orchids.

We agree that we should not have cited the article as evidence that approved growing media are not a conducive host for snails. We also agree that *Hollingsworth and Sewake* provides evidence that snail eggs can remain viable on coir, when coir is used as a growing medium for orchids. For these reasons, we will not cite the article in future PRAs as evidence that approved growing media are not a conducive host for snails.

However, *Hollingsworth and Sewake* did not evaluate growing media used in connection with the importation of plants for planting in accordance with § 319.37–8(e), but rather growing media that are either located in the natural environment of Hawaii or commercially produced in Hawaii and available to Hawaiian producers. There is no evidence that growing media used in connection with the importation of plants for planting in accordance with § 319.37–8(e) is a conducive host for snail eggs, or that immature snails could follow the pathway on approved growing media imported to the United States in accordance with § 319.37–8(e).

Comments Regarding the Proposed Systems Approach

We proposed that the *Oncidium* spp. orchids would have to be grown in a greenhouse in which sanitary procedures adequate to exclude quarantine pests are always employed. We proposed that, at a minimum, the greenhouse would have to be free from sand and soil, have screenings with openings of not more than 0.6 mm on all vents and openings except entryways, have entryways equipped with automatic closing doors, regularly clean and disinfect floors, benches, and tools, and use only rainwater that has been boiled or pasteurized, clean well water, or with potable water to water the plants.

One commenter expressed concern that screenings with openings of 0.6 mm would not preclude *T. palmi* from entering the greenhouses. The commenter cited studies indicating that 40 to 50 percent of *T. palmi* that attempt to pass through such an opening can do so.

We agree that screenings with openings of 0.6 mm may not preclude all *T. palmi* from entering the greenhouse. However, in order to comply with the provisions of the systems approach, growers will have to employ sanitary procedures that are jointly sufficient to exclude quarantine pests from the *Oncidium* spp. orchids intended for export to the United States. Accordingly, growers in areas where *T. palmi* are present will be expected to develop a pest management plan for *T. palmi* to address incursions of this pest into the greenhouse; the plan must have sufficient safeguards to prevent *Oncidium* spp. orchids intended for export to the United States from becoming infested with *T. palmi*.

One commenter assumed that certain growers would have to implement such pest management plans in order for their greenhouses to always employ sanitary procedures adequate to exclude quarantine pests from the *Oncidium* spp. orchids grown in the greenhouses. However, the commenter expressed concern that growers may not be able to implement or maintain mitigations specified in the plans, or may not be able to identify equivalent mitigations if

[5] Criteria for a FRSMP petition are located here: *https://www.aphis.usda.gov/plant_health/plant_pest_info/frsmp/downloads/petition_guidelines.pdf.*

[6] Hollingsworth, R.G., and K.T. Sewake. 2002. The Orchid Snail as a Pest of Orchids in Hawaii. Cooperative Extension Service, College of Tropical Agriculture and Human Resources, University of Hawaii at Manoa. Referred to in this preamble as *Hollingsworth and Sewake.*

the initial mitigations prove insufficient, without guidance or oversight from individuals with phytosanitary training.

Under paragraph (e)(2) of § 319.37–8, the NPPO of Taiwan must enter into an agreement with APHIS to enforce the export program for *Oncidium* spp. orchids in approved growing media to the United States, and each grower who wishes to export *Oncidium* spp. orchids must enter into an agreement with the NPPO of Taiwan. In this latter agreement, the NPPO of Taiwan will specify how the producer may meet the requirements of § 319.37–8, and will require the grower to agree to allow the NPPO of Taiwan access to greenhouses at any time to monitor compliance with the agreement and the provisions of § 319.37–8. Because of these requirements, growers will have the oversight and guidance of the NPPO of Taiwan to assess the efficacy of their pest management plans.

One commenter stated that APHIS should conduct monitoring of the development and implementation of these pest management plans, in addition to the NPPO of Taiwan.

We reserve the right to conduct such monitoring. Additionally, as we discuss below, APHIS inspectors may inspect the orchids prior to export. However, we do not consider it necessary for us to require APHIS to monitor the development and implementation of each pest management plan. For other export programs for plants and plant products from Taiwan to the United States, we have exercised joint monitoring responsibilities with the NPPO of Taiwan, and we have not encountered any issues that suggest we should modify this practice.

Several commenters surmised that most pest management plans would include the application of pesticides. They stated that Taiwan authorizes the use of pesticides that are prohibited for use within the United States, and that are significantly more potent than pesticides used within the United States. The commenters expressed concern that certain quarantine plant pests of *Oncidium* spp. orchids that occur in Taiwan may have developed tolerances to U.S. pesticides.

The commenter assumes that quarantine plant pests will be introduced into the United States through the importation of *Oncidium* spp. orchids in approved growing media from Taiwan. As we stated previously in this document, if the provisions of the systems approach are adhered to, there is a negligible risk that this will occur.

Additionally, we have no evidence that any of the quarantine plant pests of *Oncidium* spp. that are known to occur in Taiwan and may follow the pathway on *Oncidium* spp. orchids in approved growing media to the United States are resistant to U.S. pesticides.

We proposed that the orchids would have to be inspected in the greenhouse and found free from evidence of quarantine pests by an APHIS inspector or an inspector of the NPPO of Taiwan no more than 30 days prior to the date of export to the United States.

Several commenters stated that visual inspections, in and of themselves, are not sufficient to address the quarantine plant pest risk associated with the importation of *Oncidium* spp. orchids from Taiwan.

We agree. This is why we proposed to require the orchids to be produced in accordance with the systems approach of § 319.37–8(e).

Several commenters stated visual inspections are not always able to detect signs of bacterial or viral infection. The commenters suggested that the orchids should have to be tested for bacterial and viral pathogens prior to export to the United States.

We do not consider viral testing to be necessary. The PRA did not identify any quarantine viruses that occur in Taiwan and are associated with *Oncidium* spp. orchids.

Although we did identify one quarantine bacterium, *P. cypripedii,* to exist in Taiwan and potentially follow the pathway on *Oncidium* spp. orchids to the United States, inspection is not the sole mitigation for *P. cypripedii* within the systems approach. We also require the orchids to be grown on benches raised at least 46 centimeters off the ground; to be watered only with rainwater that has been boiled or pasteurized, with clean well water, or with potable water; to be rooted and grown in approved media; and to be grown in greenhouses that are free from sand and soil. Because *P. cypripedii* is primarily spread through compost or soil admixed with plant debris, as well as water contaminated with soil, these mitigations are jointly sufficient to preclude *P. cypripedii* from being introduced to the orchids, and we do not consider testing for *P. cypripedii* to be necessary.

One commenter pointed out that the RMD that accompanied the proposed rule appeared to require growers to employ bactericides for *Oncidium* spp. orchids that are determined to be infected with *P. cypripedii.* The commenter stated that bactericides are not effective mitigations for plants that are visibly infected with *P. cypripedii.* The commenter suggested that plants at a greenhouse that are visibly infected with *P. cypripedii* should be removed from the greenhouse and destroyed.

We agree with the commenter. In the event that *Oncidium* spp. orchids infected with *P. cypripedii* are detected at the greenhouse, these plants must be removed from the greenhouse and destroyed. We note, however, that we consider it unlikely that *Oncidium* spp. orchids at these greenhouses will become infected with *P. cypripedii,* for the reasons specified immediately above.

As we mentioned earlier in this document, we noted that lots of 13 or more *Oncidium* spp. orchids in approved growing media from Taiwan would have to be imported to a U.S. Department of Agriculture (USDA) plant inspection station for entry into the United States.

Several commenters asked that we explain the inspection protocol at plant inspection stations.

At least 2 percent of the plants in each consignment of *Oncidium* spp. orchids in growing media will be inspected for plant pests, as well as signs and symptoms of such pests. Inspecting 2 percent of the plants will detect plant pest infestation in 5 percent of the lot with 95 percent confidence. We note, moreover, that we may set a higher inspection rate, as warranted.

If there are any pests detected, or any signs or symptoms of pests, inspectors at the stations will have recourse to pest identifiers and diagnostic testing to positively identify the pests. APHIS will take appropriate remedial measures if any consignments are determined to be infested with quarantine pests.

Finally, one commenter stated that the provisions of the proposed rule did not comply with the intent of Executive Order 13112, which instructs Federal agencies not to carry out actions that the agencies believe are likely to result in the introduction of invasive species.

The commenter's stated assumptions were that the provisions of the rule would not mitigate for *T. palmi,* that quarantine viral pathogens would follow the pathway on *Oncidium* spp. orchids in approved growing media from Taiwan, and that visual inspection would be the sole mitigation for the quarantine pests identified by the PRA as potentially following the pathway on *Oncidium* spp. orchids in approved growing media from Taiwan.

For the reasons discussed previously in this document, we regard these assumptions to be incorrect.

Comments Regarding Phalaenopsis Spp. Orchids

A number of commenters drew parallels between this proposed rule

and a previous rule (69 FR 24916–24936, Docket No. 98–038–5) that authorized the importation of *Phalaenopsis* spp. orchids in approved growing media from Taiwan. The commenters stated that, for that rule, APHIS had grossly underestimated the number of *Phalaenopsis* spp. orchids in approved growing media that would be imported into the United States annually. Several of the commenters stated that the volume of imports had overwhelmed APHIS' capacity to inspect the *Phalaenopsis* spp. orchid shipments. Several of the commenters also stated that a disproportionate amount of the *Phalaenopsis* spp. orchids in approved growing media exported to the United States have been infested with quarantine plant pests, including a number of quarantine plant pests that we had not considered likely to follow the pathway on *Phalaenopsis* spp. orchids to the United States. Similarly, several commenters stated that the importation of *Phalaenopsis* spp. orchids in growing media had resulted in the introduction of plant pests into the United States. Given these considerations, the commenters stated that the systems approach in § 319.37–8 appears to be ineffective for orchids from Taiwan, and inquired on what basis we assumed that the number of *Oncidium* spp. orchids from Taiwan in approved growing media imported annually to the United States would be significantly fewer than the number of *Phalaenopsis* spp. orchids from Taiwan imported annually; on what basis we assumed that we have sufficient resources to inspect shipments of *Oncidium* spp. orchids in approved growing media at plant inspection stations; and on what basis we concluded that the importation of *Oncidium* spp. orchids in approved growing media from Taiwan into the United States would not result in the introduction of plant pests into the United States.

We consider the export market for *Phalaenopsis* spp. orchids from Taiwan to be significantly different from the export market for *Oncidium* spp. orchids from Taiwan. For the latter genus, Taiwan has a large and established market in Japan, and would have to divert a significant amount of their current exports from Japan to the United States for the number of *Oncidium* spp. orchids in approved growing media exported to the United States annually to be commensurate with the number of *Phalaenopsis* spp. orchids exported to the United States annually. We do not consider such diversion likely, and discuss the matter at greater length in the economic analysis that accompanies this final rule.

We disagree with the commenters who stated that we have lacked sufficient resources to inspect *Phalaenopsis* spp. orchids in approved growing media from Taiwan. Since we authorized their importation into the United States, we have inspected all shipments of *Phalaenopsis* spp. orchids in approved growing media in accordance with the inspection protocol discussed earlier in this document. Accordingly, even if import levels of *Oncidium* spp. in approved growing media from Taiwan were to be equivalent to those of *Phalaenopsis* spp. in approved growing media—a scenario that, again, we regard to be unlikely—we would have sufficient resources to inspect all consignments of *Oncidium* spp. in approved growing media exported to the United States.

We also disagree with the commenters who stated that the number of *Phalaenopsis* spp. orchids in approved growing media that have been determined to be infested with quarantine pests has been disproportionately high. Since we authorized the importation of *Phalaenopsis* spp. orchids in approved growing media from Taiwan, an average of 23 consignments have been determined to be infested annually. Insofar as an estimated 20 million *Phalaenopsis* spp. orchids in approved growing media are exported from Taiwan to the United States each year, we do not consider this number to be statistically significant or disproportionate, or to provide a basis for questioning the efficacy of the systems approach in § 319.37–8 with regard to the importation of orchids from Taiwan.

Finally, we have no evidence that any plant pests have been introduced into the United States through the importation of *Phalaenopsis* spp. orchids in growing media from Taiwan.

One commenter stated that a 2007 survey of *Phalaenopsis* growers in Taiwan found that more than 50 percent had orchids that were determined to be infected with viral or bacterial pathogens. The commenter asked us why we considered *Oncidium* spp. orchids produced for the export program to the United States to be unlikely to become infected with bacterial or viral plant pathogens.

We have confidence that the list of viral and bacterial pathogens of *Oncidium* spp. orchids in the PRA is complete, and thus that we have correctly identified the likelihood that *Oncidium* spp. orchids from Taiwan could become infected with viral or bacterial plant pests. If the conclusions of our PRA are accurate, then the provisions of the proposed rule, which were based on these conclusions, adequately address the viral and bacterial plant pest risk associated with the importation into the United States of *Oncidium* spp. orchids in approved growing media from Taiwan.

We do not consider the survey referenced by the commenter to call into question the accuracy of our PRA; only *Phalaenopsis* spp. orchid growers in Taiwan were surveyed. Nor do we consider it to call into question the efficacy of the systems approach in § 319.37–8(e). The survey appears to have surveyed all *Phalaenopsis* spp. orchid growers in Taiwan, and not merely those associated with the export program for *Phalaenopsis* spp. orchids in approved growing media to the United States.

Finally, one commenter requested that ''all of the pleadings and comments from the 2007 HOGA (Hawai'i Orchid Growers Association) versus USDA legal challenge on the importation of Taiwan Phalaenopsis'' be included in the administrative record for the proposed rule.

In the lawsuit referenced by the commenter, which was commenced in 2005, HOGA challenged actions related to our consultation with the U.S. Fish and Wildlife Service (FWS) under the Endangered Species Act (16 U.S.C. 1531 *et seq.*) regarding our 2004 final rule authorizing the importation of *Phalaenopsis* spp. orchids in approved growing media from Taiwan into the United States. The U.S. District Court for the District of Columbia granted summary judgment in favor of USDA and FWS, and dismissed the HOGA case in 2006. That decision was affirmed by the U.S. Circuit Court of Appeals for the District of Columbia Circuit in 2007.

The pleadings and comments from the HOGA lawsuit predate, and do not address, the proposed rule regarding the importation into the United States of *Oncidium* spp. orchids in approved growing media from Taiwan. Moreover, it is premature and unnecessary to determine the scope of the documents that should be included in an administrative record for this rule that may be compiled in the future.

Comments Regarding the Economic Analysis and Environmental Assessment

In support of the proposed rule, we prepared an initial economic analysis and draft environmental assessment. We received several comments regarding both documents. These are discussed in

the final economic analysis and environmental assessment that accompany this rule.

Miscellaneous

In preparing this final rule, we noticed an error in § 319.7–4, which contains general conditions regarding the withdrawal, cancellation, and revocation of various permits for plants and plant products.

Paragraph (b) of that section deals with cancellation of a permit that has been issued to a permittee, at the permittee's request. However, the section had erroneously stated that, upon receipt of such a request, APHIS will withdraw the individual's application, rather than cancel his or her permit. We have corrected this error.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

APHIS is amending the regulations in 7 CFR 319.37–8(e), which restrict the importation of orchids of the genus *Oncidium* to those plants that are free of sand, soil, earth, and other growing media. This rule amends the regulations to include *Oncidium* spp. from Taiwan on the list of plants that may enter the United States established in approved growing media, subject to specified growing, inspection, and certification requirements.

Eliminating the requirement that *Oncidium* spp. from Taiwan must be bare-rooted is expected to increase the number and quality of these plants imported by U.S. growers, who then finish the plants for the retail market. It is also expected to reduce the production time for growers. However, gains due to improved product quality and reduced production time are likely to lead to compensating price adjustments, assuming a competitive market.

Oncidium spp. represent an unknown but small portion of the orchid market and orchid trade. While many of the entities that may be affected by the final rule, such as importers of orchids for the potted plant market, are small by Small Business Administration (SBA) standards, we expect any impact to be minimal, given *Oncidium* spp. having a small share of the U.S. orchid market and a small share of total orchid imports from Taiwan. Allowing importation of *Oncidium* spp. from Taiwan in growing media could also lead to an expanded market for this genus. The variety's range of unusual appearances appeals to collectors and other niche markets, but could also result in mass market demand.

Under these circumstances, the Administrator has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this final rule. The environmental assessment provides a basis for the conclusion that the importation into the United States of *Oncidium* spp. orchids in approved growing media from Taiwan, subject to a required systems approach, will not have a significant impact on the quality of the human environment in the United States. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment and finding of no significant impact may be viewed on the Regulations.gov Web site. Copies of the environmental assessment and finding of no significant impact are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 799–7039 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

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

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

PART 319—FOREIGN QUARANTINE NOTICES

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

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

§ 319.7–4 [Amended]

■ 2. In § 319.7–4, in paragraph (b), the words ''withdrawal of the application'' are removed, and the words ''cancellation of the permit'' are added in their place.

§ 319.37–8 [Amended]

■ 3. Section 319.37–8 (e), introductory text, is amended as follows:

■ a. By adding, in alphabetical order, an entry for ''*Oncidium* spp. from Taiwan''.

■ b. In footnotes 9 and 10, by removing the words ''footnote 9'' and adding the words ''footnote 8'' in their place.

Done in Washington, DC, this 29th day of January 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–02141 Filed 2–3–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1417; Directorate Identifier 2013–NM–159–AD; Amendment 39–18369; AD 2016–01–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2004–20–14, for all Airbus Model A300 B4–2C, B4–103, and B4–203 airplanes; and all Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes. AD 2004–20–14 required repetitive inspections to detect cracking of the splice fitting at fuselage frame (FR) 47 between stringers 24 and 26 (left- and right-hand sides), and corrective actions if necessary. This new AD reduces the inspection compliance time and repetitive inspection intervals, and adds Airbus Model A300 C4–605R Variant F airplanes to the applicability. This AD was prompted by a determination that the inspection compliance time and repetitive inspection interval must be reduced to allow timely detection of cracks in the splice fitting at fuselage FR 47. We are issuing this AD to detect and correct cracking of the splice fitting at fuselage FR 47; such cracking could result in reduced structural integrity of the airplane.

DATES: This AD becomes effective March 10, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 10, 2016.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of November 17, 2004 (69 FR 60809, October 13, 2004).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-1417;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1417.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004), which superseded AD 2001–03–14, Amendment 39–12118 (66 FR 10957, February 21, 2001). AD 2004–20–14 applied to all Model A300 B4–600, B4–600R, and F4–600R (collectively called Model A300–600) series airplanes; and all Model A300 B4 series airplanes. The NPRM published in the **Federal Register** on May 14, 2015 (80 FR 27607). The NPRM was prompted by a determination that the inspection compliance time and repetitive inspection interval must be reduced to allow timely detection of cracks in the splice fitting at fuselage FR 47. The NPRM proposed to continue to require repetitive inspections to detect cracking of the splice fitting at fuselage FR 47 between stringers 24 and 26 (left- and right-hand sides), and corrective actions if necessary. The NPRM also proposed to reduce the inspection compliance time and repetitive inspection intervals, and add Model A300 C4–605R Variant F airplanes to the applicability. We are issuing this AD to detect and correct cracking of the splice fitting at fuselage FR 47; such cracking could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0184R1, dated August 22, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Model A300 B4–600, B4–600R, and F4–600R (collectively called Model A300–600) series airplanes; all Model A300 B4 series airplanes; and all Model A300 C4–605R Variant F airplanes. The MCAI states:

> In order to prevent crack development in the fastener holes at Frame (FR) 47 splicing joint on A300 aeroplanes, Airbus developed modification (Mod) 5890 for aeroplanes in production and issued corresponding Service Bulletin (SB) A300–53–0199 for aeroplanes in service.
>
> Subsequently, cracks were found on FR47 splice fitting between stringers (STRG) 24 and 26 on A300 aeroplanes previously modified by SB A300–53–0199.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the aeroplane.
>
> To address this potential unsafe condition, DGAC [Direction Générale de l'Aviation Civile] France issued AD 2002–184 *http://ad.easa.europa.eu/blob/2002184tb_superseded.pdf/AD_F-2002-184_2* [which corresponds to FAA AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)], superseding [DGAC France] AD 85–152–069 and [DGAC France] AD 1999–515–298 [which corresponds to FAA AD 2001–03–14, Amendment 39–12118 (66 FR 10957, February 21, 2001)], to require repetitive High Frequency Eddy Current (HFEC) rotating probe inspections of the splice fitting between STRG 24 and 26 and, depending on findings, corrective action(s). DGAC France AD 2002–184(B) expanded the applicability to A300–600 aeroplanes, which have the same design.
>
> Since that [DGAC France] AD was issued, a fleet survey and updated Fatigue and Damage Tolerance analyses have been performed in order to substantiate the second A300–600 Extended Service Goal (ESG2) exercise. The results of these analyses have determined that the inspection threshold and intervals for A300–600 aeroplanes must be reduced to allow timely detection of these cracks and the accomplishment of an applicable corrective action.
>
> For the reasons described above, [EASA] AD 2013–0184 retains the requirements of DGAC France AD 2002–184, which is superseded, but requires accomplishment of the actions for A300–600 aeroplanes within the new thresholds and intervals introduced with Revision 05 of Airbus SB [service bulletin] A300–53–6123 [dated August 1, 2011].
>
> This [EASA] AD was revised to correct the splices Part Numbers (P/N) in Table 4 of Appendix 1 of this [EASA] AD. Also, reference is now made to Airbus SB A300–53–6123 Revision 06 [dated September 28, 2011], which corrected this mistake compared to Revision 05.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-1417-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (80 FR 27607, May 14, 2015) and the FAA's response to each comment.

Request To Revise Compliance Times To Match Service Information

United Parcel Service (UPS) and FedEx Express requested that we revise the compliance times in paragraph (k) of the proposed AD (80 FR 27607, May 14, 2015) to match the compliance times in Airbus Service Bulletin A300–53–6123, Revision 06, dated September 28, 2011, and EASA AD 2013–0184R1, dated August 22, 2013.

We agree with the commenters' requests to revise the compliance times in paragraph (k) of this AD to reflect the compliance times in EASA AD 2013–0184R1, dated August 22, 2013. We have revised paragraph (k) of this AD accordingly. The changes extend the inspection interval and do not add an additional burden on operators.

Request To Retain Inspection Intervals in AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)

UPS requested that we revise paragraph (k) of the proposed AD (80 FR 27607, May 14, 2015) to retain the inspection intervals in AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004), until the airplanes have reached their design service goal (DSG). UPS stated that acceleration of the inspection interval on airplanes that have less than 33 percent of the original DSG does not enhance safety. UPS explained that the proposed inspection interval reduction introduces additional opportunities for fastener hole damage due to the inspection process, thus increasing the risk for subsequent fatigue damage.

We disagree with the commenter's request. Since AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004), was issued, Airbus conducted a fleet survey and an analysis to extend the DSG. In consideration of this information, we determined that the inspection interval and thresholds needed to be reduced to support timely detection of cracks. The Airbus analysis for the extension of the DSG and other data was used to determine the compliance thresholds and intervals for this AD. We have not changed this AD in this regard.

Request To Revise Repetitive Inspection Interval

FedEx Express requested that we revise the flight-cycle compliance time in paragraph (k)(1) of the proposed AD (80 FR 27607, May 14, 2015) from 2,000 flight cycles to 2,200 flight cycles so that the inspections can consistently be performed at the same interval as a C-check. FedEx Express stated that it considers the 2,200-flight-cycle interval to be conservative. FedEx Express submitted service experience from the previous inspections showing relatively few findings.

We do not agree with the commenter's request. The inspections are dependent upon various configurations and average flight times (AFTs). The commenter did not identify the applicable configuration for the requested 2,200-flight-cycle interval. Operators may request approval of a different interval under the provisions of paragraph (o)(1) of this AD if sufficient specific information is submitted to substantiate that the compliance time will provide an acceptable level of safety. We have not changed this AD in this regard.

Request To Remove Average Flight Time Classifications

UPS request that we revise the compliance times to remove the AFT classifications. UPS stated that it considers that the inspection interval difference with regard to the AFT adds a level of compliance complication that does not enhance fleet safety.

We disagree with the commenter's request. The compliance time thresholds and intervals using AFTs were developed by Airbus using fleet experience and analysis. Once we issue this AD, the commenter may request approval of a different interval under the provisions of paragraph (o)(1) of this AD. Sufficient data must be submitted to substantiate that the compliance time will provide an acceptable level of safety. We have not changed this AD in this regard.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 27607, May 14, 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 27607, May 14, 2015).

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information:

- Airbus Service Bulletin A300–53–0350, Revision 03, including Appendix 03, dated July 26, 2007. This service bulletin describes procedures for inspections to detect cracking of the splice fitting at fuselage FR 47 between stringers 24 and 26, and corrective actions.
- Airbus Service Bulletin A300–53–6123, Revision 06, dated September 28, 2011. This service bulletin describes procedures for inspections for cracking of the splice fitting at fuselage FR 47 between stringers 24 and 26, and corrective actions.

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

Costs of Compliance

We estimate that this AD affects 72 airplanes of U.S. registry.

We also estimate that it will take up to 14 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $85,680, or $1,190 per product.

In addition, we estimate that any necessary follow-on actions will take up to 204 work-hours and require parts costing up to $37,000, for a cost of up to $54,340 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-1417;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004), and adding the following new AD:

2016–01–10 Airbus: Amendment 39–18369; Docket No. FAA–2015–1417; Directorate Identifier 2013–NM–159–AD.

(a) Effective Date

This AD becomes effective March 10, 2016.

(b) Affected ADs

This AD replaces AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004).

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) through (c)(5) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A300 B4–2C, B4–103, and B4–203 airplanes.

(2) Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(3) Airbus Model A300 B4–605R and B4–622R airplanes.

(4) Airbus Model A300 F4–605R and F4–622R airplanes.

(5) Airbus Model A300 C4–605R Variant F airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that the inspection compliance time and repetitive inspection interval specified in AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004), must be reduced to allow timely detection of cracks in the splice fitting at fuselage frame (FR) 47. We are issuing this AD to detect and correct cracking of the splice fitting at fuselage FR 47; such cracking could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Repetitive Inspections for Airplanes Defined in Airbus Service Bulletin A300–53–0350, Revision 02, Dated November 12, 2002, With New Service Information

This paragraph restates the requirements of paragraph (a) of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004), with new service information. For airplanes defined in Airbus Service Bulletin A300–53–0350, Revision 02, dated November 12, 2002: Do a high frequency eddy current (HFEC) inspection to detect cracking of the splice fitting at fuselage FR 47 between stringers 24 and 26 (left- and right-hand sides), at the applicable times specified in paragraph (g)(1) or (g)(2) of this AD. Repeat the inspection thereafter at the earlier of the flight-cycle/flight-hour intervals specified in the applicable column in Table 2 of Figure 1 and Sheet 1 of the Accomplishment Instructions of Airbus Service Bulletin A300–53–0350, Revision 02, excluding Appendix 01, dated November 12, 2002. Do the inspections in accordance with Airbus Service Bulletin A300–53–0350, Revision 02, excluding Appendix 01, dated November 12, 2002; or Revision 03, excluding Appendix 01, dated July 26, 2007. As of the effective date of this AD, use only Airbus Service Bulletin A300–53–0350, Revision 03, excluding Appendix 01, dated July 26, 2007.

(1) For airplanes that have accumulated 20,000 or more total flight cycles as of November 17, 2004 (the effective date of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)): Do the initial inspection at the later of the times specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD.

(i) At the earlier of the flight-cycle/flight-hour intervals after November 17, 2004 (the effective date of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)), as specified in the applicable column in Table 1 of Figure 1 and Sheet 1 of the Accomplishment Instructions of Airbus Service Bulletin A300–53–0350, Revision 02, excluding Appendix 01, dated November 12, 2002.

(ii) Within 750 flight cycles or 1,500 flight hours after November 17, 2004 (the effective date of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)), whichever is first.

(2) For airplanes that have accumulated fewer than 20,000 total flight cycles as of November 17, 2004 (the effective date of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)): Do the initial inspection at the later of the times specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) At the earlier of the flight-cycle/flight-hour intervals after November 17, 2004 (the effective date of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)), as specified in the applicable column in Table 1 of Figure 1 and Sheet 1 of the Accomplishment Instructions of Airbus Service Bulletin A300–53–0350, Revision 02, excluding Appendix 01, dated November 12, 2002.

(ii) Within 1,800 flight cycles or 3,000 flight hours after November 17, 2004 (the effective date of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)), whichever is first.

(h) Retained Repetitive Inspections for Airplanes Defined in Airbus Service Bulletin A300–53–6123, Revision 02, Dated November 12, 2002, With New Service Information

This paragraph restates the requirements of paragraph (b) of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004), with new service information. For airplanes defined in Airbus Service Bulletin A300–53–6123, Revision 02, dated November 12, 2002: Do the HFEC inspection required by paragraph (g) of this AD at the applicable times specified in paragraph (h)(1) or (h)(2) of this AD. Repeat the inspection thereafter at the earlier of the flight-cycle/flight-hour intervals specified in the applicable column in Table 2 of Figure 1 and Sheet 1 of the Accomplishment Instructions of Airbus Service Bulletin A300–53–6123, Revision 02, excluding Appendix 01, dated November 12, 2002. Do the inspections in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6123, Revision 02, excluding Appendix 01, dated November 12, 2002; or Revision 06, dated September 28, 2011. Accomplishment of the actions

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

(1) For airplanes that have accumulated 10,000 or more total flight cycles as of November 17, 2004 (the effective date of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)): Do the initial inspection within 750 flight cycles or 1,900 flight hours after November 17, 2004, whichever is first.

(2) For airplanes that have accumulated fewer than 10,000 total flight cycles as of November 17, 2004 (the effective date of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)): Do the initial inspection at the later of the times specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

(i) At the earlier of the flight-cycle/flight-hour intervals after November 17, 2004 (the effective date of AD 2004–2–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)), as specified in the applicable column in Table 1 of Figure 1 and Sheet 1 of the Accomplishment Instructions of Airbus Service Bulletin A300–53–6123, Revision 02, excluding Appendix 01, dated November 12, 2002.

(ii) Within 1,500 flight cycles or 3,800 flight hours after November 17, 2004 (the effective date of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004)), whichever is first.

(i) Retained Repair, With Revised Repair Instructions

This paragraph restates the requirements of paragraph (c) of AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004), with revised repair instructions. Repair any cracking found during any inspection required by paragraphs (g) and (h) this AD before further flight, in accordance with Airbus Service Bulletin A300–53–0350, Revision 02, excluding Appendix 01, dated November 12, 2002; or Airbus Service Bulletin A300–53–6123, Revision 02, excluding Appendix 01, dated November 12, 2002; as applicable. Where Airbus Service Bulletin A300–53–0350, Revision 02, excluding Appendix 01, dated November 12, 2002; or Airbus Service Bulletin A300–53–6123, Revision 02, excluding Appendix 01, dated November 12, 2002; specifies to contact Airbus in case of certain crack findings, this AD requires that a repair be accomplished before further flight using a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent); or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(j) New Requirement of this AD: Repetitive Inspections

For airplanes identified in paragraphs (c)(2) through (c)(5) of this AD: At the applicable time specified in paragraph (j)(1) or (j)(2) of this AD, remove the fasteners and accomplish an HFEC rotating probe inspection for cracking of the splice fitting between stringer 24 and 26, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6123, Revision 06, dated September 28, 2011. Repeat the inspection thereafter at the applicable intervals specified in paragraphs (k)(1) through (k)(4) of this AD. If no cracking is found: Before further flight after each inspection, install new fasteners, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6123, Revision 06, dated September 28, 2011. Accomplishment of the initial inspection required by this paragraph terminates the requirements of paragraph (h) of this AD for that airplane.

(1) For airplanes on which Airbus Modification 5890 or the actions specified in Airbus Service Bulletin A300–53–6131 have not been done: At the applicable time specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this AD.

(i) For airplanes that have an average flight time (AFT) that is more than 1.5 hours: At the later of the times specified in paragraphs (j)(1)(i)(A) and (j)(1)(i)(B) of this AD.

(A) Before the accumulation of 2,500 total flight cycles or 5,500 total flight hours, whichever occurs first.

(B) Within 800 flight cycles or 1,750 flight hours, whichever occurs first after the effective date of this AD.

(ii) For airplanes that have an AFT that is equal to or less than 1.5 hours: At the later of the times specified in paragraphs (j)(1)(ii)(A) and (j)(1)(ii)(B) of this AD.

(A) Before the accumulation of 2,700 total flight cycles or 4,100 total flight hours, whichever occurs first.

(B) Within 800 flight cycles or 1,750 flight hours, whichever occurs first after the effective date of this AD.

(2) For airplanes that have accomplished Airbus Modification 5890 or have accomplished the actions specified in Airbus Service Bulletin A300–53–6131: At the applicable time specified in paragraph (j)(2)(i) or (j)(2)(ii) of this AD.

(i) For airplanes that have an AFT that is more than 1.5 hours: At the later of the times specified in paragraphs (j)(2)(i)(A) and (j)(2)(i)(B) of this AD.

(A) Before the accumulation of 6,800 total flight cycles or 14,700 total flight hours, whichever occurs first.

(B) Within 800 flight cycles or 1,750 flight hours, whichever occurs first after the effective date of this AD.

(ii) For airplanes that have an AFT that is equal to or less than 1.5 hours: At the later of the times specified in paragraphs (j)(2)(ii)(A) and (j)(2)(ii)(B) of this AD.

(A) Before the accumulation of 7,300 total flight cycles or 11,000 total flight hours, whichever occurs first.

(B) Within 800 flight cycles or 1,750 flight hours, whichever occurs first after the effective date of this AD.

(k) New Requirement of This AD: Repetitive Inspection Intervals for Actions Specified in Paragraph (j) of This AD

For airplanes identified in paragraphs (c)(2) through (c)(5) of this AD: Repeat the inspection required by paragraph (j) of this AD at the applicable time specified in paragraphs (k)(1) through (k)(4) of this AD.

(1) For airplanes that have an AFT of more than 1.5 hours and meet the applicable conditions specified in paragraphs (k)(1)(i) through (k)(1)(iv) of this AD: Inspect at intervals not to exceed 2,000 flight cycles or 4,300 flight hours, whichever occurs first.

(i) Airplanes on which Airbus Modification 5890 has not been accomplished.

(ii) Airplanes on which the actions specified in Airbus Service Bulletin A300–53–6131 have not been accomplished.

(iii) Airplanes on which Airbus Modification 5890 has been accomplished and have splice part number (P/N) A53834139–202/–203 installed.

(iv) Airplanes on which the actions specified in Airbus Service Bulletin A300–53–6131 have been accomplished and have splice P/N A53834139–202/–203 installed.

(2) For airplanes that have an AFT that is equal to or less than 1.5 hours and meet the applicable conditions specified in paragraphs (k)(2)(i) through (k)(2)(iv) of this AD: Inspect at intervals not to exceed 2,100 flight cycles or 3,200 flight hours.

(i) Airplanes on which Airbus Modification 5890 has not been accomplished.

(ii) Airplanes on which the actions specified in Airbus Service Bulletin A300–53–6131 have not been accomplished.

(iii) Airplanes on which Airbus Modification 5890 has been accomplished and have splice P/N A53834139–202/–203 installed.

(iv) Airplanes on which the actions described in Airbus Service Bulletin A300–53–6131 have been accomplished and have splice P/N A53834139–202/–203 installed.

(3) For airplanes that have an AFT of more than 1.5 hours and meet the applicable conditions specified in paragraphs (k)(3)(i) and (k)(3)(ii) of this AD: Inspect at intervals not to exceed 1,600 flight cycles or 3,500 flight hours.

(i) Airplanes on which Airbus Modification 5890 has been accomplished and have splice P/N A53812635–200/–201/–202/–203 installed.

(ii) Airplanes on which the actions specified in Airbus Service Bulletin A300–53–6131 have been accomplished and have splice P/N A53812635–200–201/–202/–203 installed.

(4) For the airplanes that have an AFT that is equal to or less than 1.5 hours and meet the applicable conditions specified in paragraphs (k)(4)(i) and (k)(4)(ii) of this AD: Inspect at intervals not to exceed 1,700 flight cycles or 2,600 flight hours.

(i) Airplanes on which Airbus Modification 5890 has been accomplished and have splice P/N A53812635–200/–201/–202/–203 installed.

(ii) Airplanes on which the actions specified in Airbus Service Bulletin A300–53–6131 have been accomplished and have splice P/N A53812635–200/–201/–202/–203 installed.

(l) New Requirement of This AD: Corrective Actions

If, during any inspection required by paragraph (j) or (k) of this AD, any crack is found: Before further flight, do the applicable corrective actions, in accordance with the Accomplishment Instructions of Airbus

Service Bulletin A300–53–6123, Revision 06, dated September 28, 2011, except as provided by paragraph (m) of this AD.

(m) New Requirement of This AD: Exception to Service Information

If any crack is found during any inspection required by paragraph (j) or (k) of this AD and Airbus Service Bulletin A300–53–6123, Revision 06, dated September 28, 2011; or Airbus Service Bulletin A300–53–0350, Revision 03, dated July 26, 2007; specifies to contact Airbus: Before further flight, repair the crack using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA.

(n) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (j) and (l) of this AD, if those actions were performed before the effective date of this AD using the applicable service information specified in paragraphs (n)(1) through (n)(6) of this AD.

(1) Airbus Service Bulletin A300–53–0350, Revision 01, dated December 18, 2001, which is not incorporated by reference in this AD.

(2) Airbus Service Bulletin A300–53–0350, Revision 02, excluding Appendix 01, dated November 12, 2002, which was incorporated by reference in AD 2004–20–14, Amendment 39–13819 (69 FR 60809, October 13, 2004).

(3) Airbus Service Bulletin A300–53–6123, Revision 01, dated December 18, 2001, which is not incorporated by reference in this AD.

(4) Airbus Service Bulletin A300–53–6123, Revision 03, dated August 20, 2004, which is not incorporated by reference in this AD.

(5) Airbus Service Bulletin A300–53–6123, Revision 04, dated April 25, 2008, which is not incorporated by reference in this AD.

(6) Airbus Service Bulletin A300–53–6123, Revision 05, dated August 1, 2011, which is not incorporated by reference in this AD.

(o) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(p) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Airworthiness Directive 2013–0184R1, dated August 22, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1417.

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

(q) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on March 10, 2016.

(i) Airbus Service Bulletin A300–53–0350, Revision 03, dated July 26, 2007.

(ii) Airbus Service Bulletin A300–53–6123, Revision 06, dated September 28, 2011.

(4) The following service information was approved for IBR on November 17, 2004 (69 FR 60809, October 13, 2004).

(i) Airbus Service Bulletin A300–53–6123, Revision 02, excluding Appendix 01, dated November 12, 2002.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on December 31, 2015.

Phil Forde,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–00379 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1983; Directorate Identifier 2015–NM–020–AD; Amendment 39–18388; AD 2016–03–01]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by a report of a crack of the forward leg of the left front spar lower chord and cracks on the lower wing skin at three fastener holes common to the nacelle outboard side load fitting. This AD requires repetitive inspections for cracks on the front spar lower chord, inspar skin, and wing skin, and corrective action if necessary. We are issuing this AD to detect and correct fatigue cracking of the forward leg of the front spar lower chord, inspar skin, and wing skin common to the nacelle outboard side load fitting, which could adversely affect the structural integrity of the wing.

DATES: This AD is effective March 10, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 10, 2016.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1983.

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–

1983; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Jennifer Tsakoumakis, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5264; fax: 562–627–5210; email: *jennifer.tsakoumakis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on June 24, 2015 (80 FR 36258) (''the NPRM''). The NPRM was prompted by a report of a crack of the forward leg of the left front spar lower chord and cracks on the lower wing skin at three fastener holes common to the nacelle outboard side load fitting. The NPRM proposed to require repetitive inspections for cracks on the front spar lower chord, inspar skin, and wing skin, and corrective action if necessary. We are issuing this AD to correct the unsafe condition on these products.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

Boeing stated that it concurs with the NPRM.

Effect of Winglets on Accomplishment of the NPRM

Southwest Airlines (SWA) requested clarification whether the installation of Aviation Partners Boeing (APB) Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) has any affect to the ability of accomplishment of the action of this proposed AD (80 FR 36258, June 24, 2015). APB stated that the installation of winglets per STC ST01219SE does not affect the accomplishment of the manufacturer's service instructions.

We concur with APB's comment and agree to clarify. We have redesignated paragraph (c) of the proposed AD (80 FR 36258, June 24, 2015) as paragraph (c)(1) and added new paragraph (c)(2) to this AD to state that installation of STC ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Request for Critical Design Configuration Control Limitation (CDCCL) Instructions

SWA requested that we add instructions to paragraph (i) of the proposed AD (80 FR 36258, June 24, 2015) to specify that important CDCCL information must be observed during access and close-up while performing the actions specified in paragraph (i) of the proposed AD. SWA explained that Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, does not contain any references to CDCCLs, despite the required access to the fuel tank, in order to perform either option 1 or option 2 non-destructive test inspection requirements. SWA stated that the access and close-up steps indicate, as a reference, the maintenance planning document (section 4), which does not provide a clear path to the airplane maintenance manual section that addresses CDCCL requirements.

We agree with the commenter's request. Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, does not contain any references to CDCCLs that are part of the airworthiness limitations (AWLs). All applicable AWLs must still be observed while performing the actions mandated by this AD. We have revised paragraph (i) of this AD to state that while accomplishing the actions required by paragraph (i) of this AD, operators must ensure that all applicable CDCCLs are complied with.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014. The service information describes procedures for repetitive inspections for cracks on the left and right wing front spar lower chord, inspar skin, and wing skin, and corrective action. The service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 331 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection (28 Group 2 airplanes)	7 work-hours × $85 per hour = $595 per inspection cycle.	$0	$595 per inspection cycle.	$16,660 per inspection cycle.
Inspection and fastener installation (302 Group 3 airplanes).	Up to 94 work-hours × $85 per hour = $7,990 per inspection cycle.	0	Up to $7,990 per inspection cycle.	Up to $2,412,980 per inspection cycle.

We have received no definitive data that will enable us to provide cost estimates for the actions specified for the Group 1 airplane in this AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–03–01 the Boeing Company: Amendment 39–18388; Docket No. FAA–2015–1983; Directorate Identifier 2015–NM–020–AD.

(a) Effective Date

This AD is effective March 10, 2016.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a crack in the forward leg of the left front spar lower chord and cracks on the lower wing skin at three fastener holes common to the nacelle outboard side load fitting. We are issuing this AD to detect and correct fatigue cracking of the forward leg of the front spar lower chord, inspar skin, and wing skin common to the nacelle outboard side load fitting, which could adversely affect the structural integrity of the wing.

(f) Compliance

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

(g) Inspections and Corrective Actions for Group 1 Airplanes

For Group 1 airplanes identified in Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014: Within 120 days after the effective date of this AD, do inspections of the left and right wing front spar lower chord and inspar skin, and the left and right wing nacelle outboard side load fitting fastener holes common to the front spar lower chord and skin, and do all applicable corrective actions, using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) Repetitive Detailed Inspections and Corrective Actions

For Group 2 and 3 airplanes identified in Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014: Except as provided by paragraph (j)(1) of this AD, at the applicable time specified in Table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, do a detailed inspection for cracks on the left and right wing front spar lower chord and inspar skin, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, except as specified in paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at the applicable interval specified in Table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, except in areas repaired in accordance with the procedures specified in paragraph (k) of this AD.

(i) Repetitive High Frequency Eddy Current (HFEC) Inspections and Corrective Actions

For Group 3 airplanes identified in Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014: Except as provided by paragraph (j)(1) of this AD, at the applicable time specified in Table 2 or Table 3 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, do the actions specified in paragraphs (i)(1) or (i)(2) of this AD. Repeat the inspection specified in either paragraph (i)(1) or (i)(2) of this AD thereafter at the applicable interval specified in Table 2 or Table 3 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin737–57A1323, dated December 5, 2014. While accomplishing the actions required by this paragraph, ensure that all applicable critical design configuration control limitations are complied with.

(1) Do an HFEC open hole probe inspection for cracks of the left and right wing nacelle outboard side load fitting fastener holes common to the front spar lower chord and skin, and perform all applicable corrective actions, in accordance with Part 2, Option 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, except as provided by paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight.

(2) Do an HFEC surface probe inspection for cracks in the wing inspar skin, and perform all applicable corrective actions, in accordance with Part 2, Option 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, except as provided by paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight.

(j) Exceptions to Service Information Specifications

(1) Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires

compliance within the specified compliance time ''after the effective date of this AD.''

(2) Although Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, specifies to contact Boeing for repair instructions, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) Except as required by paragraph (j)(2) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(4)(i) and (k)(4)(ii) apply.

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

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

(l) Related Information

For more information about this AD, contact Jennifer Tsakoumakis, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5264; fax: 562–627–5210; email: *jennifer.tsakoumakis@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on January 25, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–01827 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61 and 183

[Docket No.: FAA–2010–1127; Amdt. Nos. 61–135 and 183–15]

RIN 2120–AJ42

Student Pilot Application Requirements

Correction

In rule document 2016–00199 beginning on page 1292 in the issue of Tuesday, January 12, 2016, make the following correction:

1. On pages 1293–1294, table ''B. Student Pilot Application Requirements: Summary of Current, Proposed, and Finalized Provisions'' is corrected as set forth below.

B. Student Pilot Application Requirements: Summary of Current, Proposed, and Finalized Provisions

Scenario	Current regulations	2010 NPRM	Final rule requirements
Digital Photos on all Pilot Certificates.	• No photo on pilot certificate ..... • Pilot must have photo identification on the person and in the physical possession or readily accessible in the aircraft when exercising the privileges of the pilot certificate or authorization.	• Photo on pilot certificate ..... • Pilot must carry pilot certificate with photo according to proposed implementation schedule.	• No change from current regulations.
Application and Certificate Issuance.	• A student pilot typically obtains a combination medical certificate and student pilot certificate from an aviation medical examiner (AME). • A student pilot applicant may obtain a student pilot certificate from an aviation safety inspector (ASI) or aviation safety technician (AST) located at a Flight Standards District Office (FSDO) throughout the country. • A student pilot applicant may obtain a student pilot certificate from a designated pilot examiner (DPE).	• A student pilot applicant would not be issued a student pilot certificate at the time of application. • A student pilot must obtain a student pilot certificate that is issued by the Civil Aviation Registry prior to exercising the privileges of the student pilot certificate. • An AME would not issue a combination medical certificate and student pilot certificate or accept an application for a student pilot certificate. • A student pilot applicant could apply in person with an ASI or AST at a FSDO. • A student pilot applicant could apply in person with a DPE. • A student pilot applicant could apply in person at a Knowledge Testing Center (KTC).	• A student pilot will not be issued a student pilot certificate at the time of application. • A student pilot must obtain a student pilot certificate that is issued by the Civil Aviation Registry prior to exercising the privileges of the student pilot certificate • An AME will not issue a combination medical certificate and student pilot certificate or accept an application for a student pilot certificate • A student pilot applicant may apply in person with an ASI or AST at a FSDO • A student pilot applicant may apply in person through a DPE • A student pilot applicant may apply in person with an airman certification representative (ACR) associated with a part 141 pilot school • A student pilot applicant may apply in person with a certified flight instructor (CFI).
Implementation Schedule	• None previously required. Proposals were based upon the implementation of digital photos on all pilot certificates.	• A 5-year phased implementation schedule that included a ''trigger-based'' approach to issue pilot certificates with photos to people interacting with the FAA and a ''non-trigger based'' approach that required pilots to obtain a pilot certificate with a photo during a 3-, 4-, or 5-year period depending on the type of certificate. • An effective date of 180 days from the date of publication in the **Federal Register**.	• An effective date of the first day of the calendar month following 60 days from the date of publication in the **Federal Register** • Current student pilot certificate holders may continue exercising the privileges of the student pilot certificate until the certificate expires according to its current terms.
Fees	• The FAA charges a $2 fee for replacement, duplicate, or facsimile of a pilot certificate.	• The FAA would charge $22 for initial issuance or renewal of a pilot certificate.	• The FAA will charge a $2 fee for replacement of a pilot certificate including a student pilot certificate which is consistent with existing § 187.5
Expiration date	• The student pilot certificate is valid for a period of 24 or 60 calendar months after the date of issuance, depending on the age of the student pilot.	• The student pilot certificate would have no expiration date, although the photo would need to be updated every 8 years to continue exercising privileges of the student pilot certificate.	• The student pilot certificate has no expiration date.
Student Pilot Endorsements	• Flight Instructor endorses the student pilot certificate and the student's logbook.	• Flight Instructor would endorse the student's logbook.	• Flight Instructor endorses the student's logbook.

[FR Doc. C1–2016–00199 Filed 2–3–16; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–1345; Airspace Docket No. 14–AWP–13]

RIN 2120–AA66

Establishment of Multiple Air Traffic Service (ATS) Routes; Western United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes 13 high altitude Area Navigation (RNAV) routes (Q-routes) in the western United States. The routes promote operational efficiencies for users and provide connectivity to current and proposed RNAV en route and terminal procedures. The low altitude RNAV route, T–326, published in the Notice of Proposed Rulemaking, requires more coordination and is removed from this rule.

DATES: Effective date 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under title 1 Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure in the western U.S. to preserve the safe and efficient flow of air traffic within the NAS.

History

On June 5, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish 13 RNAV Q-routes and one T-route originating in Los Angeles Air Route Traffic Control Center's (ARTCC) airspace (80 FR 32074). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

The development of new RNAV Standard Instrument Departure (SID) and Standard Terminal Arrival (STAR) routes requires incorporation of these Q routes into the NAS Route Structure in order to maximize the benefits of increased safety in high volume en route sectors.

The Los Angeles Air Route Traffic Control Center (ARTCC) currently does not have routes that join the Performance Based Navigation (PBN) arrival and departure procedures. The existing conventional jet route structure does not serve the new SID/STAR designs. Routes made up of ground based navigational aids are not capable of delivering aircraft onto the RNAV based arrival and departure procedures in an efficient manner. Developing these predictable and repeatable flight paths through a complex area confined by restricted areas will improve throughput and safety for Los Angeles ARTCC.

This first phase of a two phase project will align a network of Q-Routes with the new SIDs and STARs. The Q-Route structure is projected to optimize descent/climb profiles to/from several airports in southern California and create segregated arrival/departure paths to reduce airspace complexity.

High altitude United States RNAV routes are published in paragraph 2006 and high altitude Canadian RNAV routes are published in paragraph 2007 of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The high altitude United States RNAV routes (Q-routes) and high altitude Canadian RNAV routes listed in this document would be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

Differences From the NPRM

This rule has several changes from the NPRM. First, the NPRM proposed to establish a low altitude RNAV route, T–326. Due to additional coordination required for low altitude routes, T–326 will not be included in this final rule, but will be finalized at a later date. Second, in the state of Nevada, BEALE waypoint was moved from lat. 36°10′56.60″ N., long. 114°49′34.81″ W. to lat. 36°10′56.83″ N., long. 114°49′34.09″ W., to properly connect to a Standard Instrument Departure procedure. In the state of Idaho, HELLS waypoint is removed from Q–73. Also in Idaho, CORDU waypoint is moved from lat. 48°10′46.10″ N., long. 116°40′21.84″ W., to lat. 48°10′46.41″ N., long. 116°40′21.84″ W., to align with a future polar Q route. And finally, LAKKR waypoint, listed under Q–73, was erroneously shown in the state of Arizona, but is actually located in Nevada.

The Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to establish U.S. RNAV routes Q–70, Q–73, Q–74, Q–78, Q–86, Q–88, Q–90, Q–94, Q–96, Q–98, Q–114, Q–168, and Q–842, which is an extension of a current Canadian RNAV route and therefore retains the Canadian numbering. The routes will connect to new SID and STAR procedures as designed in the Southern California area. The routes are outlined below.

Q–70: Q–70 is from the HAILO, CA, waypoint (WP) to the SAKES, UT, WP to support departures from Los Angeles basin airports to the northeast.

Q–73: Q–73 is established from the MOMAR, CA, WP to the CORDU, ID, WP to accommodate arrivals to San Diego airport.

Q–74: Q–74 is from the NATEE, NV, WP to the DEANN, UT, WP and supports arrivals to John Wayne, Long Beach and Ontario airports from the northeast.

Q–78: Q–78 is established from the MARUE, NV, WP to the TOADD, AZ, WP to support arrivals to John Wayne, Long Beach and Ontario airports from the east and northeast.

Q–86: Q–86 is from the TTRUE, AZ, WP to the PLNDL, AZ, WP for arrivals to San Diego and Ontario airports from the east.

Q–88: Q–88 is established from the HAKMN, NV, WP to the CHESZ, UT, WP to support Los Angeles airport arrivals from the northeast.

Q–90: Q–90 is from the DNERO, CA, WP to the JASSE, AZ, WP and will be the primary RNAV route to Los Angeles from Denver ARTCC.

Q–94: Q–94 is from the WELUM, NV, WP to the ROOLL, AZ, WP to support Denver ARTCC arrivals to Burbank, Van Nuys, Camarillo and Oxnard airports.

Q–96: Q–96 is established from the PURSE, NV, WP to the KIMMR, UT, WP to support arrivals to Burbank, Van Nuys, Camarillo and Oxnard airports from the Salt Lake ARTCC.

Q–98: Q–98 is from the HAKMN, NV, WP to the PEEWE, AZ, WP to support Denver ARTCC arrivals to Los Angeles and San Diego airports.

Q–114: Q–114 extends from the NATEE, NV, WP to the BUGGG, UT, WP to support Salt Lake ARTCC arrivals to Long Beach, Ontario and Orange County airports.

Q–168: Q–168 extends from the FNNDA, CA, WP to the JASSE, AZ, WP and will be the primary arrival route for Los Angeles airport from the Denver ARTCC.

Q–842: Existing Canadian route Q–842 is extended south into U.S. airspace. The route will begin at the BEALE, NV, WP and extend north to the existing TOVUM, AB, WP in Canada. This will provide routing for departures from Los Angeles, Long Beach, Ontario and Orange County airports to airports in Calgary and Edmonton, Canada.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Rule

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–70 HAILO, CA to SAKES, UT (New)

HAILO, CA	WP	(Lat. 35°38′14.00″ N., long. 115°58′16.00″ W.)
LAS, NV	VOR	(Lat. 36°04′46.93″ N., long. 115°09′35.27″ W.)
IFEYE, NV	WP	(Lat. 36°24′56.04″ N., long. 114°47′49.32″ W.)
BLIPP, NV	WP	(Lat. 36°42′41.31″ N., long. 114°28′26.45″ W.)
EEVUN, UT	WP	(Lat. 37°02′52.90″ N., long. 113°42′42.56″ W.)
BLOBB, UT	WP	(Lat. 37°17′45.63″ N., long. 113°06′52.16″ W.)
BAWER, UT	WP	(Lat. 37°38′06.68″ N., long. 112°16′45.89″ W.)
SAKES, UT	WP	(Lat. 38°50′00.51″ N., long. 110°16′16.52″ W.)

* * * * *

Q–73 MOMAR, CA to CORDU, ID (New)

MOMAR, CA	WP	(Lat. 33°30′54.13″ N., long. 115°56′40.14″ W.)
CABIC, CA	WP	(Lat. 33°46′17.01″ N., long. 115°49′28.71″ W.)
CHADT, CA	WP	(Lat. 33°55′18.49″ N., long. 115°45′03.26″ W.)
LVELL, CA	WP	(Lat. 34°12′37.38″ N., long. 115°36′53.25″ W.)
HAKMN, NV	WP	(Lat. 35°30′28.31″ N., long. 115°04′47.04″ W.)
ZZYZX, NV	WP	(Lat. 35°39′53.52″ N., long. 114°51′54.99″ W.)
LAKRR, NV	WP	(Lat. 36°05′07.72″ N., long. 114°17′09.16″ W.)
GUNTR, AZ	WP	(Lat. 36°24′39.65″ N., long. 114°02′11.55″ W.)
ZAINY, AZ	WP	(Lat. 36°39′24.73″ N., long. 113°54′03.50″ W.)
EEVUN, UT	WP	(Lat. 37°02′52.90″ N., long. 113°42′42.56″ W.)
WINEN, UT	WP	(Lat. 37°56′00.00″ N., long. 113°30′00.00″ W.)
CRITO, NV	WP	(Lat. 39°18′00.00″ N., long. 114°33′00.00″ W.)
BROPH, ID	WP	(Lat. 42°43′15.71″ N., long. 114°52′31.80″ W.)
DERSO, ID	FIX	(Lat. 43°21′42.63″ N., long. 115°08′01.66″ W.)
SAWTT, ID	WP	(Lat. 44°37′35.52″ N., long. 115°43′55.55″ W.)
ZATIP, ID	WP	(Lat. 46°13′17.48″ N., long. 116°31′37.57″ W.)
CORDU, ID	WP	(Lat. 48°10′46.41″ N., long. 116°40′21.84″ W.)

Q–74 NATEE, NV to DEANN, UT (New)

NATEE, NV	WP	(Lat. 35°37′14.00″ N., long. 115°22′26.00″ W.)
BLD, NV	VOR	(Lat. 35°59′44.84″ N., long. 114°51′48.88″ W.)
ZAINY, AZ	WP	(Lat. 36°39′24.73″ N., long. 113°54′03.50″ W.)
FIZZL, AZ	WP	(Lat. 36°56′03.37″ N., long. 113°16′23.91″ W.)
GARDD, UT	WP	(Lat. 37°03′12.91″ N., long. 112°37′54.38″ W.)
DEANN, UT	WP	(Lat. 37°12′34.00″ N., long. 111°42′47.00″ W.)

Q–78 MARUE, NV to TOADD, AZ (New)

MARUE, NV	WP	(Lat. 35°15′23.00″ N., long. 114°52′55.00″ W.)
DUGGN, AZ	WP	(Lat. 35°44′06.83″ N., long. 113°23′24.52″ W.)
TOADD, AZ	WP	(Lat. 36°17′45.60″ N., long. 111°30′37.21″ W.)

* * * * *

Q–86 TTRUE, AZ to PLNDL, AZ (New)

TTRUE, AZ	WP	(Lat. 34°38′01.53″ N., long. 114°23′05.05″ W.)
YORRK, AZ	WP	(Lat. 34°52′03.23″ N., long. 113°55′58.14″ W.)
SCHLS, AZ	WP	(Lat. 35°14′18.55″ N., long. 113°09′42.77″ W.)
CUTRO, AZ	WP	(Lat. 35°36′16.98″ N., long. 112°23′00.00″ W.)
VALEQ, AZ	WP	(Lat. 35°44′01.73″ N., long. 112°06′31.44″ W.)
PLNDL, AZ	WP	(Lat. 35°50′17.43″ N., long. 111°52′40.71″ W.)

Q–88 HAKMN, NV to CHESZ, UT (New)

HAKMN, NV	WP	(Lat. 35°30′28.31″ N., long. 115°04′47.04″ W.)
ZZYZX, NV	WP	(Lat. 35°39′53.52″ N., long. 114°51′54.99″ W.)
LAKRR, NV	WP	(Lat. 36°05′07.72″ N., long. 114°17′09.16″ W.)
NOOTN, AZ	WP	(Lat. 36°37′32.63″ N., long. 113°20′40.25″ W.)
GARDD, UT	WP	(Lat. 37°03′12.91″ N., long. 112°37′54.38″ W.)
VERKN, UT	WP	(Lat. 37°23′00.05″ N., long. 112°04′21.69″ W.)
PROMT, UT	WP	(Lat. 37°30′06.70″ N., long. 111°52′12.94″ W.)
CHESZ, UT	WP	(Lat. 38°16′59.03″ N., long. 110°02′11.31″ W.)

Q–90 DNERO, CA to JASSE, AZ (New)

DNERO, CA	WP	(Lat. 35°02′07.14″ N., long. 114°54′16.39″ W.)
ESGEE, NV	WP	(Lat. 35°08′00.50″ N., long. 114°37′21.64″ W.)
AREAF, AZ	WP	(Lat. 35°36′31.77″ N., long. 113°13′50.46″ W.)
JASSE, AZ	WP	(Lat. 36°04′15.53″ N., long. 111°48′45.81″ W.)

Q–94 WELUM, NV to ROOLL, AZ (New)

WELUM, NV	WP	(Lat. 35°22′56.00″ N., long. 114°55′59.00″ W.)
MNGGO, AZ	WP	(Lat. 35°51′13.55″ N., long. 113°28′23.59″ W.)
ROOLL, AZ	WP	(Lat. 36°27′37.93″ N., long. 111°28′54.98″ W.)

Q–96 PURSE, NV to KIMMR, UT (New)

PURSE, NV	WP	(Lat. 35°34′54.00″ N., long. 115°11′53.00″ W.)
DODDL, NV	WP	(Lat. 35°49′28.80″ N., long. 114°51′51.29″ W.)
BFUNE, AZ	WP	(Lat. 36°06′10.73″ N., long. 114°28′40.09″ W.)
GUNTR, AZ	WP	(Lat. 36°24′39.65″ N., long. 114°02′11.55″ W.)
PIIXR, AZ	WP	(Lat. 36°36′29.27″ N., long. 113°45′02.40″ W.)
FIZZL, AZ	WP	(Lat. 36°56′03.37″ N., long. 113°16′23.91″ W.)
BAWER, UT	WP	(Lat. 37°38′06.68″ N., long. 112°16′45.89″ W.)
ROCCY, UT	WP	(Lat. 37°49′41.63″ N., long. 111°59′59.84″ W.)
SARAF, UT	WP	(Lat. 38°36′03.84″ N., long. 110°53′24.20″ W.)
KIMMR, UT	WP	(Lat. 39°13′45.24″ N., long. 109°57′30.10″ W.)

Q–98 HAKMN, NV to PEEWE, AZ (New)

HAKMN, NV	WP	(Lat. 35°30′28.31″ N., long. 115°04′47.04″ W.)
ZZYZX, NV	WP	(Lat. 35°39′53.52″ N., long. 114°51′54.99″ W.)
LAKRR, NV	WP	(Lat. 36°05′07.72″ N., long. 114°17′09.16″ W.)
DUZIT, AZ	WP	(Lat. 36°24′51.20″ N., long. 113°24′51.53″ W.)
EEEZY, AZ	WP	(Lat. 36°44′33.18″ N., long. 112°21′40.77″ W.)
PEEWE, AZ	WP	(Lat. 36°58′08.69″ N., long. 111°36′40.81″ W.)

* * * * *

Q–114 NATEE, NV to BUGGG, UT (New)

NATEE, NV	WP	(Lat. 35°37′14.00″ N., long. 115°22′26.00″ W.)
BLD, NV	VOR	(Lat. 35°59′44.84″ N., long. 114°51°48.88″ W.)
ZAINY, AZ	WP	(Lat. 36°39′24.73″ N., long. 113°54′03.50″ W.)
AHOWW, UT	WP	(Lat. 37°07′14.56″ N., long. 113°11′34.04″ W.)
BAWER, UT	WP	(Lat. 37°38′06.68″ N., long. 112°16′45.89″ W.)
BUGGG, UT	WP	(Lat. 38°39′18.31″ N., long. 109°29′48.01″ W.)

* * * * *

Q–168 FNNDA, CA to JASSE, AZ (New)

FNNDA, CA	WP	(Lat. 34°45′14.96″ N., long. 114°45′18.49″ W.)
SHIVA, AZ	WP	(Lat. 34°58′12.28″ N., long. 114°17′24.65″ W.)
KRINA, AZ	WP	(Lat. 35°28′02.52″ N., long. 113°11′35.60″ W.)
JASSE, AZ	WP	(Lat. 36°04′15.53″ N., long. 111°48′45.81″ W.)

* * * * *

Paragraph 2007 Canadian Area Navigation Routes.

Q–842 BEALE, NV to TOVUM, AB Canada (New)

BEALE, NV	WP	(Lat. 36°10′56.83″ N., long. 114°49′34.09″ W.)
BLIPP, NV	WP	(Lat. 36°42′41.31″ N., long. 114°28′26.45″ W.)

WINEN, UT	WP	(Lat. 37°56′00.00″ N., long. 113°30′00.00″ W.)
TABLL, UT	WP	(Lat. 38°39′56.31″ N., long. 113°10′35.15″ W.)
PICHO, UT	WP	(Lat. 39°58′00.00″ N., long. 112°35′00.00″ W.)
PATIO, UT	WP	(Lat. 41°16′00.00″ N., long. 112°32′00.00″ W.)
PROXI, UT	WP	(Lat. 41°58′20.81″ N., long. 112°31′33.79″ W.)
VAANE, ID	WP	(Lat. 45°18′12.53″ N., long. 112°44′58.36″ W.)
KEETA, MT	WP	(Lat. 47°20′39.01″ N., long. 112°52′51.46″ W.)
TOVUM, AB, Canada	WP	(Lat. 49°14′29.00″ N., long. 112°48′53.00″ W.)

Excluding the airspace within Canada.

Issued in Washington, DC, on January 28, 2016.

Randy Willis,

Acting Manager, Airspace Policy Group.

[FR Doc. 2016–02022 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–6231; Airspace Docket No. 15–AEA–12]

Amendment of Class E Airspace for Lynchburg, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E Airspace at Lynchburg, VA, by adjusting the geographic coordinates at Lynchburg Regional-Preston Glenn Field Airport and Falwell Airport, to be in concert with the FAA's aeronautical database.

DATES: Effective 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/airtraffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.0.*

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace at Lynchburg Regional-Preston Glenn Field Airport and Falwell Airport, Lynchburg, VA.

History

In a review of the airspace, the FAA found the geographic coordinates for Lynchburg Regional-Preston Glenn Field Airport and Falwell Airport as published in FAA Order 7400.9Z, Airspace Designations and Reporting Points, do not match the FAA's charting information. This administrative change coincides with the FAA's aeronautical database for Class E Surface Airspace.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by adjusting the geographic coordinates at Lynchburg Regional-Preston Glenn Field Airport and Falwell Airport, Lynchburg, VA, to be in concert with the FAA's aeronautical database.

This is an administrative change and does not affect the boundaries, or operating requirements of the airspace, therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

AEA VA E2 Lynchburg, VA [Amended]

Lynchburg Regional-Preston Glenn Field Airport, Lynchburg, VA
(Lat. 37°19′31″ N., long. 79°12′04″ W.)
Lynchburg VORTAC
(Lat. 37°15′17″ N., long. 79°14′11″ W.)
Falwell Airport, VA
(Lat. 37°22′41″ N., long. 79°07′20″ W.)

Within a 4.5-mile radius of Lynchburg Regional-Preston Glenn Field Airport; and that airspace extending upward from the surface within 2.7 miles each side of the Lynchburg VORTAC 020° and 200° radials extending from the 4.5-mile radius to 1-mile south of the VORTAC, and within 1.8 miles each side of the Lynchburg VORTAC 022° radial extending from the 4.5-mile radius to 11.3 miles northeast of the VORTAC, excluding the portion within a .5-mile radius of Falwell Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published continuously in the Airport/Facility Directory.

Issued in College Park, Georgia, on January 27, 2016.

Ryan W. Almasy,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–02033 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–4532; Airspace Docket No. 15–AEA–10]

Amendment of Class E Airspace for the following New York Towns; Ithaca, NY; Poughkeepsie, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E Airspace at Ithaca Tompkins Regional Airport, Ithaca, NY; and Kingston VORTAC, Poughkeepsie, NY, by eliminating the Notice to Airmen (NOTAM) part time status of the Class E surface airspace designated as an extension at the Ithaca and Poughkeepsie locations. This action also adds Dutchess County Airport to the Kingston VORTAC designation, updates the geographic coordinates of each navigation aid and Ithaca Tompkins Regional to coincide with the FAA's aeronautical database, and recognizes the airport name for Ithaca Tompkins Regional Airport. This is an administrative change to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace at the New York airports listed in this final rule.

History

In a review of the airspace, the FAA found the airspace description for Ithaca Tompkins Regional Airport, Ithaca, NY, formerly Tompkins County Airport, and Kingston VORTAC, Poughkeepsie, NY, as published in FAA Order 7400.9Z, Airspace Designations and Reporting Points, does not match the FAA's charting information. This administrative change coincides with the FAA's aeronautical database for Class E Airspace Designated as an Extension to a Class D Surface Area.

Class E airspace designations are published in paragraphs 6004 of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by eliminating the NOTAM information that reads ''This Class E airspace area is effective during the specific dates and

time established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.'' from the regulatory text of the Class E airspace designated as an extension to Class D at Ithaca Tompkins Regional Airport, Ithaca, NY; and the Kingston VORTAC, Poughkeepsie, NY. Also, as Dutchess County Airport, Poughkeepsie, NY, is supported by the Kingston VORTAC, it is included in the VORTAC designation.

Additionally, the geographic coordinates for the listed navaids and Ithaca Tompkins Regional Airport are updated to be in concert with the FAA's aeronautical database. The FAA also recognizes the airport's name change from Tompkins County Airport, Ithaca, NY, to Ithaca Tomkins Regional Airport, Ithaca, NY.

This is an administrative change amending the description for the above New York airports, to be in concert with the FAAs aeronautical database, and does not affect the boundaries, or operating requirements of the airspace, therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

AEA NY E4 Ithaca, NY [Amended]

Ithaca Tompkins Regional Airport, Ithaca, NY
(Lat. 42°29′29″ N., long. 76°27′31″ W.)
Ithaca VOR/DME
(Lat. 42°29′43″ N., long. 76°27′35″ W.)

That airspace extending upward from the surface from the 4-mile radius of Ithaca Tompkins Regional Airport to the 5.7-mile radius of the airport clockwise from the 329° bearing to the 081° bearing from the airport, and that airspace from the 4-mile radius of Ithaca Tompkins Regional Airport to the 8.7-mile radius of the airport extending clockwise from the 081° bearing to the 137° bearing from the airport, and that airspace from the 4-mile radius of Ithaca Tompkins Regional Airport to the 6.6-mile radius of the airport extending clockwise from the 137° bearing to the 170° bearing from the airport, and that airspace from the 4-mile radius to the 5.7-mile radius of Ithaca Tompkins Regional Airport extending clockwise from the 170° bearing to the 196° bearing from the airport, and that airspace within 2.7 miles each side of the Ithaca VOR/DME 305° radial extending from the 4-mile radius of Ithaca Tompkins Regional Airport to 7.4 miles northwest of the Ithaca VOR/DME.

* * * * *

AEA NY E4 Poughkeepsie, NY [Amended]

Dutchess County Airport, Poughkeepsie, NY
(Lat. 41°37′36″ N., long. 73°53′03″ W.)
Kingston VORTAC
(Lat. 41°39′56″ N., long. 73°49′20″ W.)

That airspace extending upward from the surface within 3.1 miles each side of the Kingston VORTAC 025° radial extending from the VORTAC to 8.3 miles northeast of the VORTAC and within 1.8 miles each side of the Kingston VORTAC 231° radial extending from the 4-mile radius to 9.2 miles southwest of the VORTAC and within 3.1 miles each side of the Kingston VORTAC 050° radial extending from the VORTAC to 9.2 miles northeast of the VORTAC.

Issued in College Park, Georgia, on January 27, 2016.

Ryan W. Almasy,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–02040 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–7485; Airspace Docket No. 15–AGL–25]

Amendment of Class E Airspace; Minot, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the legal description of the Class E surface area airspace and Class E airspace designated as an extension at Minot International Airport, Minot, ND, eliminating the Notice to Airmen (NOTAM) part-time status, and brings current the geographic coordinates of Minot International Airport to coincide with the FAA's database.

DATES: Effective 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Minot International Airport, Minot, ND.

History

In a review of the airspace, the FAA found the airspace for Minot International Airport, Minot, ND as published in FAA Order 7400.9Z, Airspace Designations and Reporting Points, does not require part time status. This is an administrative change removing the part time NOTAM information from the legal description for the airport, and also amends the geographic coordinates of the airport.

Class E airspace designations are published in paragraph 6002 and 6004, respectively, of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71 by eliminating the NOTAM information that reads, ''This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.'' From the regulatory text of Class E surface area airspace and Class E airspace designated as an extension to Class D, at Minot International Airport, Minot, ND. Additionally, the geographic coordinates of the airport are being updated to coincide with the FAA's aeronautical database.

This is an administrative change amending the description for Minot International Airport to be in concert with the FAA's aeronautical database, and does not affect the boundaries, or operating requirements of the airspace; therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AGL ND E2 Minot, ND (Amended)

Minot International Airport, ND
(Lat. 48°15′28″ N., long. 101°16′41″ W.)
Minot VORTAC
(Lat. 48°15′37″ N., long. 101°17′13″ W.)

Within a 4.2-mile radius of Minot International Airport and within 3.5 miles each side of the Minot VORTAC 129° radial, extending from the 4.2-mile radius of the airport to 7 miles southeast of the VORTAC, and within 3.5 miles each side of the Minot VORTAC 260° radial, extending from the 4.2-mile radius of the airport to 7 miles west of the VORTAC, and within 3.5 miles each side of the Minot VORTAC 327° radial, extending from the 4.2-mile radius of the airport to 7 miles northwest of the VORTAC, and within 3.5 miles each side of the Minot VORTAC 097° radial, extending from the 4.2-mile radius to 7 miles east of the VORTAC, excluding the portion which overlies the Minot AFB, ND, Class D airspace area.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AGL ND E4 Minot, ND (Amended)

Minot International Airport, ND
(Lat. 48°15′28″ N., long. 101°16′41″ W.)
Minot VORTAC
(Lat. 48°15′37″ N., long. 101°17′13″ W.)

That airspace extending upward from the surface within 3.5 miles each side of the Minot VORTAC 129° radial extending from the 4.2-mile radius of the airport to 7 miles southeast of the VORTAC, and within 3.5 miles each side of the Minot VORTAC 260° radial, extending from the 4.2-mile radius of the airport to 7 miles west of the VORTAC, and within 3.5 miles each side of the Minot VORTAC 327° radial, extending from the 4.2-mile radius of the airport to 7 miles

northwest of the VORTAC, and within 3.5 miles each side of the Minot VORTAC 097° radial, extending from the 4.2-mile radius to 7 miles east of the VORTAC, excluding the portion which overlies the Minot AFB, ND, Class D airspace area.

Issued in Fort Worth, Texas, on January 27, 2016.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–02036 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–7492; Airspace Docket No. 15–AGL–27]

Amendment of Class E Airspace; Rapid City, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the legal description of the Class E airspace area at Rapid City Regional Airport, Rapid City, SD, eliminating the Notice to Airmen (NOTAM) part-time status of the Class E surface area airspace, and Class E airspace designated as an extension, at the airport. This is an administrative change to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Rapid City Regional Airport, Rapid City, SD.

History

In a review of the airspace, the FAA found the airspace for Rapid City Regional Airport, Rapid City, SD, as published in FAA Order 7400.9Z, Airspace Designations and Reporting Points, does not require part time status. This is an administrative change removing the part time NOTAM information from the legal description for the airport.

Class E airspace designations are published in paragraph 6002 and 6004 of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71 by eliminating the NOTAM information that reads, ''This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.'' from the regulatory text of Class E surface area airspace, and Class E airspace designated as an extension to Class D, at Rapid City Regional Airport, Rapid City, SD.

This is an administrative change amending the description for Rapid City Regional Airport to be in concert with the FAA's aeronautical database, and does not affect the boundaries, or operating requirements of the airspace; therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Airspace designated as surface areas.

* * * * *

AGL SD E2 Rapid City, SD (Amended)

Rapid City Regional Airport, SD
(Lat. 44°02′43″ N., long. 103°03′27″ W.)
Ellsworth AFB, SD
(Lat. 44°08′42″ N., long. 103°06′13″ W.)
Rapid City VORTAC
(Lat. 43°58′34″ N., long. 103°00′44″ W.)

Within a 4.4-mile radius of the Rapid City Regional Airport, excluding the portion north of a line between the intersection of the Rapid City Regional Airport 4.4-mile radius and the Ellsworth AFB 4.7-mile radius, and that airspace extending upward from the surface within 2.6 miles each side of the Rapid City VORTAC 155°/335°. radials extending from the 4.4-mile radius of the Rapid City Regional Airport to 7 miles southeast of the VORTAC, excluding that airspace within the Rapid City, SD, Class D airspace area.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AGL SD E4 Rapid City, SD (Amended)

Rapid City Regional Airport, SD
(Lat. 44°02′43″ N., long. 103°03′27″ W.)
Rapid City VORTAC
(Lat. 43°58′34″ N., long. 103°00′44″ W.)

That airspace extending upward from the surface within 2.6 miles each side of the Rapid City VORTAC 155°/335° radials extending from the 4.4-mile radius of the Rapid City Regional Airport to 7 miles southeast of the VORTAC, excluding that airspace within the Rapid City, SD, Class D airspace area.

Issued in Fort Worth, Texas, on January 27, 2016.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–02037 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice: 9428]

RIN 1400–AD17

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended

AGENCY: Department of State.

ACTION: Interim final rule.

SUMMARY: As a result of this rule, a passport and a visa will be required of a British, French, or Netherlands national, or of a national of Antigua, Barbados, Grenada, Jamaica, or Trinidad and Tobago, who has residence in British, French, or Netherlands territory located in the adjacent islands of the Caribbean area, or has residence in Antigua, Barbados, Grenada, Jamaica, or Trinidad and Tobago, if the alien is proceeding to the United States as an agricultural worker. In light of past experience, and to promote consistency of treatment across H–2A agricultural workers, prudent border management requires these temporary workers to obtain a visa along with most other H–2A agricultural workers.

The previous rule allowing temporary workers from these countries to enter the United States without a visa presented a vulnerability. Temporary workers from these countries now require H–2A visas to enter the United States.

DATES: This rule is effective February 19, 2016. *Comment period:* The Department will accept comments until April 4, 2016.

ADDRESSES:

- Interested parties may submit comments at any time by any of the following methods:
- *Mail:* U.S. Department of State, Visa Services, Legislation and Regulations Division, 600 19th Street NW., Room 12–526B, Washington, DC 20006 ATTN: Paul-Anthony L. Magadia.
- If you have access to the Internet you may submit comments by going to *http://www.regulations.gov/#!home* and searching for Public Notice number XXXX.

FOR FURTHER INFORMATION CONTACT: Paul-Anthony L. Magadia, U.S. Department of State, Visa Services, Legislation and Regulations Division, Washington, DC 20006, (202) 485–7641, Email: *magadiapl@state.gov.*

SUPPLEMENTARY INFORMATION:

Why is the Department promulgating this rule?

The Department of State (the Department) is amending the previous rule to alleviate fraud and security concerns that have developed subsequent to that rule's publication. The previous rule, 22 CFR 41.2(e)(1), allowed nationals of certain Caribbean countries, as well as nationals of certain other countries who have residence in such countries' territories in the Caribbean, to enter the United States as temporary agricultural workers without visas. The amended rule requires that temporary workers from these countries obtain H–2A visas to enter the United States.

What is the current rule?

Currently, British, French, and Netherlands nationals and nationals of Antigua, Barbados, Grenada, Jamaica, and Trinidad and Tobago, who have their residence in British, French, or Netherlands territory located in the adjacent islands of the Caribbean area or in Antigua, Barbados, Grenada, Jamaica, or Trinidad and Tobago, are not required to obtain visas before traveling to the United States as H–2A agricultural workers.

What will prospective H–2A agricultural workers be required to do?

The amended rule requires these prospective H–2A agricultural workers to obtain a visa prior to traveling to the United States. Any spouses or children of these workers also will have to obtain a visa. To obtain a visa, these nonimmigrant aliens will have to be in possession of a valid passport, submit a visa application to and appear for an interview at a U.S. embassy or consulate, and undergo the Department's visa screening process.

Will the amended rule ensure that prospective H–2A agricultural workers are properly screened prior to their arrival in the United States?

Requiring these prospective H–2A agricultural workers to obtain visas will ensure that they are sufficiently screened prior to arrival in the United States. This will lessen the possibility that persons who pose security risks to the United States and other potential immigration violators may improperly gain admission to the United States. At the same time, requiring that these applicants appear before consular officers will provide greater opportunities to prescreen for potential employment fraud and will promote compliance with Department of Homeland Security (DHS) and Department of Labor (DOL) H–2A rules.

How will the amended rule further the national security interests of the United States?

The Department, in conjunction with DHS, has determined that the visa exemption provided a loophole that could potentially be exploited by terrorists and other persons seeking to engage in unlawful activities in the United States and threatens the security interests of the United States. This visa exemption is outdated in the post-9/11 environment and inconsistent with the visa requirement for other H–2A agricultural workers from other countries. The Department and DHS have determined that eliminating this visa exemption furthers the national security interests of the United States.

How will the amended rule affect the Department's visa issuance process?

The application of the general visa requirement to the class of Caribbean agricultural workers described above will ensure that these applicants for admission, like other H–2A agricultural workers, are properly screened through the Department's visa issuance process prior to arrival in the United States. This will lessen the possibility that persons who pose security risks to the United States and other potential immigration violators may improperly gain admission to the United States.

Moreover, extending the visa requirement to these Caribbean H–2A agricultural workers will better ensure that such workers are protected from certain employment and recruitment-based abuses. It also will ensure that agricultural workers have been informed, and are aware of, their rights and responsibilities before departing from their home countries to engage in H–2A agricultural work.

What other changes is the Department making in this rule?

Redesignated paragraph (e)(2)(iv) is being amended to reflect that The Royal Virgin Islands Police Department has been renamed the Royal Virgin Islands Police Force.

Will DHS be publishing a parallel amendment?

DHS is publishing a parallel amendment to 8 CFR 212.1(b).

Regulatory Findings

Administrative Procedure Act

The publication of this rule as an interim final rule, with provisions for post-promulgation public comments, is based on the good cause exception found in section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)). There is reasonable concern that publication of the rule as a proposed rule, which would permit continuation of the current visa exemption, could lead to an increase in applications for admission in bad faith by persons who would otherwise have been denied visas and are seeking to avoid the visa requirement and consular screening process during the period between the publication of a proposed and a final rule. Accordingly, the Department finds that it is impracticable and contrary to the public interest to publish this rule with prior notice and comment period. Under the good cause exception, this rule is exempt from the notice and comment and delayed effective date requirements of the APA.

In addition, the Department is of the opinion that eliminating the visa exemption and requiring a visa for Caribbean H–2A agricultural workers, and the spouses or children accompanying or following these workers, is a foreign affairs function of the U.S. government. As this rule implements this function, the Department is of the opinion that, pursuant to 5 U.S.C. 553(a)(1), this rule is exempt from the requirements of 5 U.S.C. 553, including the notice and comment and 30-day delayed effective date requirements. The Department is nevertheless providing the opportunity for the public to provide comments for 60 days.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Because this interim final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rulemaking regulates individual aliens who seek consideration for nonimmigrant visas and does not affect any small entities, as defined in 5 U.S.C. 601(6).

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by state, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

The Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121.

Executive Order 12866: Regulatory Review

The costs of this rulemaking are discussed in the companion DHS rule, RIN 1651–AB09, included elsewhere in this edition of the **Federal Register**. That discussion is incorporated by reference herein. The Department has reviewed the costs and benefits of this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of this interim final rule justify its costs.

Executive Order 13563

The Department has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government; nor will the rule have federalism implications warranting the application of Executive Orders 12372 and 13132.

Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Executive Order 12988: Civil Justice Reform

The Department has reviewed this interim final rule in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Paperwork Reduction Act

This rule does not impose any new information collections subject to the Paperwork Reduction Act, 44 U.S.C., Chapter 35. The Department anticipates between 100 and 4,100 additional nonimmigrant visa applicants per year as a result of this rulemaking. The current burden for this information collection (OMB Control No. 1405–0182) is 13,875,345 hours, with 11,100,276 respondents. The burden per response is 75 minutes. The top estimate for the number of additional respondents would add approximately 5,000 hours to a burden that is almost 14 million hours. Therefore, the addition of these respondents does not significantly increase the burden associated with this information collection.

List of Subjects in 22 CFR Part 41

Aliens, Foreign officials, Immigration, Nonimmigrants, Passports and visas.

For the reasons stated in the preamble, the Department of State is amending 22 CFR part 41 to read as follows:

PART 41—[AMENDED]

■ 1. The authority citation for part 41 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681–795 through 2681–801; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458, as amended by section 546 of Pub. L. 109–295).

■ 2. Amend § 41.2 as follows:

■ a. Remove paragraph (e).

■ b. Redesignate paragraphs (f) through (m) as paragraphs (e) through (l).

■ c. Revise redesignated paragraph (e)(2)(iv).

The revisions read as follows:

§ 41.2 Exemption or waiver by Secretary of State and Secretary of Homeland Security of passport and/or visa requirements for certain categories of nonimmigrants.

* * * * *

(e) * * *

(2) * * *

(iv) Presents a current certificate issued by the Royal Virgin Islands Police Force indicating that he or she has no criminal record.

* * * * *

Dated: January 22, 2016.

David T. Donahue,

Acting Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 2016–02191 Filed 2–3–16; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9748]

RIN 1545–BM57

Allocation of Creditable Foreign Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations that provide guidance relating to the allocation by a partnership of creditable foreign tax expenditures. These temporary regulations are necessary to improve the operation of an existing safe harbor rule that is used for determining whether allocations of creditable foreign tax expenditures are deemed to be in accordance with the partners' interests in the partnership. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking (REG–100861–15) published in the Proposed Rules section in this issue of the **Federal Register**. These regulations affect partnerships that pay or accrue foreign income taxes, and their partners.

DATES: *Effective Date:* These regulations are effective on February 4, 2016.

Applicability Dates: For dates of applicability, see §§ 1.704–1T(b)(1)(ii)(*b*)(*1*) and (b)(1)(ii)(*b*)(*3*)(*B*).

FOR FURTHER INFORMATION CONTACT: Suzanne M. Walsh, (202) 317–4908 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Allocations of creditable foreign tax expenditures (''CFTEs'') do not have substantial economic effect, and accordingly a CFTE must be allocated in accordance with the partners' interests in the partnership. *See* § 1.704–1(b)(4)(viii). Section 1.704–1(b)(4)(viii) provides a safe harbor under which CFTE allocations are deemed to be in accordance with the partners' interests in the partnership. In general, the purpose of the safe harbor is to match allocations of CFTEs with the income to which the CFTEs relate.

In order to apply the safe harbor, a partnership must (1) determine the partnership's ''CFTE categories,'' (2) determine the partnership's net income in each CFTE category, and (3) allocate the partnership's CFTEs to each category. Section 1.704–1(b)(4)(viii)(*c*)(*2*) requires a partnership to assign its income to activities and provides for the grouping of a partnership's activities into one or more CFTE categories based generally on whether net income from the activities is allocated to partners in the same sharing ratios. Section 1.704–1(b)(4)(viii)(*c*)(*3*) provides rules for determining the partnership's net income (for U.S. federal income tax purposes) in a CFTE category, including rules for allocating and apportioning expenses, losses, and other deductions to gross income. Section 1.704–1(b)(4)(viii)(*d*) assigns CFTEs to the CFTE category that includes the related income under the principles of § 1.904–6, with certain modifications. In order to satisfy the safe harbor, partnership allocations of CFTEs in a CFTE category must be in proportion to the allocations of the partnership's net income in the CFTE category.

I. Effect of Section 743(b) Adjustments

Section 1.704–1(b)(4)(viii)(*c*)(*3*)(*i*) of the current final regulations provides that a partnership determines its net income in a CFTE category by taking into account all partnership items attributable to the relevant activity or group of activities, including items of gross income, gain, loss, deduction, and expense, and items allocated pursuant to section 704(c). The current final regulations do not state whether an adjustment under section 743(b) is taken into account in computing the partnership's net income in a CFTE category.

In the case of a transfer of a partnership interest that results in an adjustment under section 743(b) (because the partnership has a section 754 election in effect, or because there is a substantial built-in loss (as defined in section 743(d)) in the partnership), the partnership must adjust the basis of partnership property with respect to the transferee partner only (a section 743(b) adjustment). No adjustment is made to the common basis of partnership property, and the section 743(b) adjustment has no effect on the partnership's computation of any item under section 703. § 1.743–1(j)(1).

The Treasury Department and the IRS believe that a transferee partner's section 743(b) adjustment with respect to its interest in a partnership should not be taken into account in computing such partnership's net income in a CFTE category because the basis adjustment is unique to the transferee partner and because the basis adjustment ordinarily would not be taken into account by a foreign jurisdiction in computing its foreign

taxable base. As such, taking a transferee partner's section 743(b) adjustment into account for purposes of computing the partnership's net income in a CFTE category could change the partners' relative shares of net income in a CFTE category and their allocable shares of CFTEs under the safe harbor solely as a result of the transfer of the partnership interest and not as a result of a change to the allocation of any partnership items under the partnership agreement. Accordingly, § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*i*) of these temporary regulations provides that, for purposes of computing a partnership's net income in a CFTE category, the partnership determines its items without regard to any section 743(b) adjustments that its partners may have to the basis of property of the partnership.

A partnership that is a transferee partner may have a section 743(b) adjustment in its capacity as a direct or indirect partner in a lower-tier partnership. Under § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*i*), such section 743(b) adjustment of the partnership *is* taken into account in determining the partnership's net income in a CFTE category. Nevertheless, in the case of a section 743(b) adjustment of a partnership that is a transferee partner, it may be appropriate to alter the way in which the section 743(b) adjustment is taken into account in determining the partnership's net income in a CFTE category when the section 743(b) adjustment gives rise to basis differences subject to section 901(m). The Treasury Department and the IRS intend to address section 901(m) in a separate guidance project.

No inference is intended from § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*i*) as to how a section 743(b) adjustment is taken into account for other federal income tax purposes. The Treasury Department and the IRS request comments regarding whether final regulations should provide further guidance on how to compute a partnership's net income in a CFTE category, including how other types of items or adjustments to distributive shares that are specific to a partner should be taken into account in computing a partnership's net income in a CFTE category (for example, where property is contributed with a built-in loss and the built-in loss is taken into account only in determining the amount of items allocated to the contributing partner under section 704(c)(1)(C)). The Treasury Department and the IRS also request comments on whether, and the extent to which, the application of the safe harbor should differ with respect to CFTEs that are determined by taking into account partner-specific adjustments that are similar to those that apply for U.S. tax purposes in computing the foreign taxable base of a partnership.

II. Special Rules for Deductible Allocations and Nondeductible Guaranteed Payments

For purposes of the safe harbor, § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) provides, among other rules, a special rule that reduces the partnership's net income in a CFTE category to the extent foreign law allows a deduction for an allocation (or payment of an allocated amount) to a partner, for example, because foreign law characterizes a preferential allocation of gross income as deductible interest expense. The basis for this rule is that a CFTE category should not include income of the partnership that has not been included in a foreign taxable base due to the fact that an allocation (or payment of an allocated amount) to a partner of that income results in a foreign law deduction. Because the income out of which the allocation is made was not included in the taxable base of the foreign jurisdiction that allowed the deduction, no CFTEs are imposed on that income; therefore, the allocation of that income should not be taken into account in testing whether allocations of CFTEs of that jurisdiction match related income allocations for purposes of the safe harbor.

Deductible guaranteed payments under section 707(c) reduce the partnership's net income in a CFTE category. Therefore, in the case of a guaranteed payment that results in a deduction under both U.S. and foreign law, no special rule reducing the partnership's net income in a CFTE category is necessary. However, to the extent that foreign law does *not* allow a deduction for a guaranteed payment that is deductible under U.S. law, § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) provides another special rule that requires an upward adjustment to the partnership's net income in a CFTE category (this rule, together with the special rule described in the preceding paragraph, are referred to in this preamble as the ''special rules''). Adding the amount of a guaranteed payment that is not deductible under foreign law to the partnership's net income in a CFTE category results in CFTEs attributable to tax imposed on the income out of which the guaranteed payment is made following the payment for purposes of the safe harbor. An additional rule in § 1.704–1(b)(4)(viii)(*c*)(*4*) treats the guaranteed payment as a distributive share of the partnership's net income in a CFTE category to the extent of the upward adjustment. Together, these rules for guaranteed payments provide a more appropriate matching under the safe harbor of CFTEs and the income to which they relate.

However, the current final regulations do not expressly address situations in which an allocation or distribution of an allocated amount or guaranteed payment gives rise to a deduction for purposes of one foreign tax, but is made out of income subject to another tax imposed by the same or a different foreign jurisdiction. For example, a partnership may make a preferential allocation of gross income that is deductible in the foreign jurisdiction in which the partnership is a resident (foreign jurisdiction X) but that is made out of income earned by a disregarded entity or branch owned by the partnership that is subject to net basis tax in the jurisdiction in which the disregarded entity or branch is located (foreign jurisdiction Y). In this case, the Treasury Department and the IRS are aware that some taxpayers have suggested that § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) may be interpreted to provide that the income related to the preferential allocation should not be included in a CFTE category because it is not included in the foreign jurisdiction X base, even though there are foreign jurisdiction Y CFTEs that clearly relate to the income out of which the preferential allocation is made. This interpretation is inconsistent with the purpose of the special rules to apply the safe harbor in a manner that matches income with the related CFTEs.

The special rules were not intended to permit taxpayers to adjust or fail to adjust income in a CFTE category in a manner that distorts a partner's share of the income to which the CFTEs assigned to that category relate. Therefore, these temporary regulations revise the special rules to address situations in which allocations (or distributions of allocated amounts) and guaranteed payments that give rise to foreign law deductions are made out of income with related CFTEs. Specifically, § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*ii*) provides that a partnership's net income in a CFTE category from which a guaranteed payment that is not deductible in a foreign jurisdiction is made shall be increased by the amount of the guaranteed payment that is deductible for U.S. federal income tax purposes, and such amount shall be treated as an allocation to the recipient of the guaranteed payment for purposes of determining the partners' shares of income in the CFTE category, but only for purposes of testing allocations of CFTEs attributable to a foreign tax that

does not allow a deduction for the guaranteed payment. However, for purposes of testing allocations of CFTEs attributable to a foreign tax that *does* allow a deduction for the guaranteed payment, a partnership's net income in a CFTE category is increased only to the extent that the amount of the guaranteed payment that is deductible for U.S. federal income tax purposes exceeds the amount allowed as a deduction for purposes of that foreign tax, and such excess is treated as an allocation to the recipient of the guaranteed payment for purposes of determining the partners' shares of income in the CFTE category.

Similarly, § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*iii*) provides that, to the extent that a foreign tax allows a deduction from its taxable base for an allocation (or distribution of an allocated amount) to a partner, then solely for purposes of testing allocations of CFTEs attributable to that foreign tax, the partnership's net income in the CFTE category from which the allocation is made is reduced by the amount of the foreign law deduction, and that amount is not treated as an allocation for purposes of determining the partners' shares of income in the CFTE category. For purposes of testing allocations of CFTEs attributable to a foreign tax that does *not* allow a deduction for an allocation (or distribution of an allocated amount) to a partner, the partnership's net income in a CFTE category is *not* reduced.

Finally, the current final regulations provide that the adjustment to income attributable to an activity for a preferential allocation depends on whether the allocation of the item of income (or payment thereof) ''results'' in a deduction under foreign law. This rule was intended to apply even if the foreign law deduction occurred in a different taxable year (for example, because the foreign jurisdiction allowed a deduction only upon a subsequent payment of accrued interest). These temporary regulations at § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*ii*) and (*iii*) clarify that a guaranteed payment or preferential allocation is considered deductible under foreign law for purposes of the special rules if the foreign jurisdiction allows a deduction from its taxable base either in the current year or in a different taxable year.

III. Inter-Branch Payments

For taxable years beginning before January 1, 2012, the special rules under § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) included a cross-reference confirming that certain inter-branch payments that were described in § 1.704–1(b)(4)(viii)(*d*)(*3*) (the ''inter-branch payment rule'') were not subject to the special rules. On February 14, 2012, temporary regulations (TD 9577) were published in the **Federal Register** (77 FR 8127) addressing situations in which foreign income taxes have been separated from the related income. As part of those regulations, the inter-branch payment rule was removed because it allowed taxpayers to separate foreign income taxes and related income. In conjunction with the removal of the inter-branch payment rule, the cross-reference to the eliminated rule was removed from § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*).

The Treasury Department and the IRS have become aware that some taxpayers claim that the inclusion and subsequent removal of the cross-reference created uncertainty regarding the application of the special rules under § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) to disregarded payments among branches of a partnership. As explained above, the purpose of the special rules is to match preferential allocations and guaranteed payments to partners with CFTEs that relate to the income out of which the allocation or guaranteed payment is made, and also to ensure proper testing of CFTE allocations when no CFTEs relate to such income. The special rules accomplish this matching by treating preferential allocations and guaranteed payments as distributive shares of income, but only for purposes of allocating CFTEs attributable to taxes imposed by a foreign jurisdiction that does not allow deductions for such allocations and payments. Because an inter-branch payment is not made to a partner, it can never be treated as a distributive share, and is outside the scope of the special rules. By its terms, current § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) applies only to partnership allocations that are deductible under foreign law, guaranteed payments that are not deductible under foreign law, and (not discussed herein) income that is excluded from a foreign tax base as a result of the status of a partner. The inclusion and subsequent removal of the cross-reference did not change the purpose of current § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) or expand its scope to provide for reductions in income in a CFTE category if a partnership makes a disregarded payment that is deductible under foreign law. These regulations under § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*iii*) clarify that the special rule for preferential allocations applies only to allocations (or distributions of allocated amounts) to a partner that are deductible under foreign law, and not to other items that give rise to deductions under foreign law. For example, the special rule does not apply to reduce income in a CFTE category by reason of a disregarded inter-branch payment, even if the income out of which the inter-branch payment is made is not subject to tax in any foreign jurisdiction.

In addition, the Treasury Department and the IRS are aware of transactions involving serial disregarded payments in which taxpayers take the position that withholding taxes assessed on the first payment in a series of back-to-back disregarded payments do not need to be apportioned among the CFTE categories that include the income out of which the payment is made. These regulations include new examples clarifying that under § 1.704–1(b)(4)(viii)(*d*)(*1*) withholding taxes must be apportioned among the CFTE categories that include the related income. *See* § 1.704–1T(b)(5) *Example 36* and *Example 37.*

IV. Other Non-Substantive Clarifications

These regulations make certain organizational and other non-substantive changes that clarify how items of income under U.S. federal income tax law are assigned to an activity and how a partnership's net income in a CFTE category is determined.

For the avoidance of doubt, § 1.704–1(b)(4)(viii)(*c*)(*2*)(*iii*) is revised to more clearly describe when income from a divisible part of a single activity must be treated as income from a separate activity. Section 1.704–1(b)(4)(viii)(*c*)(*2*)(*iii*) provides that whether a partnership has one or more activities, and the scope of each activity, is determined in a reasonable manner taking into account all the facts and circumstances, with the principal consideration being whether the proposed determination has the effect of separating CFTEs from the related foreign income. The rule also provides that income from a divisible part of a single activity is treated as income from a separate activity if necessary to prevent separating CFTEs from the related foreign income. *Example 24(iii)* of § 1.704–1(b)(5) illustrates that if a partnership agreement makes a special allocation of income earned by a disregarded entity (DE1) in order to reflect a disregarded inter-branch payment paid by DE1 to a second disregarded entity, then the payment is treated as a divisible part of an activity and treated as a separate activity. These regulations confirm this result by adding language in § 1.704–1T(b)(4)(viii)(*c*)(*2*)(*iii*) clarifying that income from a divisible part of a single

activity is treated as income from a separate activity whenever the income is subject to different allocations.

These regulations also confirm in § 1.704–1T(b)(4)(viii)(*c*)(*2*)(*iii*) that a guaranteed payment or preferential allocation of income that is determined by reference to all the income from a single activity generally will *not* result in dividing a single activity into separate activities. This clarification is consistent with the rule in § 1.704–1(b)(4)(viii)(*c*)(*2*)(*ii*), which generally provides that a guaranteed payment, gross income allocation, or other preferential allocation that is determined by reference to income from all of the partnership's activities does not result in different allocations of income from separate activities. For an illustration of the application of § 1.704–1(b)(4)(viii)(*c*)(*2*)(*iii*) prior to this clarification, see § 1.704–1(b)(5) *Example 22* and *Example 25,* the latter of which has also been updated as part of these temporary regulations.

In order to more clearly explain how the rules for determining a partnership's net income in a CFTE category operate and to assist taxpayers in applying these rules, these temporary regulations reorganize § 1.704–1(b)(4)(viii)(*c*)(*3*) and provide an introductory paragraph at § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*i*) that describes the steps for computing a partnership's net income in a CFTE category.

The current final regulations provide that only items of gross income recognized by a branch for U.S. income tax purposes are taken into account to determine net income attributable to any activity of a branch. *Example 24* in § 1.704–1(b)(5) further illustrates that a disregarded inter-branch payment does not move income from one activity to another. These temporary regulations confirm at § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*iv*) that disregarded payments are never taken into account in determining the amount of net income attributable to an activity (although, as noted above, a special allocation of income used to make a disregarded payment may result in that income being treated as a divisible part of the activity giving rise to the income), and that therefore an item of gross income is assigned to the activity that generates the item of income that is recognized for U.S. federal income tax purposes.

In addition, the current final regulations use the term ''distributive share of income,'' which has a general meaning under subchapter K but is used for a different purpose under § 1.704–1(b)(4)(viii)(*c*)(*4*). To avoid confusion, these temporary regulations at § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*i*) revise the term ''distributive share of income'' to ''CFTE category share of income.'' No difference in meaning or purpose is intended by the change in terminology. The Treasury Department and the IRS will update *Examples 20, 21, 22, 23, 24, 26,* and *27* in § 1.704–1(b)(5) (which are not revised under these temporary regulations) to reflect the new terminology when these temporary regulations are finalized. In the interim, any reference to ''distributive share of income'' under the current final regulations should be treated as a reference to a ''CFTE category share of income'' as defined in § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*i*).

V. Effective Date

These temporary regulations apply for partnership taxable years that both begin on or after January 1, 2016, and end after February 4, 2016. The temporary regulations also modify an existing transition rule with respect to certain inter-branch payments for partnerships whose agreements were entered into prior to February 14, 2012. The current transition rule provides that if there has been no material modification to their partnership agreements on or after February 14, 2012, then, for tax years beginning on or after January 1, 2012, these partnerships may apply the provisions of §§ 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) and 1.704–1(b)(4)(viii)(*d*)(*3*) (revised as of April 1, 2011). That transition rule is modified to provide that for tax years that both begin on or after January 1, 2016, and end after February 4, 2016, these partnerships may continue to apply the provisions of § 1.704–1(b)(4)(viii)(*d*)(*3*) (revised as of April 1, 2011) but must apply the provisions of § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*ii*). *See* § 1.704–1T(b)(1)(ii)(*b*)(*3*)(*B*). For purposes of this transition rule, any change in ownership constitutes a material modification to the partnership agreement. This transition rule does not apply to any taxable year (and all subsequent taxable years) in which persons bearing a relationship to each other that is specified in section 267(b) or section 707(b) collectively have the power to amend the partnership agreement without the consent of any unrelated party.

No inference is intended as to the application of the provisions amended by these temporary regulations under current law. The IRS may, where appropriate, challenge transactions, including those described in these temporary regulations and this preamble, under currently applicable Code or regulatory provisions or judicial doctrines.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Suzanne M. Walsh of the Office of Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.704–1 is amended as follows:

■ 1. In Paragraph (b)(0):

■ i. Add an entry for § 1.704–1(b)(1)(ii)(*b*)(*1*).

■ ii. Revise the entries for § 1.704–1(b)(4)(viii)(*c*)(*1*) through (*4*) and (b)(4)(viii)(*d*)(*1*).

■ 2. Revise paragraphs (b)(1)(ii)(*b*)(*1*), (b)(1)(ii)(*b*)(*3*)(*B*), (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), (b)(4)(viii)(*d*)(*1*), and *Example 25* of paragraph (b)(5).

■ 3. Add *Examples 36* and *37* to paragraph (b)(5).

The revisions and additions read as follows:

§ 1.704–1 Partner's distributive share.

* * * * *

(b) *Determination of partner's distributive share*–(0) *Cross-references.*

Heading	Section
* * * * *	
[Reserved]	1.704–1(b)(1)(ii)(*b*)(*1*)
* * * * *	
[Reserved]	1.704–1(b)(4)(viii)(*c*)(*1*)
[Reserved]	1.704–1(b)(4)(viii)(*c*)(*2*)
[Reserved]	1.704–1(b)(4)(viii)(*c*)(*3*)
[Reserved]	1.704–1(b)(4)(viii)(*c*)(*4*)
* * * * *	
[Reserved]	1.704–1(b)(4)(viii)(*d*)(*1*)
* * * * *	

(1) * * *

(ii) * * *

(*b*) *Rules relating to foreign tax expenditures.* (*1*) [Reserved]. For further guidance, see § 1.704–1T(b)(1)(ii)(*b*)(*1*).

* * * * *

(*3*) * * *

(*B*) [Reserved]. For further guidance, see § 1.704–1T(b)(1)(ii)(*b*)(*3*)(*B*).

* * * * *

(4) * * *

(viii) * * *

(*a*) * * *

(*1*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*a*)(*1*).

* * * * *

(*c*) *Income to which CFTEs relate.* (*1*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*c*)(*1*).

(*2*) * * *

(*ii*) and (*iii*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*).

(*3*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*c*)(*3*).

(*4*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*c*)(*4*).

* * * * *

(*d*) *Allocation and apportionment of CFTEs to CFTE categories.* (*1*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*d*)(*1*).

* * * * *

(5) * * *

Example 25. [Reserved]. For further guidance, see § 1.704–1T(b)(5) *Example 25.*

* * * * *

Example 36. [Reserved]. For further guidance, see § 1.704–1T(b)(5) *Example 36.*

Example 37. [Reserved]. For further guidance, see § 1.704–1T(b)(5) *Example 37.*

* * * * *

■ Par. 3. Section 1.704–1T is added to read as follows:

§ 1.704–1T Partner's distributive share (temporary).

(a) through (b)(1)(ii)(*a*) [Reserved]. For further guidance, see § 1.704–1(a) through (b)(1)(ii)(*a*).

(*b*) *Rules relating to foreign tax expenditures*—(*1*) *In general.* Except as otherwise provided in this paragraph (b)(1)(ii)(*b*)(*1*), the provisions of paragraphs (b)(3)(iv) and (b)(4)(viii) of this section (regarding the allocation of creditable foreign taxes) apply for partnership taxable years beginning on or after October 19, 2006. The rules that apply to allocations of creditable foreign taxes made in partnership taxable years beginning before October 19, 2006 are contained in § 1.704–1T(b)(1)(ii)(*b*)(*1*) and (b)(4)(xi) as in effect prior to October 19, 2006 (see 26 CFR part 1 revised as of April 1, 2005). However, taxpayers may rely on the provisions of paragraphs (b)(3)(iv) and (b)(4)(viii) of this section for partnership taxable years beginning on or after April 21, 2004. The provisions of paragraphs (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), (b)(4)(viii)(*d*)(*1*), and *Examples 25, 36,* and *37* of paragraph (b)(5) of this section apply for partnership taxable years that both begin on or after January 1, 2016, and end after February 4, 2016. For the rules that apply to partnership taxable years beginning on or after October 19, 2006, and before January 1, 2016, and to taxable years that both begin on or after January 1, 2016, and end on or before February 4, 2016, see § 1.704–1(b)(1)(ii)(*b*), (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), (b)(4)(viii)(*d*)(*1*), and (b)(5), *Example 25* (as contained in 26 CFR part 1 revised as of April 1, 2015).

(b)(1)(ii)(*b*)(*2*) through (b)(1)(ii)(*b*)(*3*)(*A*) [Reserved]. For further guidance, see § 1.704–1(b)(1)(ii)(*b*)(*2*) through (b)(1)(ii)(*b*)(*3*)(*A*).

(*B*) *Transition rule.* Transition relief is provided herein to partnerships whose agreements were entered into prior to February 14, 2012. In such cases, if there has been no material modification to the partnership agreement on or after February 14, 2012, then, for taxable years beginning on or after January 1, 2012, and before January 1, 2016, and for taxable years that both begin on or after January 1, 2012, and end on or before February 4, 2016, these partnerships may apply the provisions of § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) (see 26 CFR part 1 revised as of April 1, 2011) and § 1.704–1(b)(4)(viii)(*d*)(*3*) (see 26 CFR part 1 revised as of April 1, 2011). For taxable years that both begin on or after January 1, 2016, and end after February 4, 2016, these partnerships may apply the provisions of § 1.704–1(b)(4)(viii)(*d*)(*3*) (see 26 CFR part 1 revised as of April 1, 2011). For purposes of this paragraph (b)(1)(ii)(*b*)(*3*), any change in ownership constitutes a material modification to the partnership agreement. This transition rule does not apply to any taxable year in which persons bearing a relationship to each other that is specified in section 267(b) or section 707(b) collectively have the power to amend the partnership agreement without the consent of any unrelated party (and all subsequent taxable years).

(b)(1)(iii) through (b)(4)(viii)(*a*) [Reserved]. For further guidance, see § 1.704–1(b)(1)(iii) through (b)(4)(viii)(*a*).

(*1*) The CFTE is allocated (whether or not pursuant to an express provision in the partnership agreement) to each partner and reported on the partnership return in proportion to the partners' CFTE category shares of income to which the CFTE relates; and

(b)(4)(viii)(*a*)(*2*) through (b)(4)(viii)(*b*) [Reserved]. For further guidance, see § 1.704–1(b)(4)(viii)(*a*)(*2*) through (b)(4)(viii)(*b*).

(*c*) *Income to which CFTEs relate*—(*1*) *In general.* For purposes of paragraph (b)(4)(viii)(*a*) of this section, CFTEs are related to net income in the partnership's CFTE category or categories to which the CFTE is allocated and apportioned in accordance with the rules of paragraph (b)(4)(viii)(*d*) of this section. Paragraph (b)(4)(viii)(*c*)(*2*) of this section provides rules for determining a partnership's CFTE categories. Paragraph (b)(4)(viii)(*c*)(*3*) of this section provides rules for determining the net income in each CFTE category. Paragraph (b)(4)(viii)(*c*)(*4*) of this section provides rules for determining a partner's CFTE category share of income, including rules that require adjustments to net income in a CFTE category for purposes of determining the partners' CFTE category share of income with respect to certain CFTEs. Paragraph (b)(4)(viii)(*c*)(*5*) of this section provides a special rule for allocating CFTEs when a partnership has no net income in a CFTE category.

(*2*)(*i*) [Reserved]. For further guidance, see § 1.704–1(b)(4)(viii)(*c*)(*2*)(*i*).

(*ii*) *Different allocations.* Different allocations of net income (or loss) generally will result from provisions of the partnership agreement providing for different sharing ratios for net income (or loss) from separate activities. Different allocations of net income (or loss) from separate activities generally will also result if any partnership item is shared in a different ratio than any other partnership item. A guaranteed payment described in paragraph (b)(4)(viii)(*c*)(*4*)(*ii*) of this section, gross income allocation, or other preferential allocation will result in different allocations of net income (or loss) from

separate activities only if the amount of the payment or the allocation is determined by reference to income from less than all of the partnership's activities.

(*iii*) *Activity.* Whether a partnership has one or more activities, and the scope of each activity, is determined in a reasonable manner taking into account all the facts and circumstances. In evaluating whether aggregating or disaggregating income from particular business or investment operations constitutes a reasonable method of determining the scope of an activity, the principal consideration is whether the proposed determination has the effect of separating CFTEs from the related foreign income. Relevant considerations include whether the partnership conducts business in more than one geographic location or through more than one entity or branch, and whether certain types of income are exempt from foreign tax or subject to preferential foreign tax treatment. In addition, income from a divisible part of a single activity is treated as income from a separate activity if necessary to prevent separating CFTEs from the related foreign income, such as when income from divisible parts of a single activity is subject to different allocations. A guaranteed payment, gross income allocation, or other preferential allocation of income that is determined by reference to all the income from a single activity generally will not result in the division of an activity into divisible parts. See *Examples 22* and *25* of paragraph (b)(5) of this section. The partnership's activities must be determined consistently from year to year absent a material change in facts and circumstances.

(*3*) *Net income in a CFTE category*—(*i*) *In general.* A partnership computes net income in a CFTE category as follows: First, the partnership determines for U.S. federal income tax purposes all of its partnership items, including items of gross income, gain, loss, deduction, and expense, and items allocated pursuant to section 704(c). For this purpose, the items of the partnership are determined without regard to any adjustments under section 743(b) that its partners may have to the basis of property of the partnership. However, if the partnership is a transferee partner that has a basis adjustment under section 743(b) in its capacity as a direct or indirect partner in a lower-tier partnership, the partnership does take such basis adjustment into account. Second, the partnership must assign those partnership items to its activities pursuant to paragraph (b)(4)(viii)(*c*)(*3*)(*ii*) of this section. Third, partnership items attributable to each activity are aggregated within the relevant CFTE category as determined under paragraph (b)(4)(viii)(*c*)(*2*) of this section in order to compute the net income in a CFTE category.

(*ii*) *Assignment of partnership items to activities.* The items of gross income attributable to an activity must be determined in a consistent manner under any reasonable method taking into account all the facts and circumstances. Except as otherwise provided in paragraph (b)(4)(viii)(*c*)(*3*)(*iii*) of this section, expenses, losses, or other deductions must be allocated and apportioned to gross income attributable to an activity in accordance with the rules of §§ 1.861–8 and 1.861–8T. Under these rules, if an expense, loss, or other deduction is allocated to gross income from more than one activity, such expense, loss, or deduction must be apportioned among each such activity using a reasonable method that reflects to a reasonably close extent the factual relationship between the deduction and the gross income from such activities. See § 1.861–8T(c). For the effect of disregarded payments in determining the amount of net income attributable to an activity, see paragraph (b)(4)(viii)(*c*)(*3*)(*iv*) of this section.

(*iii*) *Interest expense and research and experimental expenditures.* The partnership's interest expense and research and experimental expenditures described in section 174 may be allocated and apportioned under any reasonable method, including but not limited to the methods prescribed in §§ 1.861–9 through 1.861–13T (interest expense) and § 1.861–17 (research and experimental expenditures).

(*iv*) *Disregarded payments.* An item of gross income is assigned to the activity that generates the item of income that is recognized for U.S. federal income tax purposes. Consequently, disregarded payments are not taken into account in determining the amount of net income attributable to an activity, although a special allocation of income used to make a disregarded payment may result in the subdivision of an activity into divisible parts. See paragraph (b)(4)(viii)(*c*)(*2*)(*iii*) of this section and *Examples 24, 36,* and *37* of paragraph (b)(5) of this section (relating to inter-branch payments).

(*4*) *CFTE category share of income*—(*i*) *In general.* CFTE category share of income means the portion of the net income in a CFTE category, determined in accordance with paragraph (b)(4)(viii)(*c*)(*3*) of this section as modified by paragraphs (b)(4)(viii)(c)(*4*)(*ii*) through (*iv*) of this section, that is allocated to a partner. To the extent provided in paragraph (b)(4)(viii)(*c*)(*4*)(*ii*) of this section, a guaranteed payment is treated as an allocation to the recipient of the guaranteed payment for this purpose. If more than one partner receives positive income allocations (income in excess of expenses) from a CFTE category, which in the aggregate exceed the total net income in the CFTE category, then such partner's CFTE category share of income equals the partner's positive income allocation from the CFTE category, divided by the aggregate positive income allocations from the CFTE category, multiplied by the net income in the CFTE category. Paragraphs (b)(4)(viii)(*c*)(*4*)(*ii*) through (*iv*) of this section require adjustments to the net income in a CFTE category for purposes of determining the partners' CFTE category share of income if one or more foreign jurisdictions impose a tax that provides for certain exclusions or deductions from the foreign taxable base. Such adjustments apply only with respect to CFTEs attributable to the taxes that allow such exclusions or deductions. Thus, net income in a CFTE category may vary for purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to different CFTEs within that CFTE category.

(*ii*) *Guaranteed payments.* Except as otherwise provided in this paragraph (b)(4)(viii)(*c*)(*4*)(*ii*), solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section, net income in the CFTE category from which a guaranteed payment (within the meaning of section 707(c)) is made is increased by the amount of the guaranteed payment that is deductible for U.S. federal income tax purposes, and such amount is treated as an allocation to the recipient of such guaranteed payment for purposes of determining the partners' CFTE category shares of income. If a foreign tax allows (whether in the current or in a different taxable year) a deduction from its taxable base for a guaranteed payment, then solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs that are attributable to that foreign tax, net income in the CFTE category is increased only to the extent that the amount of the guaranteed payment that is deductible for U.S. federal income tax purposes exceeds the amount allowed as a deduction for purposes of the foreign tax, and such excess is treated as an allocation to the recipient of the guaranteed payment for purposes of

determining the partners' CFTE category shares of income. See *Example 25* of paragraph (b)(5) of this section.

(*iii*) *Preferential allocations.* To the extent that a foreign tax allows (whether in the current or in a different taxable year) a deduction from its taxable base for an allocation (or distribution of an allocated amount) to a partner, then solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs that are attributable to that foreign tax, the net income in the CFTE category from which the allocation is made is reduced by the amount of the allocation, and that amount is not treated as an allocation for purposes of determining the partners' CFTE category shares of income. See *Example 25* of paragraph (b)(5) of this section.

(*iv*) *Foreign law exclusions due to status of partner.* If a foreign tax excludes an amount from its taxable base as a result of the status of a partner, then solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs that are attributable to that foreign tax, the net income in the relevant CFTE category is reduced by the excluded amounts that are allocable to such partners. See *Example 27* of paragraph (b)(5) of this section.

(b)(4)(viii)(*c*)(*5*) [Reserved]. For further guidance, see § 1.704–1(b)(4)(viii)(*c*)(*5*).

(*d*) *Allocation and apportionment of CFTEs to CFTE categories*—(*1*) *In general.* CFTEs are allocated and apportioned to CFTE categories in accordance with the principles of § 1.904–6. Under these principles, a CFTE is related to income in a CFTE category if the income is included in the base upon which the foreign tax is imposed. See *Examples 36* and *37 of* paragraph (b)(5) of this section, which illustrate the application of this paragraph in the case of serial disregarded payments subject to withholding tax. In accordance with § 1.904–6(a)(1)(ii) as modified by this paragraph (b)(4)(viii)(*d*), if the foreign tax base includes income in more than one CFTE category, the CFTEs are apportioned among the CFTE categories based on the relative amounts of taxable income computed under foreign law in each CFTE category. For purposes of this paragraph (b)(4)(viii)(*d*), references in § 1.904–6 to a separate category or separate categories mean ''CFTE category'' or ''CFTE categories'' and the rules in § 1.904–6(a)(1)(ii) are modified as follows:

(b)(4)(viii)(*d*)(*1*)(*i*) through (b)(5) *Example 24* [Reserved]. For further guidance, see § 1.704–1(b)(4)(viii)(*d*)(*1*)(*i*) through (b)(5) *Example 24.*

Example 25. (i) A contributes $750,000 and B contributes $250,000 to form AB, a country X eligible entity (as defined in § 301.7701–3(a) of this chapter) treated as a partnership for U.S. federal income tax purposes. AB operates business M in country X. Country X imposes a 20 percent tax on the net income from business M, which tax is a CFTE. In 2016, AB earns $300,000 of gross income, has deductible expenses of $100,000, and pays or accrues $40,000 of country X tax. Pursuant to the partnership agreement, the first $100,000 of gross income each year is specially allocated to A as a preferred return on excess capital contributed by A. All remaining partnership items, including CFTEs, are split evenly between A and B (50 percent each). The gross income allocation is not deductible in determining AB's taxable income under country X law. Assume that allocations of all items other than CFTEs are valid.

(ii) AB has a single CFTE category because all of AB's net income is allocated in the same ratio. See paragraph (b)(4)(viii)(*c*)(*2*) of this section. Under paragraph (b)(4)(viii)(*c*)(*3*) of this section, the net income in the single CFTE category is $200,000. The $40,000 of taxes is allocated to the single CFTE category and, thus, is related to the $200,000 of net income in the single CFTE category. In 2016, AB's partnership agreement results in an allocation of $150,000 or 75 percent of the net income to A ($100,000 attributable to the gross income allocation plus $50,000 of the remaining $100,000 of net income) and $50,000 or 25 percent of the net income to B. AB's partnership agreement allocates the country X taxes in accordance with the partners' shares of partnership items remaining after the $100,000 gross income allocation. Therefore, AB allocates the country X taxes 50 percent to A ($20,000) and 50 percent to B ($20,000). AB's allocations of country X taxes are not deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii) of this section because they are not in proportion to the allocations of the CFTE category shares of income to which the country X taxes relate. Accordingly, the country X taxes will be reallocated according to the partners' interests in the partnership. Assuming that the partners do not reasonably expect to claim a deduction for the CFTEs in determining their U.S. federal income tax liabilities, a reallocation of the CFTEs under paragraph (b)(3) of this section would be 75 percent to A ($30,000) and 25 percent to B ($10,000). If the reallocation of the CFTEs causes the partners' capital accounts not to reflect their contemplated economic arrangement, the partners may need to reallocate other partnership items to ensure that the tax consequences of the partnership's allocations are consistent with their contemplated economic arrangement over the term of the partnership.

(iii) The facts are the same as in paragraph (i) of this *Example 25*, except that country X allows a deduction for the $100,000 allocation of gross income and, as a result, AB pays or accrues only $20,000 of foreign tax. Under paragraph (b)(4)(viii)(*c*)(*4*)(*iii*) of this section, the net income in the single CFTE category is $100,000, determined by reducing the net income in the CFTE category by the $100,000 of gross income that is allocated to A and for which country X allows a deduction in determining AB's taxable income. Pursuant to the partnership agreement, AB allocates the country X tax 50 percent to A ($10,000) and 50 percent to B ($10,000). This allocation is in proportion to the partners' CFTE category shares of the $100,000 net income. Accordingly, AB's allocations of country X taxes are deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii)(*a*) of this section.

(iv) The facts are the same as in paragraph (iii) of this *Example 25,* except that, in addition to $20,000 of country X tax, AB is subject to $30,000 of country Y withholding tax with respect to the $300,000 of gross income that it earns in 2016. Country Y does not allow any deductions for purposes of determining the withholding tax. As described in paragraph (ii) of this *Example 25,* there is a single CFTE category with respect to AB's net income. Both the $20,000 of country X tax and the $30,000 of country Y withholding tax relate to that income and are therefore allocated to the single CFTE category. Under paragraph (b)(4)(viii)(c)(*4*)(*iii*) of this section, however, net income in a CFTE category is reduced by the amount of an allocation for which a deduction is allowed in determining a foreign taxable base, but only for purposes of applying paragraph (b)(4)(viii)(*a*) of this section to allocations of CFTEs that are attributable to that foreign tax. Accordingly, because the $100,000 allocation of gross income is deductible for country X tax purposes but not for country Y tax purposes, the allocations of the CFTEs attributable to country X tax and country Y tax are analyzed separately. For purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of the CFTEs attributable to the $20,000 tax imposed by country X, the analysis described in paragraph (iii) of this *Example 25* applies. For purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of the CFTEs attributable to the $30,000 tax imposed by country Y, which did not allow a deduction for the $100,000 gross income allocation, the net income in the single CFTE category is $200,000. Pursuant to the partnership agreement, AB allocates the country Y tax 50 percent to A ($15,000) and 50 percent to B ($15,000). These allocations are not deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii) of this section because they are not in proportion to the partners' CFTE category shares of the $200,000 of net income in the category, which is allocated 75 percent to A and 25 percent to B under the partnership agreement. Accordingly, the country Y taxes will be reallocated according to the partners' interests in the partnership as described in paragraph (ii) of this *Example 25.*

(v) The amount of net income in the single CFTE category of AB for purposes of

applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs would be the same as in the fact patterns described in paragraphs (ii), (iii) and (iv) if, rather than being a preferential gross income allocation, the $100,000 was a guaranteed payment to A within the meaning of section 707(c). See paragraph (b)(4)(viii)(*c*)(*4*)(*ii*) of this section.

(b)(5) *Examples 26* through *35* [Reserved]. For further guidance, see § 1.704–1(b)(5) *Examples 26* through *35*.

Example 36. (i) A, B, and C form ABC, an eligible entity (as defined in § 301.7701–3(a) of this chapter) treated as a partnership for U.S. federal income tax purposes. ABC owns three entities, DEX, DEY, and DEZ, which are organized in, and treated as corporations under the laws of, countries X, Y, and Z, respectively, and as disregarded entities for U.S. federal income tax purposes. DEX operates business X in country X, DEY operates business Y in country Y, and DEZ operates business Z in country Z. Businesses X, Y, and Z relate to the licensing and sublicensing of intellectual property owned by DEZ. During 2016, DEX earns $100,000 of royalty income from unrelated payors on which it pays no withholding taxes. Country X imposes a 30 percent tax on DEX's net income. DEX makes royalty payments of $90,000 during 2016 to DEY that are deductible by DEX for country X purposes and subject to a 10 percent withholding tax imposed by country X. DEY earns no other income in 2016. Country Y does not impose income or withholding taxes. DEY makes royalty payments of $80,000 during 2016 to DEZ. DEZ earns no other income in 2016. Country Z does not impose income or withholding taxes. The royalty payments from DEX to DEY and from DEY to DEZ are disregarded for U.S. federal income tax purposes.

As a result of these payments, DEX has taxable income of $10,000 for country X purposes on which $3,000 of taxes are imposed, and DEY has $90,000 of income for country X withholding tax purposes on which $9,000 of withholding taxes are imposed. Pursuant to the partnership agreement, all partnership items from business X, excluding CFTEs paid or accrued by business X, are allocated 80 percent to A and 10 percent each to B and C. All partnership items from business Y, excluding CFTEs paid or accrued by business Y, are allocated 80 percent to B and 10 percent each to A and C. All partnership items from business Z, excluding CFTEs paid or accrued by business Z, are allocated 80 percent to C and 10 percent each to A and B. Because only business X has items that are regarded for U.S. federal income tax purposes (the $100,000 of royalty income), only business X has partnership items. Accordingly A is allocated 80 percent of the income from business X ($80,000) and B and C are each allocated 10 percent of the income from business X ($10,000 each). There are no partnership items of income from business Y or Z to allocate.

(ii) Because the partnership agreement provides for different allocations of partnership net income attributable to businesses X, Y, and Z, the net income attributable to each of businesses X, Y, and Z is income in separate CFTE categories. See paragraph (b)(4)(viii)(*c*)(*2*) of this section. Under paragraph (b)(4)(viii)(*c*)(*3*)(*iv*) of this section, an item of gross income that is recognized for U.S. federal income tax purposes is assigned to the activity that generated the item, and disregarded inter-branch payments are not taken into account in determining net income attributable to an activity. Consequently, all $100,000 of ABC's income is attributable to the business X activity for U.S. federal income tax purposes, and no net income is in the business Y or Z CFTE category. Under paragraph (b)(4)(viii)(*d*)(*1*) of this section, the $3,000 of country X taxes imposed on DEX is allocated to the business X CFTE category. The additional $9,000 of country X withholding tax imposed with respect to the inter-branch payment to DEY is also allocated to the business X CFTE category because for U.S. federal income tax purposes the related $90,000 of income on which the country X withholding tax is imposed is in the business X CFTE category. Therefore, $12,000 of taxes ($3,000 of country X income taxes and $9,000 of the country X withholding taxes) is related to the $100,000 of net income in the business X CFTE. See paragraph (b)(4)(viii)(*c*)(*1*) of this section. The allocations of country X taxes will be in proportion to the CFTE category shares of income to which they relate and will be deemed to be in accordance with the partners' interests in the partnership if such taxes are allocated 80 percent to A and 10 percent each to B and C.

Example 37. (i) Assume that the facts are the same as in paragraph (i) of *Example 36* of this section, except that in order to reflect the $90,000 payment from DEX to DEY and the $80,000 payment from DEY to DEZ, the partnership agreement treats only $10,000 of the gross income as attributable to the business X activity, which the partnership agreement allocates 80 percent to A and 10 percent each to B and C. Of the remaining $90,000 of gross income, the partnership agreement treats $10,000 of the gross income as attributable to the business Y activity, which the partnership agreement allocates 80 percent to B and 10 percent each to A and C; and the partnership agreement treats $80,000 of the gross income as attributable to the business Z activity, which the partnership agreement allocates 80 percent to C and 10 percent each to A and B. In addition, the partnership agreement allocates the country X taxes among A, B, and C in accordance with which disregarded entity is considered to have paid the taxes for country X purposes. The partnership agreement allocates the $3,000 of country X income taxes 80 percent to A and 10 percent to each of B and C, and allocates the $9,000 of country X withholding taxes 80 percent to B and 10 percent to each of A and C. Thus, ABC allocates the country X taxes $3,300 to A (80 percent of $3,000 plus 10 percent of $9,000), $7,500 to B (10 percent of $3,000 plus 80 percent of $9,000), and $1,200 to C (10 percent of $3,000 plus 10 percent of $9,000).

(ii) In order to prevent separating the CFTEs from the related foreign income, the special allocations of the $10,000 and $80,000 treated under the partnership agreement as attributable to the business Y and the business Z activities, respectively, which do not follow the allocation ratios that otherwise apply under the partnership agreement to items of income in the business X activity, are treated as divisible parts of the business X activity and, therefore, as separate activities. See paragraph (b)(4)(viii)(*c*)(*2*)(*iii*) of this section. Because the divisible part of the business X activity attributable to the portion of the disregarded payment received by DEY and not paid on to DEZ ($10,000) and the net income from the business Y activity ($0) are both shared 80 percent to B and 10 percent each to A and C, that divisible part of the business X activity and the business Y activity are treated as a single CFTE category. Because the divisible part of the business X activity attributable to the disregarded payment paid to DEZ ($80,000) and the net income from the business Z activity ($0) are both shared 80 percent to C and 10 percent each to A and B, that divisible part of the business X activity and the business Z activity are also treated as a single CFTE category. See paragraph (b)(4)(viii)(*c*)(*2*)(*i*) of this section. Accordingly, $10,000 of net income attributable to business X is in the business X CFTE category, $10,000 of net income of business X attributable to the net disregarded payments of DEY is in the business Y CFTE category, and $80,000 of net income of business X attributable to the disregarded payment to DEZ is in the business Z CFTE category. Under paragraph (b)(4)(viii)(*d*)(*1*) of this section, the $3,000 of country X tax imposed on DEX's income is allocated to the business X CFTE category. Because the $90,000 on which the country X withholding tax is imposed is split between the business Y CFTE category and the business Z CFTE category, those withholding taxes are allocated on a pro rata basis, $1,000 [$9,000 × ($10,000/$90,000)] to the business Y CFTE category and $8,000 [$9,000 × ($80,000/$90,000)] to the business Z CFTE category. See paragraph (b)(4)(viii)(*d*)(*1*) of this section. To satisfy the safe harbor of paragraph (b)(4)(viii) of this section, the $3,000 of country X taxes allocated to the business X CFTE category must be allocated in proportion to the CFTE category shares of income to which they relate, and therefore would be deemed to be in accordance with the partners' interests in the partnership if such taxes were allocated 80 percent to A and 10 percent each to B and C. The allocation of the $1,000 of country X withholding taxes allocated to the business Y CFTE category would be in proportion to the CFTE category shares of income to which they relate, and therefore would be deemed to be in accordance with the partners' interests in the partnership if such taxes were allocated 80 percent to B and 10 percent each to A and C. The allocation of the $8,000 of country X withholding taxes allocated to the business Z CFTE category would be in proportion to the CFTE category shares of income to which they relate, and therefore would be deemed to be in accordance with the partners' interests in the partnership if such taxes were allocated 80 percent to C and

10 percent each to A and B. Thus, to satisfy the safe harbor, ABC must allocate the country X taxes $3,300 to A (80 percent of $3,000 plus 10 percent of $1,000 plus 10 percent of $8,000), $1,900 to B (10 percent of $3,000 plus 80 percent of $1,000 plus 10 percent of $8,000), and $6,800 to C (10 percent of $3,000 plus 10 percent of $1,000 plus 80 percent of $8,000). ABC's allocations of country X taxes are not deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii) of this section because they are not in proportion to the partners' CFTE category shares of income to which the country X taxes relate. Accordingly, the country X taxes will be reallocated according to the partners' interests in the partnership.

(c) through (e) [Reserved]. For further guidance, see § 1.704–1(c) through (e).

(f) *Expiration date.* The applicability of this section expires on February 4, 2019.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: January 14, 2016.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2016–01949 Filed 2–3–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0076]

Drawbridge Operation Regulation; Columbia River, Vancouver, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Burlington Northern Santa Fe (BNSF) Railway Bridge across the Columbia River, mile 105.6, at Vancouver, WA. This deviation is necessary to accommodate maintenance to replace movable rail joints. This deviation allows the bridge to remain in the closed position during maintenance activities.

DATES: This deviation is effective from 7 a.m. on March 8, 2016, to 7 p.m. on March 17, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0076] is available at *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 deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.*

SUPPLEMENTARY INFORMATION: BNSF requested that the BNSF Swing Bridge across the Columbia River, mile 105.6, remain closed to vessel traffic to remove and replace rail joints. During this installation period, the swing span of the bridge will be in the closed-to-navigation position; however, the span may be opened for maritime emergencies, but any emergency opening will necessitate a time extension to the approved dates. The BNSF Swing Bridge, mile 105.6, provides 39 feet of vertical clearance above Columbia River Datum 0.0 while in the closed position. The current operations for the swing bridge is in 33 CFR 117.5. This deviation allows the swing span of the BNSF Railway Bridge across the Columbia River, mile 105.6, to remain in the closed-to-navigation position, and need not open for maritime traffic from 7 a.m. to 7 p.m. on March 8, March 10, March 15, March 16 and March 17, 2016. These dates coincide with the Columbia River Bonneville lock and the Dalles lock. The bridge shall operate in accordance to 33 CFR 117.5 at all other times. Waterway usage on this part of the Columbia River includes vessels ranging from commercial tug and tow vessels to recreational pleasure craft including cabin cruisers and sailing vessels.

Vessels able to pass through the bridge in the closed positions may do so at anytime. For the duration of the repair work, vessels will not be allowed to pass through the bridge. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The bridge can be opened for emergency vessels in response to a call, however, if an opening for emergencies is needed, an extension of this deviation will be required to complete the work. No immediate alternate route for vessels to pass is available on this part of the river.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 29, 2016.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2016–02098 Filed 2–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0057]

Drawbridge Operation Regulation; James River, Isle of Wight and Newport News, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the James River Bridge (US17) across the James River, mile 5.0, at Isle of Wight and Newport News, VA. The deviation is necessary to perform bridge maintenance and repairs. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective from 5 a.m. on February 7, 2016 to 7 p.m. on February 14, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0057] is available at *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 deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Hal R. Pitts, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6222, email *Hal.R.Pitts@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Virginia Department of Transportation, that owns and operates the James River Bridge (US17), has requested a temporary deviation from the current operating regulations to perform repairs to the aerial electrical cable connecting the north tower to the south tower. The bridge is a vertical lift draw bridge and has a vertical clearance in the closed position of 60 feet above mean high water.

The current operating schedule is open on signal as set out in 33 CFR 117.5. Under this temporary deviation, the bridge will remain in the closed-to-

navigation position from 5 a.m. to 7 p.m. from February 7, 2016 through February 14, 2016. During this temporary deviation, the bridge will operate per 33 CFR 117.5 from 7 p.m. to 5 a.m.

The James River is used by a variety of vessels including deep draft ocean-going vessels, U.S. government vessels, small commercial vessels, recreational vessels and tug and barge traffic. The Coast Guard has carefully coordinated the restrictions with waterway users.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transit to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 28, 2016.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2016–02099 Filed 2–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 403

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 1331

RIN 0985–AA11

State Health Insurance Assistance Program (SHIP)

AGENCY: Administration for Community Living (ACL), Department of Health and Human Services (HHS) and Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Interim final rule.

SUMMARY: This rule implements a provision enacted by the Consolidated Appropriations Act of 2014 and reflects the transfer of the State Health Insurance Assistance Program (SHIP) from the Centers for Medicare & Medicaid Services (CMS), in the Department of Health and Human Services (HHS) to the Administration for Community Living (ACL) in HHS. The previous regulations were issued by CMS under the authority granted by the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Section 4360.

DATES: *Effective date:* This interim final rule is effective on February 4, 2016.

Comment date: To be assured of consideration, comments must be received by ACL electronically through *www.regulations.gov* no later than midnight Eastern Standard Time (E.S.T.) on April 4, 2016.

ADDRESSES: You may submit comments in one of following ways (no duplicates, please): Written comments may be submitted through any of the methods specified below. Please do not submit duplicate comments.

- *Federal eRulemaking Portal:* You may (and we encourage you to) submit electronic comments on this regulation at *http://www.regulations.gov.* Follow the instructions under the ''submit a comment'' tab. Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.
- *Regular, Express, or Overnight Mail:* You may mail written comments to the following address ONLY: Administration for Community Living, Attention: SHIP Interim Rule, U.S. Department of Health and Human Services, Washington, DC 20201. Please allow sufficient time for mailed comments to be received before the close of the comment period.
- *Individuals with a Disability:* We will provide an appropriate accommodation, including alternative formats, upon request. To make such a request, please contact Marlina Moses-Gaither, (202) 357–3552 (Voice) or at *marlina.moses-gaither@acl.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Josh Hodges, Administration for Community Living, telephone (202) 795–7364 (Voice). This is not a toll-free number. This document will be made available in alternative formats upon request. Written correspondence can be sent to Administration for Community Living, U.S. Department of Health and Human Services, 330 C St. SW., Washington, DC 20201.

SUPPLEMENTARY INFORMATION:

I. Background

The State Health Insurance Assistance Program (SHIP) was created under Section 4360 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 (Pub. L. 101–508). This section of the law authorized the Centers for Medicare & Medicaid Services (CMS) to make grants to States to establish and maintain health insurance advisory service programs for Medicare beneficiaries. Grant funds were made available to support information, counseling, and assistance activities relating to Medicare, Medicaid, and other related health insurance options such as: Medicare supplement insurance, long-term care insurance, managed care options, and other health insurance benefit information. In January 2014, authorized in the Consolidated Appropriations Act of 2014, the SHIP program was transferred from CMS to the Administration for Community Living (ACL). This transfer reflects the existing formal and informal collaborations between the SHIP programs and the networks that ACL serves.

II. Transfer of Language and Technical Amendments

In this interim final rule, ACL transfers all provisions of the existing SHIP regulations at 42 CFR part 403 subpart E, §§ 403.500–403.512, to a new part at 45 CFR 1331.1–1331.7, and 42 CFR part 403 subpart E is reserved. This transfer positions the regulations governing the SHIP program alongside the other ACL regulations, reflecting the transfer of the program to ACL's administration.

In addition, as Congress has transferred the entirety of the SHIP program to ACL, all references to CMS' administration of the program are changed in this rule to ACL.

Finally, as HHS has promulgated new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, codified at 45 CFR part 75 since the previous rule's implementation, this rule changes a reference to previous guidance in § 1331.7 Administration.

III. Regulatory Analysis

A. Executive Order 12866

This rule is not being treated as a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

B. Regulatory Flexibility Analysis

The Secretary certifies under 5 U.S.C. 605(b), the Regulatory Flexibility Act (Pub. L. 96–354), that this regulation will not have a significant economic impact on a substantial number of small

entities. The primary impact of this regulation is on entities applying for SHIP funding opportunities, specifically researchers, States, public or private agencies and organizations, institutions of higher education, and Indian tribes and Tribal organizations. The regulation does not have a significant economic impact on these entities.

C. Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1) (PRA), ACL and CMS have determined that there are no new collections of information contained in this interim final rule.

D. Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (APA), ACL and CMS are required to publish a notice of proposed rulemaking and provide the public with an opportunity to comment on proposed regulations prior to establishing a final rule unless it is determined for good cause that the notice and comment procedure is impracticable, unnecessary or contrary to public interest. 5 U.S.C. 553(b). As noted previously, Congress has already transferred the SHIP program to ACL under the Consolidated Appropriations Act of 2014. This interim final rule makes no changes other than aligning the location of the regulations within the **Federal Register** with other ACL programs; amending the name of the administering agency to ACL; and updating a reference to new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, which have already undergone notice and comment rulemaking, therefore, there is good cause under 5 U.S.C. 553(b)(B) for waiving proposed rulemaking as unnecessary.

E. Waiver of Delayed Effective Date

Agencies are required to delay the effective date of their final regulations by 30 days after publication, as required under 5 U.S.C. 553(d), unless an exception under subsection (d) applies. Under 5 U.S.C. 553(d), ACL and CMS may waive the delayed effective date requirement if they find good cause and explain the basis for the waiver in the final rulemaking document or if the regulations grant or recognize an exemption or relieve a restriction.

In the present case, there is good cause to waive the delayed effective date for this interim final rule, because the substance of the regulation, other than the name of the administering agency, is identical to the current regulation.

F. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in expenditures by State, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million, adjusted for inflation, or more in any one year. ACL and CMS have determined that this rule does not result in the expenditure by State, local, and Tribal government in the aggregate or by the private sector of more than $100 million in any one year.

G. Congressional Review

This rule is not a major rule as defined in 5 U.S.C. Section 804(2).

H. Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a policy or regulation may affect family well-being. If the agency's conclusion is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These regulations do not have an impact on family well-being as defined in the legislation.

I. Executive Order 13132

Executive Order 13132 on ''federalism'' was signed August 4, 1999. The purposes of the Order are: ''. . . to guarantee the division of governmental responsibilities between the national government and the States that was intended by the Framers of the Constitution, to ensure that the principles of federalism established by the Framers guide the executive departments and agencies in the formulation and implementation of policies, and to further the policies of the Unfunded Mandates Reform Act . . .'' Executive Order 13132 applies to actions with federalism implications, which are actions that have substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. For actions that have federalism implications and preempt state law or have federalism implications and impose substantial compliance costs on states and local governments, the agency must consult with state and local officials before publishing the rule and include a federalism statement in the preamble.

The Department certifies that this rule does not have a substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government.

ACL and CMS are not aware of any specific state laws that would be preempted by the adoption of the regulation.

List of Subjects

42 CFR Part 403

Grant programs, Health insurance, Medicare, Reporting and recordkeeping requirements.

45 CFR Part 1331

Grant programs, Health insurance, Medicare, Reporting and recordkeeping requirements.

Dated: December 17, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

Dated: December 17, 2015.

Kathy Greenlee,

Administrator, Administration for Community Living.

Approved: January 25, 2016.

Sylvia M. Burwell,

Secretary, U.S. Department of Health and Human Services.

Regulatory Text

For the reasons discussed in the preamble, the Centers for Medicare & Medicaid Services, HHS, and Department of Health and Human Services amend title 42, chapter IV and title 45, chapter XIII, subchapter C, of the Code of Federal Regulations, respectively, as follows:

42 CFR CHAPTER IV

PART 403—SPECIAL PROGRAMS AND PROJECTS

■ 1. The authority citation for part 403 continues to read as follows:

Authority: 42 U.S.C. 1395b–3 and Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart E [Removed and Reserved]

■ 2. Subpart E, consisting of §§ 403.500 through 403.512, is removed and reserved.

45 CFR CHAPTER XIII

■ 3. Part 1331 is added to subchapter C read as follows:

PART 1331—STATE HEALTH INSURANCE ASSISTANCE PROGRAM

Sec.

1331.1 Basis, scope, and definition.
1331.2 Eligibility for grants.
1331.3 Availability of grants.
1331.4 Number and size of grants.
1331.5 Limitations.
1331.6 Reporting requirements.
1331.7 Administration.

Authority: 42 U.S.C. 1395b–4.

§ 1331.1 Basis, scope, and definition.

(a) *Basis.* This part implements, in part, the provisions of section 4360 of Public Law 101–508 by establishing a minimum level of funding for grants made to States for the purpose of providing information, counseling, and assistance relating to obtaining adequate and appropriate health insurance coverage to individuals eligible to receive benefits under the Medicare program.

(b) *Scope of part.* This part sets forth the following:

(1) Conditions of eligibility for the grant.

(2) Minimum levels of funding for those States qualifying for the grants.

(3) Reporting requirements.

(c) *Definition.* For purposes of this subpart, the term ''State'' includes (except where otherwise indicated by the context) the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

§ 1331.2 Eligibility for grants.

To be eligible for a grant under this subpart, the State must have an approved Medicare supplemental regulatory program under section 1882 of the Act and submit a timely application to ACL that meets the requirements of—

(a) Section 4360 of Public Law 101–508 (42 U.S.C. 1395b–4);

(b) This subpart; and

(c) The applicable solicitation for grant applications issued by ACL.

§ 1331.3 Availability of grants.

ACL awards grants to States subject to availability of funds, and if applicable, subject to the satisfactory progress in the State's project during the preceding grant period. The criteria by which progress is evaluated and the performance standards for determining whether satisfactory progress has been made are specified in the terms and conditions included in the notice of grant award sent to each State. ACL advises each State as to when to make application, what to include in the application, and provides information as to the timing of the grant award and the duration of the grant award. ACL also provides an estimate of the amount of funds that may be available to the State.

§ 1331.4 Number and size of grants.

(a) *General.* For available grant funds, up to and including $10,000,000, grants will be made to States according to the terms and formula in paragraphs (b) and (c) of this section. For any available grant funds in excess of $10,000,000, distribution of grants will be at the discretion of ACL, and will be made according to criteria that ACL will communicate to the States via grant solicitation. ACL will provide information to each State as to what must be included in the application for grant funds. ACL awards the following type of grants:

(1) New program grants.

(2) Existing program enhancement grants.

(b) *Grant award.* Subject to the availability of funds, each eligible State that submits an acceptable application receives a grant that includes a fixed amount (minimum funding level) and a variable amount.

(1) A fixed portion is awarded to States in the following amounts:

(i) Each of the 50 States, $75,000.

(ii) The District of Columbia, $75,000.

(iii) Puerto Rico, $75,000.

(iv) American Samoa, $25,000.

(v) Guam, $25,000.

(vi) The Virgin Islands, $25,000.

(2) A variable portion which is based on the number and location of Medicare beneficiaries residing in the State is awarded to each State. The variable amount a particular State receives is determined as set forth in paragraph (c) of this section.

(c) *Calculation of variable portion of the grant.* (1) ACL bases the variable portion of the grant on—

(i) The amount of available funds, and

(ii) A comparison of each State with the average of all of the States (except the State being compared) with respect to three factors that relate to the size of the State's Medicare population and where that population resides.

(2) The factors ACL uses to compare States' Medicare populations comprise separate components of the variable amount. These factors, and the extent to which they each contribute to the variable amount, are as follows:

(i) Approximately 75 percent of the variable amount is based on the number of Medicare beneficiaries living in the State as a percentage of all Medicare beneficiaries nationwide.

(ii) Approximately 10 percent of the variable amount is based on the percentage of the State's total population who are Medicare beneficiaries.

(iii) Approximately 15 percent of the variable amount is based on the percentage of the State's Medicare beneficiaries that reside in rural areas (''rural areas'' are defined as all areas not included within a metropolitan Statistical Area).

(3) Based on the foregoing four factors (that is, the amount of available funds and the three comparative factors), ACL determines a variable rate for each participating State for each grant period.

(d) *Submission of revised budget.* A State that receives an amount of grant funds under this subpart that differs from the amount requested in the budget submitted with its application must submit a revised budget to ACL, along with its acceptance of the grant award, which reflects the amount awarded.

§ 1331.5 Limitations.

(a) *Use of grants.* Except as specified in paragraph (b) of this section, and in the terms and conditions in the notice of grant award, a State that receives a grant under this subpart may use the grant for any reasonable expenses for planning, developing, implementing and/or operating the program for which the grant is made as described in the solicitation for application for the grant.

(b) *Maintenance of effort.* A State that receives a grant to supplement an existing program (that is, an existing program enhancement grant)—

(1) Must not use the grant to supplant funds for activities that were conducted immediately preceding the date of the initial award of a grant made under this subpart and funded through other sources (including in-kind contributions).

(2) Must maintain the activities of the program at least at the level that those activities were conducted immediately preceding the initial award of a grant made under this subpart.

§ 1331.6 Reporting requirements.

A State that receives a grant under this subpart must submit at least one annual report to ACL and any additional reports as ACL may prescribe in the notice of grant award. ACL advises the State of the requirements concerning the frequency, timing, and contents of reports in the notice of grant award that it sends to the State.

§ 1331.7 Administration.

(a) *General.* Administration of grants will be in accordance with the provisions of this subpart, 45 CFR part 75 (''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments''), the terms of the solicitation, and the terms of the notice of grant award. Except for the minimum funding levels established by

§ 1331.4(b)(1), in the event of conflict between a provision of the notice of grant award, any provision of the solicitation, or of any regulation enumerated in 45 CFR part 75, the terms of the notice of grant award control.

(b) *Notice.* ACL provides notice to each applicant regarding ACL's decision on an application for grant funding under § 1331.4.

(c) *Appeal.* Any applicant for a grant under this subpart has the right to appeal ACL's determination regarding its application. Appeal procedures are governed by the regulations at 45 CFR part 16 (Procedures of the Departmental Grant Appeals Board).

[FR Doc. 2016–02055 Filed 2–3–16; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WC Docket Nos. 13–97, 04–36, 07–243, 10–90 and CC Docket No. 95–116, 01–92, and 99–200; FCC 15–70]

Numbering Policies for Modern Communications, IP-Enabled Services, Telephone Number Requirements for IP-Enabled, Services Providers, Telephone Number Portability et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's *Report and Order* establishing rules for an authorization process to enable interconnected VoIP providers that choose direct access to request numbers directly from the Numbering Administrators. This document is consistent with the *Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of those rules.

DATES: The amendments to 47 CFR 52.15(g)(2) and (g)(3) published at 80 FR 66454, October 29, 2015, are effective February 4, 2016.

FOR FURTHER INFORMATION CONTACT: Marilyn Jones, Competition Policy Division, Wireline Competition Bureau, at (202) 418–1580, or email: *marilyn.jones@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on January 5, 2016, OMB approved the information collection requirements contained in the Commission's *Report and Order,* FCC 15–70, published at 80 FR 66454, October 29, 2015. The OMB Control Number is 3060–1214. The Commission publishes this notice as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–1214, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on January 5, 2016, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR 52.15(g)(2)–(g)(3).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1214.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1214.

OMB Approval Date: January 5, 2016.

OMB Expiration Date: January 31, 2019.

Title: Direct Access to Numbers Orders, FCC 15–70 Conditions.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 13 respondents; 13 responses.

Estimated Time per Response: 120 hours.

Frequency of Response: One-time, biennial and on-going reporting requirements.

Obligation to Respond: Voluntary. The statutory authority for this information collection is contained in 47 U.S.C. 251(e)(1).

Total Annual Burden: 1,560 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: If respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Communication's rules, 47 CFR 0.459.

Privacy Act: No impact(s).

Needs and Uses: June 18, 2015, the Commission adopted a Report and Order establishing the Numbering Authorization Application process, which allows interconnected VoIP providers to apply for a blanket authorization from the FCC that, once granted, will allow them to demonstrate that they have the authority to provide service in specific areas, thus enabling them to request numbers directly from the Numbering Administrators. This collection covers the information and certifications that applicants must submit in order to comply with the Numbering Authorization Application process. The data, information, and documents acquired through this collection will allow interconnected VoIP providers to obtain numbers with minimal burden or delay while also preventing providers from obtaining numbers without first demonstrating that they can deploy and properly utilize such resources. This information will also help the Federal Communications Commission (FCC) protect against number exhaust while promoting competitive neutrality among traditional telecommunications carriers and interconnected VoIP providers by allowing both entities to obtain numbers directly from the Numbering Administrators. It will further help the FCC to maintain efficient utilization of numbering resources and ensure that telephone numbers are not being stranded.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2016–02013 Filed 2–3–16; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[MB Docket No. 12–108; FCC 15–156]

Accessibility of User Interfaces, and Video Programming Guides and Menus

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts additional rules under the authority of Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), which mandate the accessibility of user interfaces on digital apparatus and navigation devices used to view video programming. First, the document adopts usability requirements for entities covered by Section 204 of the CVAA and information, documentation, and training requirements for entities covered by both Section 204 and Section 205 of the CVAA. The document also adopts rules that will require manufacturers of digital apparatus and navigation devices to publicize the availability of accessible devices on manufacturer Web sites that must be accessible to those with disabilities. These requirements will ensure that individuals with disabilities have access to information and documentation about the availability of accessible video devices and how to operate them. The document declines to adopt a requirement that multichannel video programming providers include more detailed program information for public, educational, and governmental channels in their video programming guides, finding that such a requirement is outside the scope of Section 205 of the CVAA. Finally, the document reconsiders guidance on which activation mechanisms for closed captioning are reasonably comparable to a button, key, or icon.

DATES: Effective March 7, 2016, except for §§ 79.107(a)(5), (d), and (e) and 79.108(d)(2) and (f), which contain information collection requirements subject to approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing the effective date for those sections.

FOR FURTHER INFORMATION CONTACT: Maria Mullarkey, *Maria.Mullarkey@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at (202) 418–2918 or send an email to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Orde*r and *Order on Reconsideration,* FCC 15–156, adopted on November 18, 2015, and released on November 20, 2015. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) Web site at *http://fjallfoss.fcc.gov/edocs_public/* or via the FCC's Electronic Comment Filing System (ECFS) Web site at *http://fjallfoss.fcc.gov/ecfs2/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

I. Introduction

1. In October 2013, the Commission adopted rules that advance the important goal of making video programming accessible to individuals with disabilities on a wide range of consumer devices, allowing consumers who are blind or visually impaired and deaf or hard of hearing to more fully enjoy the benefits of such programming. In this *Second Report and Order* (*Order*) and *Order on Reconsideration,* we take additional steps to fulfill this goal by continuing the Commission's implementation of Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (''CVAA''), which mandate the accessibility of user interfaces on digital apparatus and navigation devices used to view video programming.[1]

2. This *Order* addresses three areas in which the Commission sought comment in the *Further Notice of Proposed Rulemaking* (''*Further NPRM*'') that accompanied the first *Report and Order* issued in this proceeding.[2] First, it implements Section 204's requirement that both the ''appropriate built-in apparatus functions'' and the ''on-screen text menus or other visual indicators built in to the digital apparatus'' to access such functions be ''usable by individuals who are blind or visually impaired'' [3] by relying on the Commission's existing definition of ''usable'' in Section 6.3(l) of our rules.[4] In addition, it adopts information, documentation, and training requirements comparable to those in Section 6.11 of our rules for entities covered by both Section 204 and Section 205 of the CVAA.[5] Second, it adopts consumer notification requirements for equipment manufacturers of digital apparatus and navigation devices that will require manufacturers to publicize the availability of accessible devices on manufacturer Web sites that must be accessible to those with disabilities. While multichannel video programming distributors (''MVPDs'') are already subject to Web site notification requirements pursuant to the rules we adopted in the *Report and Order,* the *Order* also requires MVPDs, as well as manufacturers, to ensure that the contact office or person listed on their Web site is able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features. Finally, the *Order* declines to adopt a requirement that MVPDs include more detailed program information for public,

[1] Public Law 111–260, 124 Stat. 2751 (2010) (as codified at 47 U.S.C. 303(aa), 303(bb)). *See also* Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA). The foregoing are collectively referred to herein as the CVAA.

[2] *Accessibility of User Interfaces, and Video Programming Guides and Menus; Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* MB Docket Nos. 12–108, 12–107, Report and Order and Further Notice of Proposed Rulemaking, 78 FR 77210, 78 FR 77074, paras. 138–52 (2013) (''*Report and Order and Further NPRM*''). The Commission also inquired in the *Further NPRM* whether to require manufacturers of apparatus covered by Section 203 of the CVAA to provide access to the secondary audio stream for audible emergency information by a mechanism reasonably comparable to a button, key, or icon. *Id.* at paras. 145–47. The Commission addressed this issue in a recent order in MB Docket No. 12–107. *See Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* MB Docket No. 12–107, Second Report and Order and Second Further Notice of Proposed Rulemaking, 80 FR 39698, 80 FR 39722 (2015).

[3] 47 U.S.C. 303(aa)(1)–(2).

[4] 47 CFR 6.3(l).

[5] *Id.* § 6.11.

educational, and governmental (''PEG'') channels in their video programming guides, finding that such a requirement is outside the scope of Section 205 of the CVAA.

3. Addressing a Petition for Reconsideration filed by several consumer and academic organizations,[6] the *Order on Reconsideration* modifies our decision in the *Report and Order* by finding that, when a voice control is the sole means of activation for closed captioning, it will not be considered ''reasonably comparable to a button, key, or icon'' under Sections 204 or 205 due to the difficulty many people who are deaf and hard of hearing would encounter in using such an activation mechanism. At the same time, the *Order* finds that closed captioning and video description activation mechanisms relying on gesture control will be considered ''reasonably comparable to a button, key, or icon'' if they are simple and easy to use.

II. Background

4. Among the CVAA's mandates is a requirement that the Commission adopt rules to ensure the accessibility of the user interfaces and video programming guides and menus for digital apparatus and navigation devices.[7] The CVAA also required the Commission to establish an advisory committee known as the Video Programming Accessibility Advisory Committee (''VPAAC''),[8] which submitted its statutorily mandated report addressing user interfaces and video programming guides and menus to the Commission on April 9, 2012.[9] The Commission issued an *NPRM* in this proceeding on May 30, 2013,[10] and adopted the *Report and Order and Further NPRM* on October 29, 2013. In the *NPRM* and the *Report and Order,* the Commission provided extensive background information regarding the history of the applicable provisions of the CVAA and the *VPAAC Second Report: User Interfaces.*[11] The *Report and Order and Further NPRM* were published in the **Federal Register** on December 20, 2013.[12] Covered entities must comply with the rules adopted in the *Report and Order* by December 20, 2016, subject to certain exceptions.[13] Consumer/Academic Groups filed a timely petition for reconsideration within 30 days of the **Federal Register** publication date.[14]

III. Second Report and Order

A. Usability and Information, Documentation, and Training Requirements

5. *Section 204 Digital Apparatus.* We will rely on the Commission's existing definition of ''usable'' in Section 6.3(l) of our rules to implement Section 204's requirement that both the ''appropriate built-in apparatus functions'' and ''on-screen text menus or other visual indicators built in to the digital apparatus'' to access such functions be ''usable by individuals who are blind or visually impaired.'' [15] Consistent with the language in Section 204 of the CVAA, the Commission required in the *Report and Order* that covered digital apparatus, ''if achievable . . . be designed, developed, and fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired.'' [16] The Commission also required, as mandated by Section 204 of the CVAA, that on-screen text menus or other visual indicators used to access the appropriate built-in apparatus functions ''be accompanied by audio output . . . so that such menus or indicators are accessible to and usable by individuals who are blind or visually impaired in real-time.'' [17] While the *Report and Order* specified *accessibility* requirements, *i.e.,* how covered entities should make the appropriate built-in functions ''accessible,'' the *Further NPRM* sought comment on *usability* requirements, *i.e.,* how covered entities should make the appropriate built-in functions ''usable.'' [18] Specifically, the *Further NPRM* inquired whether to adopt the definition of ''usable'' set forth in Section 6.3(l) of our rules and whether to impose information, documentation, and training requirements consistent with those set forth in Section 6.11 of our rules.[19]

6. Relying on the existing definition of usability in Section 6.3(l), we require manufacturers of Section 204 digital apparatus to ensure that individuals with disabilities have access to information and documentation on the full functionalities of digital apparatus, including instructions, product information (including accessible feature information), documentation, bills, and technical support which are provided to individuals without disabilities.[20] Industry and academic

[6] Petition for Reconsideration of the National Association of the Deaf, Telecommunications for the Deaf and Hard of Hearing, Inc., Deaf and Hard of Hearing Consumer Advocacy Network, Association of Late-Deafened Adults, Inc., Hearing Loss Association of America, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Cerebral Palsy and Deaf Organization, Technology Access Program Gallaudet University, filed Jan. 20, 2014 (''Consumer/Academic Groups Petition''). A substantially similar group of organizations, which included Telecommunication-RERC, but not Technology Access Program Gallaudet University, filed comments and reply comments in response to the *Further NPRM* (''Consumer/Academic Groups Comments'' and ''Consumer/Academic Groups Reply''). Hereinafter, both groups of organizations will be collectively referred to as the ''Consumer/Academic Groups.''

[7] Public Law 111–260, secs. 204, 205.

[8] *Id.* at sec. 201(e)(2). Section 201(e)(2) of the CVAA also required the report to include information related to the provision of emergency information and video description, which is part of a separate Commission rulemaking proceeding that addresses Sections 202 and 203 of the CVAA. *See Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010; Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* MB Docket Nos. 12–107, 11–43, Report and Order and Further Notice of Proposed Rulemaking, 78 FR 31800, 78 FR 31769 (2013) (''*Emergency Information/Video Description Order*'').

[9] *Second Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010: User Interfaces, and Video Programming Guides and Menus,* Apr. 9, 2012, *available at http://apps.fcc.gov/ecfs/document/view?id=7021913531* (''*VPAAC Second Report: User Interfaces*'').

[10] *See Accessibility of User Interfaces, and Video Programming Guides and Menus,* MB Docket No. 12–108, Notice of Proposed Rulemaking, 78 FR 36478 (2013) (''*NPRM*'').

[11] *NPRM,* paras. 2–4; *Report and Order and Further NPRM,* paras. 8–11.

[12] Federal Communications Commission, 47 CFR part 79, Accessibility of User Interfaces, and Video Programming Guides and Menus, Final Rule, 78 FR 77210 (Dec. 20, 2013); Federal Communications Commission, 47 CFR part 79, Accessibility of User Interfaces, and Video Programming Guides and Menus; Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Proposed Rule, 78 FR 77074 (Dec. 20, 2013).

[13] *See* 47 CFR 79.107(b), 79.108(b), 79.109(c). *See also Report and Order and Further NPRM,* paras. 111–19.

[14] 47 CFR 1.429(d). The Consumer Electronics Association, Entertainment Software Association, National Cable & Telecommunications Association, and Telecommunications Industry Association each filed oppositions to the Petition for Reconsideration, and Consumer/Academic Groups filed a reply.

[15] 47 U.S.C. 303(aa)(1)–(2).

[16] *Report and Order and Further NPRM,* para. 53. The appropriate built-in apparatus functions are those that are used for the reception, play back, or display of video programming and, at this time, include the following functions: Power on/off; volume adjust and mute; channel/program selection; display channel/program information; configuration—setup; configuration—CC control; configuration—CC options; configuration—video description control; display configuration info; playback functions; and input selection. *Id.* at para. 58; 47 CFR 79.107(a)(4)(i)–(xi). The Commission has stated that it ''may revisit this list if and when technology evolves to a point where devices incorporate new user functions related to video programming that were not contemplated by the VPAAC.'' *Report and Order and Further NPRM,* para. 59.

[17] *Report and Order and Further NPRM,* para. 53.

[18] *Id.* at para. 138.

[19] *Id.* at paras. 138–39.

[20] 47 CFR 6.3(l). The Commission adopted the definition of ''usable'' in Section 6.3(l) of its rules

commenters were united in their support of our proposal to rely on the Section 6.3(l) usable definition to implement Section 204.[21] As the *Further NPRM* stated, the Commission has relied on the Section 6.3(l) definition in other CVAA contexts,[22] and, given the agreement in the record on this point, we see no reason to depart from that approach here. The Consumer Electronics Association (''CEA'') asks that we ''clarify'' that application of the usability requirement under Section 204 to the ''appropriate'' built-in functions of covered digital apparatus only applies ''to the extent the apparatus includes those functions.'' [23] We agree with CEA that such an approach would be consistent with the Commission's approach in the *Report and Order* and adopt it here. Under the standard set forth in the *Report and Order* when implementing Section 204, a digital apparatus manufacturer is required to make an ''appropriate built-in apparatus function'' of a digital apparatus accessible only to the extent such function is ''included in the device.'' [24] Similarly, a digital apparatus manufacturer will be required under Section 204 to make usable an ''appropriate built-in apparatus function'' [25] or an on-screen text menu or other visual indicator that is used to access such function [26] only to the extent it is included in the device.

7. In addition to implementing the usability requirement of Section 204, we also adopt information, documentation, and training requirements consistent with those set forth in Section 6.11 of our rules. As noted in the *Further NPRM,* the Commission ''adopted information, documentation, and training requirements when implementing Sections 716 and 718'' of the Communications Act of 1934, as amended (''Act''),[27] which impose accessibility requirements on providers and manufacturers with respect to advanced communications services and equipment and Internet browsers on mobile phones and, like Section 204, require that covered products be ''accessible to and usable by'' individuals with disabilities.[28] Section 6.11 requires that manufacturers ensure access to information and documentation it provides to its customers.[29] Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product.[30] In addition, Section 6.11 requires manufacturers to include the contact method for obtaining the information required by Section 6.11(a) in general product information, to consider certain accessibility-related topics when developing or modifying training programs, and to take other steps, as necessary.[31] We agree with the Rehabilitation Engineering Research Center for Wireless Technologies (''Wireless RERC'') that imposing these requirements in this context as well will provide a consistent experience for individuals with disabilities regardless of the product they are purchasing.[32]

8. We disagree with the argument made by CEA and DISH Network L.L.C./EchoStar Technologies L.L.C. (''DISH/EchoStar'') that imposing information, documentation, and training requirements will be redundant with the usability requirements in Section 6.3(l) that we adopt herein.[33] While Section 6.3(l) provides a definition of usability in the definitional section of our rules, Section 6.11 outlines the specific actions that covered entities must take to provide access by people with disabilities to information and documentation, as well as information to be considered for inclusion in an appropriate manufacturer training program.[34] Thus, for example, Section 6.11 directs manufacturers to provide access to user guides, bills, installation guides and product support communications.[35] In addition, it directs manufacturers to provide a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge,[36] and to ensure usable customer and technical support in call centers and service centers at no additional charge.[37] With respect to training, Section 6.11 states that manufacturers shall consider various topics, including the accessibility requirements of, and means of communicating with, people with disabilities; adaptive technology commonly used by people with disabilities; and designs and solutions for accessibility.[38] Therefore, we find that the information, documentation, and training requirements found in Section 6.11 are not redundant with the usability requirements in Section 6.3(l), but set forth a more specific set of obligations to which the manufacturers of Section 204 apparatus must adhere. Thus, we apply these requirements to entities covered by Section 204.

9. *Section 205 Navigation Devices.* We also adopt the information, documentation, and training requirements outlined in Section 6.11 of our rules as part of entities' obligations under Section 205. In the *Further NPRM,* we inquired whether we should impose Section 6.11 information, documentation, and training requirements on entities covered by Section 205, which applies to navigation devices, pursuant to our authority to ''prescribe such regulations

pursuant to Section 255 of the Communications Act of 1934, as amended, which requires telecommunications providers and equipment manufacturers to make their products ''accessible to and usable by'' persons with disabilities. *See Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities,* WT Docket No. 96–198, Report and Order and Further Notice of Inquiry, 16 FCC Rcd 6417, paras. 21–29 (1999).

[21] *See* Comments of the Consumer Electronics Association at 2–3 (''CEA Comments''); Comments of DISH Network L.L.C. and EchoStar Technologies L.L.C. at 2 (''DISH/EchoStar Comments''); Reply Comments of Rehabilitation Engineering Research Center for Wireless Technologies at 4 (''Wireless RERC Reply'').

[22] *Report and Order and Further NPRM,* para. 138 (discussing the Commission's reliance on the Section 6.3(l) usable definition when implementing Sections 255, 716, and 718 of the Communications Act).

[23] CEA Comments at 3.

[24] *Report and Order and Further NPRM,* para. 58. *See also id.* at para. 60 (''[A]n apparatus covered by Section 204 is not required to *include* all 11 functions deemed to be 'appropriate,' understanding that some of these functions may not be provided for any users on certain devices. We agree with commenters that Section 204 'do[es] not mandate the inclusion of any specific functions' in the design of a covered apparatus. However, to the extent that an apparatus is designed to include an 'appropriate' built-in apparatus function, such function must be made accessible in accordance with our rules.'') (citations omitted).

[25] 47 U.S.C. 303(aa)(1).

[26] *Id.* at sec. 303(aa)(2).

[27] *Id.* at secs. 617, 619. *See also* Public Law 111–260, sec. 104 (adding Sections 716 and 718 of the Act).

[28] *Report and Order and Further NPRM,* para. 139; 47 CFR 14.20(d).

[29] 47 CFR 6.11(a).

[30] *Id.*

[31] *Id.* § 6.11(a)–(c).

[32] *See* Wireless RERC Reply at 4. *See also* Comments of Verizon and Verizon Wireless at 3 (''Verizon Comments'').

[33] CEA Comments at 4; Reply Comments of the Consumer Electronics Association at 8–9 (''CEA Reply''); DISH/EchoStar Comments at 3.

[34] 47 CFR 6.11.

[35] *Id.* § 6.11(a).

[36] *Id.* § 6.11(a)(1). Similarly, manufacturers must provide end-user product documentation in alternate formats or alternate modes upon request at no additional charge. *Id.* § 6.11(a)(2).

[37] *Id.* § 6.11(a)(3).

[38] *Id.* § 6.11(c).

as are necessary to implement'' the requirements of that section.[39]

10. We find that Section 205 of the CVAA provides the Commission with sufficient authority to adopt information, documentation, and training requirements. CEA, the National Cable & Telecommunications Association (''NCTA''), and the American Cable Association (''ACA'') point out that Section 205 does not include the Section 204 ''accessible to and usable by'' language that the Commission has relied upon in the past to adopt information, documentation, and training requirements and, therefore, they question the Commission's statutory authority to adopt such requirements in the Section 205 context.[40] We disagree with industry's arguments. Section 205 requires that on-screen text menus and guides provided by navigation devices are ''audibly accessible'' by individuals who are blind or visually impaired.[41] In addition, Section 205(b)(1) empowers the Commission to ''prescribe such regulations as are necessary to implement'' the requirements of Section 205.[42] If consumers do not know how to access a feature then, as a practical matter, it is not ''accessible.'' [43] Information, documentation, and training requirements are thus necessary for individuals with disabilities to be able to operate navigation devices that are made accessible in accordance with the requirements of Section 205. As described above, such requirements ensure that persons with disabilities are provided with accessible product information and documentation, such as user guides, bills, installation guides, and product support communications, with a description of the accessibility features of the device upon request,[44] and with customer and technical support in call centers and service centers.[45] While we note that under the rule, covered entities are required to provide a description of accessibility features and product documentation ''upon request'' by the consumer,[46] we will treat a consumer's request for an accessible navigation device pursuant to Section 205 to also constitute a request for a description of the accessibility features of the device and end-user product documentation in accessible formats so that the consumer is able to operate the device. Such requirements also ensure that manufacturers and service providers consider various accessibility-related topics when designing training programs.[47] We believe that these requirements are necessary for individuals with disabilities to have access to the accessibility features and functionality of Section 205 accessible navigation devices and to fully obtain the benefits of these devices.[48] While these requirements broadly outline the steps covered entities must take to ensure access to information, documentation, and training for persons with disabilities, covered entities have flexibility to implement these requirements within the guidelines set forth in the rule.

11. Further, we disagree with CEA, NCTA, and DISH/EchoStar's argument that information, documentation, and training requirements will not be necessary because Section 205 navigation devices are provided upon request and the notification requirements already adopted under Section 205 in the *Report and Order* will be sufficient to ensure that consumers are able to obtain accessible navigation devices.[49] Those notification requirements focus on ensuring that consumers with disabilities are provided with information about the availability of accessible navigation devices and how to obtain such devices.[50] In contrast, the information, documentation, and training requirements that we adopt herein focus on ensuring that consumers with disabilities are provided with information about how to operate the accessibility features and functions of such devices in an accessible format and are provided with appropriate customer support for such devices. Thus, we find that the notification requirements already adopted in the *Report and Order* do not obviate the need for adopting information, documentation, and training requirements as set forth in Section 6.11, and we apply these requirements to entities covered by Section 205.

12. *Achievability.* We find that the usability requirement applicable to Section 204 devices and the information, documentation, and training requirements applicable to Section 204 and 205 devices adopted herein apply only ''if achievable,'' meaning ''with reasonable effort or expense, as determined by the Commission.'' [51] Section 303(aa)(1) of the Act indicates that apparatus covered by Section 204 are required to make appropriate built-in apparatus functions accessible to and usable by individuals who are blind or visually impaired only ''if achievable.'' [52] Similarly, Section 303(bb)(1) requires on-screen text menus and guides for the display or selection of multichannel video programming on navigation devices covered by Section 205 to be audibly accessible by individuals who are blind or visually impaired only ''if achievable.'' [53] The Commission will determine whether compliance is ''achievable'' on a case-by-case basis, consistent with the approach adopted in the *Report and Order.*[54] In particular, the Commission will consider the following factors in determining whether compliance with the usability and information, documentation, and training requirements are achievable in particular circumstances: (1) The nature and cost of the steps needed to meet the requirements of this section with respect to the specific equipment or service in question; (2) the technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or

[39] *Report and Order and Further NPRM,* para. 139. *See also* Public Law 111–260, sec. 205(b)(1).

[40] *See* CEA Comments at 5; CEA Reply at 9. *See also* Comments of the National Cable & Telecommunications Association at 7 (''NCTA Comments''); Reply Comments of the National Cable & Telecommunications Association at 8 (''NCTA Reply''); Reply Comments of the American Cable Association at 3–4 (''ACA Reply'').

[41] 47 U.S.C. 303(bb)(1).

[42] *See* Public Law 111–260, sec. 205(b)(1). *See also Report and Order and Further NPRM,* para. 139.

[43] For these reasons, we reject ACA's argument that the Commission cannot rely on its authority to ''prescribe such regulations as are necessary to implement'' the requirements of Section 205 to adopt information, documentation, and training requirements, or that imposing such a requirement would lead to an inconsistent interpretation of the CVAA. *See* ACA Reply at 4 & n. 10.

[44] Specifically, Section 6.11(a) requires covered entities to provide a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge, and to provide end-user product documentation in alternate formats or alternate modes upon request at no additional charge. 47 CFR 6.11(a)(1)–(2).

[45] *Id.* § 6.11(a)(1)–(3).

[46] *Id.* § 6.11(a)(1)–(2).

[47] *Id.* § 6.11(c).

[48] *See* Wireless RERC Reply at 4–5.

[49] *See* CEA Comments at 5; CEA Reply at 8; DISH/EchoStar Comments at 3–4; NCTA Comments at 7–8; NCTA Reply at 8.

[50] Under Section 205, MVPDs must notify consumers that navigation devices with the required accessibility features are available to consumers who are blind or visually impaired upon request. 47 CFR 79.108(d). Specifically, when providing information about equipment options in response to a consumer inquiry about service, accessibility, or other issues, MVPDs must clearly and conspicuously inform consumers about the availability of accessible navigation devices. *Id.* § 79.108(d)(1). In addition, MVPDs must provide notice on their official Web sites about the availability of accessible navigation devices. *Id.* § 79.108(d)(2).

[51] *See* 47 U.S.C. 303(aa)(1), 303(bb)(1); 47 CFR 79.107(c), 79.108(c); *Report and Order and Further NPRM,* para. 77 (citing 47 U.S.C. 617(g)).

[52] 47 U.S.C. 303(aa)(1).

[53] *Id.* at sec. 303(bb)(1).

[54] *See Report and Order and Further NPRM,* paras. 77–78.

service in question, including on the development and deployment of new communications technologies; (3) the type of operations of the manufacturer or provider; and (4) the extent to which the service provider or manufacturer in question offers accessible services or equipment containing varying degrees of functionality and features, and offered at differing price points.[55]

13. *Compliance Deadlines.* We continue to require the same compliance deadlines for the usability and information, documentation, and training requirements that the Commission adopted in the *Report and Order* for rules to ensure the accessibility of user interfaces and video programming guides and menus under Sections 204 and 205.[56] We decline to provide additional time for entities to come into compliance with the usability requirements for Section 204 devices and the information, documentation, and training requirements for Section 204 and 205 devices adopted herein.[57] With the exception of ACA, no commenter requested additional time to come into compliance with these requirements. ACA requests that small- and medium-sized cable operators receive an extended deadline to come into compliance with any information, documentation, and training requirements imposed on Section 205 entities.[58] ACA contends that such operators ''would likely lack the legal, technical, or financial ability to incorporate the [information, documentation, and training] requirements,'' and, therefore, the Commission should provide them with an extended compliance deadline to alleviate these burdens.[59] While we agree that providing some relief to small- and mid-sized operators is reasonable, we note that the Commission in the *Report and Order* already delayed the time by which mid-sized and smaller MVPD operators and small MVPD systems must comply with the requirements of Section 205 by two years.[60] We believe that the delay already afforded to certain mid-sized and smaller MVPD operators and small MVPD systems will provide sufficient time in which to implement the information, documentation, and training requirements adopted herein.

B. Notifications

1. Equipment Manufacturer Notifications Under Sections 204 and 205

14. We adopt the *Further NPRM*'s tentative conclusion to require manufacturers of navigation devices subject to Section 205 to inform consumers about the availability of audibly accessible devices and accessibility solutions.[61] Specifically, consistent with our proposal in the *Further NPRM,* we require manufacturers subject to Section 205 to prominently display information about audibly accessible devices and other accessibility solutions on their official Web sites.[62] We also adopt a similar notification requirement for manufacturers of digital apparatus that are subject to Section 204. However, we decline to adopt labeling requirements or other point of sale notifications for either Section 205 navigation devices or Section 204 digital apparatus.

15. Pursuant to Section 205(b)(1) of the CVAA, we require equipment manufacturers subject to Section 205 to inform consumers about the availability of audibly accessible devices and accessibility solutions by prominently displaying accessibility information on their official Web sites, such as through a link on their home page.[63] Our rules currently require MVPDs to notify consumers that navigation devices with the required accessibility features are available to consumers who are blind or visually impaired upon request, and, as part of these requirements, MVPDs must provide notice on their official Web sites about the availability of accessible navigation devices.[64] In the *Further NPRM,* we inquired whether to impose similar requirements on manufacturers of navigation devices.[65] Among the few commenters who addressed Web site notifications for manufacturers subject to Section 205, there appears to be general agreement that, at a minimum, equipment manufacturers should be required to prominently provide information about the availability of accessible devices on their Web sites.[66] Further, we adopt our proposal in the *Further NPRM* to require manufacturers to convey through the Web site notice the means of making requests for accessible equipment and the specific person, office, or entity to which such requests are to be made.[67] Because Section 205 allows covered entities to distribute accessible navigation devices ''upon request'' to blind and visually impaired individuals,[68] we find that, similar to the requirement for MVPDs,[69] the Web site notice provided by navigation device manufacturers must provide information on how individuals who are blind or visually impaired can request accessible equipment, as well as the specific person, office, or entity to which such requests are to be made. Although the Web site is required to contain information only about the availability of accessible devices and the means for making requests for such equipment, the contact office or person listed on the Web site must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features.[70] In addition, as is

[55] *Id.* at para. 77; 47 CFR 79.107(c)(2)(i)–(iv), 79.108(c)(2)(i)–(iv).

[56] Covered entities must comply with these rules by December 20, 2016, subject to certain exceptions. *See* 47 CFR 79.107(b), 79.108(b), 79.109(c). *See also Report and Order and Further NPRM,* paras. 111–19.

[57] *See* 47 CFR 79.107(b), 79.108(b).

[58] *See* ACA Reply at 3–5.

[59] *Id.* at 4–5.

[60] *See* 47 CFR 79.108(b); *Report and Order and Further NPRM,* paras. 114–19. Specifically, (1) MVPD operators with 400,000 or fewer subscribers as of year-end 2012; and (2) MVPD systems with 20,000 or fewer subscribers that are not affiliated with an operator serving more than 10 percent of all MVPD subscribers as of year-end 2012, were afforded with a two-year delay of the compliance deadline. *Id.* These MVPDs must be in compliance with the rules by December 20, 2018. The Commission also committed to undertake a review of the marketplace after the December 20, 2016 compliance deadline for larger MVPDs to consider whether the delayed compliance deadline should be retained or extended (in whole or in part). *Report and Order and Further NPRM,* para. 114.

[61] *See Report and Order and Further NPRM,* para. 150. We note that the deadlines adopted in the *Report and Order* apply to the notification requirements adopted herein. *See* 47 CFR 79.107(b), 79.108(b). No commenter requested additional time to come into compliance with these requirements.

[62] *Report and Order and Further NPRM,* para. 150.

[63] *See id.*

[64] 47 CFR 79.108(d)(1)–(2).

[65] *See Report and Order and Further NPRM,* para. 150.

[66] *See* CEA Comments at 9–10; CEA Reply at 6–7; Consumer/Academic Groups Comments at 12; Reply Comments of Montgomery County, Maryland at 35 (''Montgomery County Reply'') (arguing that Web site notifications may be a component of increasing consumer awareness of accessible devices, but should not be considered an ''all-encompassing solution'').

[67] *See Report and Order and Further NPRM,* para. 150.

[68] 47 U.S.C. 303(bb)(1).

[69] *See* 47 CFR 79.108(d)(2); *Report and Order and Further NPRM,* para. 134.

[70] *See* Consumer/Academic Groups Comments at 13 (''Too often have deaf and hard of hearing customers reached out to customer service representatives asking how to access the closed captioning features on products and encountered puzzled customer service representatives.''); Consumer/Academic Groups Reply at 5 (''[C]onsumers have told us that the sales people in stores as well as customer support people over the phone often are unfamiliar with the closed captioning features on their products.''); Wireless RERC Reply at 4–5 (''[C]ustomer service is central to providing information to people who have vision loss, as oftentimes the online and print information is not consistently accessible. . . . The common

Continued

required for MVPD Web site notices, the information required herein by navigation device manufacturers must be provided in a Web site format that is accessible to individuals with disabilities.[71]

16. Device manufacturers that produce Section 204 digital apparatus will also be required to provide prominent notification about the availability of accessible devices on their official Web sites as is required for Section 205 navigation devices. In the *Further NPRM,* we sought comment on whether to impose notification requirements on equipment manufacturers subject to Section 204 to ensure that consumers with disabilities are informed about which products contain the required accessibility features and, more specifically, whether we should require manufacturers to prominently display information about the availability of accessible devices and about which products contain the required accessibility features on their official Web sites, such as through a link on their home pages, and whether we should require a point of contact who can answer consumer questions about which products contain the required accessibility features.[72] Consumer/Academic Groups support adopting a Web site notification requirement for both digital apparatus and navigation devices, recognizing that ''access is not possible if those who need the access are not aware of its availability.'' [73] We agree and therefore adopt a Web site notification requirement for equipment manufacturers subject to Section 204. Just as we require for Section 205 manufacturers, the contact office or person listed on the Web site must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features.

17. We disagree with CEA's contention that adopting the definition of ''usable'' for Section 204 devices obviates the need for any additional notification requirements for digital apparatus.[74] Rather, we find that a Web site notification requirement will be minimally burdensome and may enhance manufacturers' efforts to comply with the usability requirement. Specifically, although not required, digital apparatus manufacturers may choose to use the notification portion of their Web site to include additional information about accessibility features.

18. We decline to impose labeling requirements or other point of sale notifications for navigation devices or digital apparatus at this time, but we emphasize that entities covered by Sections 204 and 205 of the CVAA are required to provide information about the accessibility features of devices, including information about how to access closed captioning controls and settings, as part of the information, documentation, and training requirements that we adopt herein. The *Further NPRM* sought comment regarding what notification, if any, should be required at the point of sale for consumers that wish to purchase accessible Section 205 or Section 204 devices at retail, such as a labeling requirement to identify accessible devices.[75] Comments regarding point of sale notifications focused almost exclusively on whether the Commission should adopt a product labeling requirement. Consumer/Academic Groups support a labeling requirement for both navigation devices and digital apparatus that would inform consumers at the point of sale about product accessibility, including a notice on the packaging that ''explain[s] how to access the closed captioning control as well as display settings.'' [76] Consumer/Academic Groups also contend that manufacturers should be required to provide ''step-by-step instructions with pictures explaining how to access the closed captioning features'' either inside the packaging or on the packaging.[77] CEA, the Entertainment Software Association (''ESA''), and the Telecommunications Industry Association (''TIA'') strongly oppose any labeling requirement for digital apparatus or navigation devices.[78] For example, CEA argues that manufacturers should be able to work with retailers, without regulation, to determine how point of sale notifications should work and that manufacturers already have incentives to provide all necessary information to ensure that consumers know how to operate their devices.[79]

19. We agree with Consumer/Academic Groups that it is important that consumers with disabilities be provided with information about the accessibility features of digital apparatus and navigation devices. The Section 6.3(l) usability and Section 6.11 information and documentation requirements adopted by the Commission here require covered entities to provide consumers with such information. Pursuant to the usability requirements we adopt here, manufacturers subject to Section 204 of the CVAA must provide access to information and documentation on the full functionalities of digital apparatus, including instructions, product information (*including accessible feature information*), documentation, bills and technical support.[80] Further, as part of the information and documentation requirements we adopt here, entities subject to both Section 204 and Section 205 of the CVAA must provide access to information and documentation, including installation guides and product support communications, and, in particular, must provide *a description of the accessibility and compatibility features of the product* upon request, including, as needed, in alternate formats or alternate modes at no additional

theme was that customer support agents simply did not have the required expertise to address specific inquiries made by people with disabilities, hence support was inadequate.'').

[71] *See* 47 CFR 79.108(d)(2).

[72] *Report and Order and Further NPRM,* para. 152.

[73] Consumer/Academic Groups Comments at 11.

[74] CEA Comments at 10 (''In fact, there is no need to impose notification requirements on manufacturers of digital apparatus if the Commission adopts the definition of 'usable.' . . . Doing so would ensure that information is available to consumers regarding the accessibility features of digital apparatus, without the need for additional notification requirements.''); CEA Reply at 7 (''Because Section 204 applies to all of these devices, relying on the existing definition of 'usable' in the Section 204 context will ensure that information is available to consumers regarding the accessibility features of digital apparatus, without the need for specific, and burdensome, labeling or other notification requirements.'').

[75] *Report and Order and Further NPRM,* paras. 151–52.

[76] Consumer/Academic Groups Comments at 13.

[77] *Id.*

[78] *See* CEA Comments at 10–11; CEA Reply at 7–8; Reply Comments of the Entertainment Software Association at 5 (''ESA Reply''); Reply Comments of the Telecommunications Industry Association at 2–3 (''TIA Reply'').

[79] *See* CEA Comments at 10–11; CEA Reply at 7–8. In addition, ESA and TIA argue that Consumer/Academic Groups' proposal to include explanations and instructions on the packaging would be difficult to implement and that, in any event, packaging labels are not accessible to those who are blind or visually impaired. ESA Reply at 5; TIA Reply at 2–3. *See also* CEA Reply at 8. TIA submits that the most logical place for instructions is not a packaging label but the product's manual or help guide. TIA Reply at 3.

[80] 47 CFR 6.3(l) (emphasis added). We interpret this requirement to mean that, if a manufacturer generally provides instructions or a user manual with its product, such instructions or user manual shall include information and instructions on how to use accessibility features. We also interpret this requirement to mean that, even if a manufacturer does not routinely provide instructions or a user manual with its product, it still must provide product information and instructions on how to use accessibility features in an accessible format upon request to consumers with disabilities.

charge.[81] Thus, covered entities will be required to provide the information about product accessibility features, including information on how to access closed captioning features and display settings, and such information must be provided in accessible formats, but it will not need to be included on a label.[82] As industry gains experience with the informational requirements, we may revisit our rules in the future to ensure that consumers are receiving information as intended by the statute.

20. Consumer/Academic Groups support requiring manufacturers to provide not just Web site notifications about the availability of accessible devices and the contact information for requesting accessible devices, but also Web site information ''explaining the accessibility of their devices and how to access important accessibility features such as the closed captioning control and display settings.'' [83] As noted above, while the information and documentation requirements that we adopt broadly outline the steps covered entities must take to ensure that persons with disabilities have access to information about accessibility features, covered entities have flexibility to implement these requirements within the guidelines set forth in the rule. Thus, we do not require that such information be posted on Web sites. However, we agree that providing this information on Web sites would be useful for consumers to be able to effectively use a device's accessibility features and therefore encourage covered entities to provide the required information and documentation about accessibility features on their Web sites in a format that is accessible to individuals with disabilities. With respect to both Section 204 and 205 devices, as we state above, we require persons listed as the point of contact for requests for accessible equipment to also be able to provide information about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features.

21. In addition, Consumer/Academic Groups request a central Web site, similar to the Commission's Accessibility Clearinghouse,[84] which would include accessibility information for all digital apparatus and navigation devices.[85] The Accessibility Clearinghouse was set up for equipment subject to Sections 255, 716, and 718 of the Act, namely telecommunications equipment, advanced communications services equipment, and Internet browsers on mobile phones, pursuant to a Congressional mandate within the CVAA,[86] and we note that Congress did not mandate a similar Web site for equipment subject to Sections 204 and 205. Nevertheless, we find that consumers would benefit from this information being included within the framework of the already established Accessibility Clearinghouse. To date, the Accessibility Clearinghouse largely relies on manufacturers to update their product information on wireless communication technologies.[87] A similar commitment by CEA, NCTA, and their memberships that could enable the inclusion and updating of information about accessible digital apparatus and navigation devices within the Accessibility Clearinghouse would be useful to consumers. Therefore, we encourage CEA and NCTA to coordinate with the Consumer and Governmental Affairs Bureau (''CGB'') to determine the feasibility of including information about the accessibility of digital apparatus and navigation devices within the current Accessibility Clearinghouse. We recommend that such coordination take place with CGB well before the December 20, 2016 compliance deadline for our digital apparatus and navigation device accessibility requirements.

2. MVPD Notifications Under Section 205

22. Just as we require for manufacturers of Section 204 and 205 devices, we require MVPDs to ensure that the contact office or person listed on their Web site is able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features. This new requirement is in addition to the two existing notification requirements for MVPDs that the Commission adopted in the *Report and Order*. First, MVPDs are required to clearly and conspicuously inform consumers about the availability of accessible navigation devices whenever MVPDs provide ''information about equipment options in response to a consumer inquiry about service, accessibility, or other issues.'' [88] Second, MVPDs must provide notice on their official Web sites about the availability of accessible navigation devices, in a way that is both prominent and accessible to those with disabilities.[89] In particular, the Web site notice must prominently display information about accessible navigation devices in a way that makes such information available to all current and potential subscribers, and must list the specific person, office, or entity to which requests for accessible equipment are to be made.[90] The *Further NPRM* inquired as to whether additional notification requirements, such as annual notices to subscribers or required marketing efforts,[91] should be imposed and asked for information about the costs and benefits that might be associated with additional types of notification.[92]

23. MVPD commenters argue that it would be premature to impose additional notification requirements for MVPDs without first observing the efficacy of the notification requirements

[81] *Id.* § 6.11(a)(1)–(2) (emphasis added). As noted above, if a consumer with a disability requests an accessible navigation device pursuant to Section 205, this also constitutes a request for a description of the accessibility features of the device and end-user product documentation in accessible formats.

[82] Such formats include picture instructions for individuals who are deaf and hard of hearing and Braille/audible instructions for individuals who are blind or visually impaired.

[83] Consumer/Academic Groups Comments at 12.

[84] Established pursuant to Section 717(d) of the Act, the Accessibility Clearinghouse is ''a clearinghouse of information on the availability of accessible products and services and accessibility solutions required under sections 255, 617, and 619.'' 47 U.S.C. 618(d). The information is made publicly available on the Commission's Web site and includes an annually updated list of products and services with accessibility features. *Id.* The Accessibility Clearinghouse can be accessed at *http://ach.fcc.gov/*.

[85] *See* Consumer/Academic Groups Comments at 12.

[86] *See* Pub. L. 111–260, sec. 104.

[87] *See Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010,* CG Docket No. 10–213, Biennial Report to Congress as Required by the Twenty-First Century Communications and Video Accessibility Act of 2010, DA 12–1602, 27 FCC Rcd 12204, para. 91, n. 258 (CGB 2012) (''In 2010, CTIA revamped its accessibility Web site, AccessWireless.org, to better inform consumers with disabilities about the availability of accessible mobile phone options. . . . The Commission ultimately used the information contained on this new site, largely derived from the Global Accessibility Reporting Initiative (GARI) of the Mobile Manufacturers Forum, to help develop its Accessibility Clearinghouse. For more information about GARI and the Mobile Manufacturers Forum, visit *http://MobileAccessibility.info*.'').

[88] *Report and Order and Further NPRM,* para. 134; 47 CFR 79.108(d)(1).

[89] *Report and Order and Further NPRM,* para. 134; 47 CFR 79.108(d)(2).

[90] *Id.*

[91] *See* Comments of Montgomery County, Maryland, MB Docket No. 12–108, at 20 (filed July 15, 2013); Reply Comments of the American Foundation for the Blind, MB Docket No. 12–108, at 8 (filed Aug. 7, 2013); *Report and Order and Further NPRM,* para. 148.

[92] *Report and Order and Further NPRM,* paras. 148–49.

adopted by the *Report and Order.*[93] On the other hand, Montgomery County, Maryland (''Montgomery County'') expresses the concern that consumers will not be aware of the availability of accessible navigation devices unless MVPDs promote such availability and urges the Commission to adopt additional notification requirements including periodic announcements about accessible equipment in the program guide.[94] Verizon and NCTA contend that additional requirements are unnecessary because market forces will incentivize MVPDs to promote the accessible capabilities of products.[95] Although we do not agree that periodic announcements are necessary at this time, we conclude that MVPDs should take additional action to ensure that consumers are aware of the availability of accessible navigation devices. Specifically, we require that the contact office or person listed on an MVPD's Web site must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features. We believe that this additional obligation, along with the notification requirements adopted in the *Report and Order,* will ensure that all current and potential subscribers that contact an MVPD looking for information about accessible navigation devices will be provided with information about accessible equipment options.[96] Moreover, we believe that the incremental cost, if any, of implementing this requirement is slight and the potential benefit in assisting consumers is great.[97] In the event that information is brought to our attention demonstrating that the MVPD notification requirements adopted in the *Report and Order* and herein have proven insufficient to inform consumers about the availability of accessible equipment, the Commission may revisit this issue.[98]

3. Program Information for PEG Channels

24. We decline to adopt a requirement that MVPDs include more detailed program information for public, educational, and governmental (''PEG'') channels in their video programming guides. In the *Further NPRM,* we sought comment on possible sources of authority for requiring MVPDs to ensure that video programming guides and menus that provide channel and program information include ''high level channel and program descriptions and titles, as well as a symbol identifying the programs with accessibility options (captioning and video description).'' [99] The Alliance for Communications Democracy (''ACD'') and Montgomery County contend that the Commission has authority to adopt such a requirement pursuant to Section 205 of the CVAA, which requires that ''on-screen text menus and guides provided by navigation devices . . . for the display or selection of multichannel video programming [be made] audibly accessible in real-time upon request by individuals who are blind or visually impaired.'' [100] According to ACD, the Commission can require MVPDs to include certain program information in program guides as part of implementing regulations that construe the terms ''on-screen guide'' and ''audibly accessible in real-time . . . by individuals who are blind or visually impaired.'' [101] NCTA, DISH/EchoStar, Verizon, CenturyLink, and ACA argue that the Commission does not have authority to impose such a requirement.[102]

25. We find that requiring MVPDs to include particular information in program guides is beyond the scope of Section 205 of the CVAA. In particular, we disagree with ACD's and Montgomery County's argument that the requirement to make on-screen text menus and guides on navigation devices audibly accessible gives the Commission authority to determine whether the substantive information provided in program guides is adequate and to require that particular information be included. As we stated in the *Report and Order,* while Section 205 of the CVAA requires that on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming be made audibly accessible, it does not govern the underlying content in the menus and guides.[103] As noted in the *Report and Order,* we encourage MVPDs to provide more detailed information in their program guides for PEG programs when such information is provided by PEG providers and when it is technically feasible.[104]

IV. Order on Reconsideration

26. In response to Consumer/Academic Groups Petition,[105] we

[93] *See* Verizon Comments at 4–6; ACA Reply at 6; Reply Comments of CenturyLink at 3 (''CenturyLink Reply''); NCTA Reply at 8–9.

[94] Montgomery County Reply at 34–35. Montgomery County expresses concern that Web site notifications by MVPDs will not be sufficient as they claim that the disability community has a low rate of broadband adoption and usage and Web site information may not be accessible. *Id.* at 35. We note that our notification rules for MVPDs are not limited to Web site notifications. MVPDs must provide clear and conspicuous information to consumers about the availability of accessible navigation devices whenever MVPDs provide information about equipment options in response to a consumer inquiry about service, accessibility, or other issues. 47 CFR 79.108(d)(1). MVPDs are also required to ensure that the information on their Web site about the availability of accessible devices is provided in a Web site format that is accessible to people with disabilities. *Id.* § 79.108(d)(2).

[95] *See* Verizon Comments at 5; NCTA Reply at 9. We note that Comcast is conducting outreach on accessible user interfaces, program guides, and menus, and as part of those outreach efforts, Comcast has shown a commercial introducing its talking guide that aired on television during prime time. *See* Comcast, Explore Emily's Oz, *available at http://www.comcast.com/emilysoz;* Comcast, Accessibility, Talking Guide + Video Description, *available at http://www.comcast.com/accessibility.*

[96] *See Report and Order and Further NPRM,* para. 134; 47 CFR 79.108(d)(2).

[97] Because the contact person designated by the MVPD is already required to accept requests for accessible equipment, we do not believe it would be a significant added burden for the contact person to also be able to answer questions about the availability of accessible equipment. In addition, it would be a benefit for consumers with disabilities who are looking to acquire accessible equipment to be able to obtain information about accessible equipment options from a single, centralized source.

[98] For the same reasons, we reject Montgomery County's proposal to require that MVPDs report to the Commission their accessibility equipment promotion efforts and the rates for accessible equipment. *See* Montgomery County Reply at 35.

[99] *Report and Order and Further NPRM,* para. 144 (citation omitted).

[100] *See* 47 U.S.C. 303(bb)(1); Comments of the Alliance for Communications Democracy at 4–5 (''ACD Comments''); Montgomery County Reply at 13–22.

[101] *See* ACD Comments at 4–5.

[102] *See* NCTA Comments at 2–4; DISH/EchoStar Comments at 7–8; Verizon Comments at 8–10; ACA Reply at 8–9; CenturyLink Reply at 3; NCTA Reply at 2–4.

[103] *Report and Order and Further NPRM,* para. 75 (''In other words, this section requires that *if* there is text in a menu or program guide on the screen, then *that text* must be audibly accessible, but it does not impose requirements with regard to what substantive information must appear in the on-screen text.'') (emphasis in original).

[104] *Id.* at para. 75. We note that there is a separate, pending proceeding with a record that specifically addresses these issues. *See* Petition for Declaratory Ruling of The Alliance for Community Media, et al., that AT&T's Method of Delivering Public, Educational and Government Access Channels Over Its U-Verse System is Contrary to the Communications Act of 1934, as Amended, and Applicable Commission Rules, MB Docket No. 09–13.

[105] The Consumer/Academic Groups Petition urges the Commission to ''reconsider allowing voice commands and gestures as compliant mechanisms for activating the closed captioning or accessibility features.'' Consumer/Academic Groups Petition at 2. Consumer/Academic Groups argue that ''providing voice or gesture controls is acceptable only where there is also a way for people who are deaf or hard of hearing to access the accessibility features through a mechanism that is reasonably comparable to a button, key, or icon.'' Reply to Petition for Reconsideration Oppositions of the National Association of the Deaf, Telecommunications for the Deaf and Hard of

reconsider guidance we provided in the *Report and Order* concerning which activation mechanisms are ''reasonably comparable to a button, key or icon'' [106] as required under the CVAA [107] and our implementing rules.[108] First, we find on reconsideration that closed captioning activation mechanisms that rely *solely* on voice control will not fulfill the requirement that a closed captioning activation mechanism be reasonably comparable to a button, key, or icon. However, as explained more fully below, we do not prohibit the use of voice controls to activate closed captioning as long as there is an alternative closed captioning activation mechanism that is simple and easy to use for deaf and hard of hearing individuals.[109] Second, we reaffirm our finding in the *Report and Order* that captioning and video description activation mechanisms that rely on gesture control will be considered compliant with the requirements of our rules implementing Sections 204 and 205 if the gesture activation mechanism is simple and easy to use.

A. Activation of Closed Captioning by Voice Control

27. On reconsideration, we find that closed captioning activation mechanisms that rely *solely* on voice control will not fulfill the requirement of our rules implementing Sections 204 and 205, which mandate a closed captioning activation mechanism reasonably comparable to a button, key, or icon.[110] The *Report and Order* stated that, ''[i]n determining whether an activation mechanism is reasonably comparable to a button, key, or icon, the Commission will consider the simplicity and ease of use of the mechanism.'' [111] As the Commission explained, ''[w]e believe this approach is consistent with Congress's intent 'to ensure ready access to these features by persons with disabilities,' while still giving covered entities the flexibility contemplated by the statute.'' [112] Among the examples given by the Commission for compliant activation mechanisms were both voice and gesture activation.[113] Specifically, the Commission stated ''that compliant mechanisms include, but are not limited to, the following: a dedicated button, key, or icon; voice commands; gestures; and a single step activation from the same location as the volume controls.'' [114]

28. The Consumer/Academic Groups Petition submits that ''many'' deaf and hard of hearing people, especially those who communicate using American Sign Language, ''do not speak or speak clearly enough to use speech recognition technology.'' [115] As a result, Consumer/Academic Groups contend that the use of voice controls to activate closed captioning ''will effectively deny millions of deaf and hard of hearing people access to closed captioning and/or other accessibility features.'' [116] Upon further review, we agree that voice activation would not be simple and easy to use for many individuals who are deaf and hard of hearing and, thus, should not be considered reasonably comparable to a button, key, or icon for activating closed captioning. Therefore, the use of voice activation for closed captioning, without an alternative closed captioning activation mechanism that is simple and easy to use for individuals who are deaf and hard of hearing, does not satisfy the obligation under Section 79.109(a)(1) and (b) of our rules and Sections 204 and 205 of the CVAA to provide a mechanism reasonably comparable to a button, key, or icon.[117]

29. While some opposing the Consumer/Academic Groups Petition express concern about the Commission prohibiting the use of voice controls to achieve accessibility,[118] we emphasize that this Order does not prohibit use of voice controls to activate closed captioning as long as there is an alternative closed captioning activation mechanism that is simple and easy to use for the many deaf and hard of hearing individuals who cannot use their voices to activate this accessibility feature. NCTA and TIA both submit that voice control is likely to be only one method for activating accessibility features,[119] and it is not our intent to prevent manufacturers from offering multiple avenues of accessibility. Rather, we find that *solely* providing a voice activation mechanism for closed captioning would not fulfill the MVPD's or manufacturer's obligation to provide an activation mechanism ''reasonably comparable to a button, key, or icon'' under our rules and Sections 204 and 205 of the CVAA.[120]

B. Activation of Closed Captioning and Video Description by Gesture Control

30. With respect to gesture control, we decline to reconsider our finding that gesture control that is simple and easy to use will be considered a compliant activation mechanism for closed captioning and video description under Sections 204 and 205.[121] The

Hearing, Inc., Deaf and Hard of Hearing Consumer Advocacy Network, Association of Late-Deafened Adults, Inc., Hearing Loss Association of America, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Cerebral Palsy and Deaf Organization, Technology Access Program Gallaudet University, filed Feb. 25, 2014, at 3 (''Consumer/Academic Groups Reply to Oppositions''). CEA, ESA, NCTA, and TIA all filed oppositions to the Consumer/Academic Groups Petition, arguing that the Commission correctly decided that voice and gesture controls are compliant mechanisms reasonably comparable to a button, key, or icon for activating closed captioning and video description. *See* Opposition of the Consumer Electronics Association, filed Feb. 18, 2014 (''CEA Opposition''); Opposition of the Entertainment Software Association, filed Feb. 18, 2014 (''ESA Opposition''); Opposition of the National Cable & Telecommunications Association, filed Feb. 18, 2014 (''NCTA Opposition''); Opposition of the Telecommunications Industry Association, filed Feb. 14, 2014 (''TIA Opposition'').

[106] *Report and Order and Further NPRM,* para. 81 (''Although we codify the statutory language that requires a mechanism reasonably comparable to a button, key, or icon to activate certain accessibility features and reject a single step requirement, we believe it is useful to provide guidance to covered entities as to what 'reasonably comparable to a button, key, or icon' means.''); *id.* at para. 81 (''To provide some clarity to covered entities, we provide some examples of mechanisms that we consider to be . . . reasonably comparable to a button, key, or icon. For example, we believe that compliant mechanisms include, but are not limited to, the following: A dedicated button, key, or icon; voice commands; gestures; and a single step activation from the same location as the volume controls.'').

[107] Section 303(aa)(3) of the Act requires digital apparatus covered by Section 204 of the CVAA to provide ''built in access to [] closed captioning and video description features *through a mechanism that is reasonably comparable to a button, key, or icon* designated for activating the closed captioning or accessibility features.'' 47 U.S.C. 303(aa)(3) (emphasis added). Similarly, Section 303(bb)(2) requires ''navigation devices with built-in closed captioning capability'' covered by Section 205 of the CVAA to provide ''access to that capability *through a mechanism [that] is reasonably comparable to a button, key, or icon* designated for activating the closed captioning, or accessibility features.'' 47 U.S.C. 303(bb)(2) (emphasis added).

[108] *See* 47 CFR 79.109(a)(1)–(2), 79.109(b).

[109] *Report and Order and Further NPRM,* para. 81 (''In determining whether an activation mechanism is reasonably comparable to a button, key, or icon, the Commission will consider the simplicity and ease of use of the mechanism.'').

[110] *See* 47 CFR 79.109(a)(1), 79.109(b).

[111] *Report and Order and Further NPRM,* para. 81.

[112] *Id.* para. 81, citing H.R. Rep. No. 111–563, 111th Cong., 2d Sess. at 31 (2010); S. Rep. No. 111–386, 111th Cong., 2d Sess. at 14 (2010).

[113] *Report and Order and Further NPRM,* para. 81.

[114] *Id.*

[115] Consumer/Academic Groups Petition at 3.

[116] *Id.* at 4.

[117] *See* Consumer/Academic Groups Reply to Oppositions at 3.

[118] *See* CEA Opposition at 4; NCTA Opposition at 7; TIA Opposition at 2–3, 5.

[119] *See* NCTA Opposition at 7; TIA Opposition at 5.

[120] CEA and ESA point out the potential benefits of voice activation for those who are blind or visually impaired. *See* CEA Opposition at 4; ESA Opposition at 2. We note that the Order does not prohibit the use of simple and easy to use voice controls as the sole mechanism of activating video description.

[121] Contrary to Petitioners' argument, see Consumer/Academic Groups Petition at 4–5, the parties were on notice that we would consider in this proceeding whether gesture controls satisfy the requirement for activation mechanisms that are ''reasonably comparable to a button, key, or icon.''

Continued

Consumer/Academic Groups Petition argues that gesture control should not be considered a compliant closed captioning activation mechanism, because some deaf people may have mobility disabilities that prevent them from using gestures.[122] Consumer/Academic Groups also note that they ''are seriously concerned about the ability of blind and visually impaired people to access critical accessibility features through gestures.'' [123] In response, CEA points out that the use of a button, key, or icon as an activation mechanism, clearly permissible under Sections 204 and 205, would be difficult for some individuals with disabilities such as ''limited manual dexterity, limited reach or strength, or prosthetic devices.'' [124] Sections 204 and 205 require that the activation mechanism be ''reasonably comparable to a button, key, or icon,'' [125] and we find that the Commission's interpretation of the phrase ''reasonably comparable to a button, key, or icon'' in the *Report and Order* to mean a mechanism that is simple and easy to use was both a reasonable and supportable interpretation of the language used by Congress.[126] Furthermore, we find that a gesture control that is simple and easy to use complies with the requirements under Section 204 or 205 to provide an activation mechanism reasonably comparable to a button, key, or icon.

31. Industry commenters contend that gestures are likely to be one of multiple methods for activating accessibility features,[127] and we agree that manufacturers should have the flexibility to offer multiple avenues of accessibility. We encourage covered entities to provide alternatives for the consumer, so that the consumer can choose the disability solution that works best based upon his or her need. While manufacturers have flexibility in their selection of a mechanism that is comparable to a button, key, or icon, we strongly recommend that they consult with consumers with disabilities about the method(s) they select to activate closed captions and video description, to ensure that these achieve Congress's goal of facilitating access to such accessibility features. For example, the Commission previously recognized that some individuals with hearing loss also have other disabilities.[128] This is particularly true of older Americans who may have lost, or be in the process of losing, some of their sight or hand/eye coordination. For such persons, some gesture controls may not be ''simple and easy to use.'' Providing multiple means to access captions and video description will undoubtedly result in reaching a larger portion of the deaf and hard of hearing and blind or visually impaired populations, a goal that the Commission previously has stated is in keeping with Congressional intent.[129]

V. Procedural Matters

A. Final Regulatory Flexibility Act

32. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''), an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in the *Further Notice of Proposed Rulemaking* (''*FNPRM*'') in this proceeding. The Federal Communications Commission (''Commission'') sought written public comment on the proposals in the *FNPRM,* including comment on the IRFA. The Commission received no comments on the IRFA. This present Final Regulatory Flexibility Analysis (''FRFA'') conforms to the RFA.

1. Need for, and Objectives of, the Report and Order

33. Pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010 (''CVAA''), the *Second Report and Order* adopts additional rules requiring the accessibility of user interfaces on digital apparatus and navigation devices used to view video programming for individuals with disabilities. The rules we adopt here will effectuate Congress's goals in enacting Sections 204 and 205 of the CVAA by enabling individuals who are blind or visually impaired to more easily access video programming on a range of video devices, and enabling consumers who are deaf and hard of hearing to more easily activate closed captioning on video devices. Specifically, the *Second Report and Order* adopts rules requiring manufacturers of Section 204 digital apparatus to ensure that both the ''appropriate built-in apparatus functions'' and the ''on-screen text menus or other visual indicators built in to the digital apparatus'' to access such functions be ''usable by individuals who are blind or visually impaired.'' In addition, the *Second Report and Order* adopts information, documentation, and training requirements comparable to those in Section 6.11 of our rules for entities covered by both Section 204 and Section 205 of the CVAA. Further, the *Second Report and Order* adopts consumer notification requirements for equipment manufacturers of digital apparatus and navigation devices that will require manufacturers to publicize the availability of accessible devices on manufacturer Web sites that must be accessible to those with disabilities. While multichannel video programming distributors (''MVPDs'') are already subject to Web site notification requirements pursuant to the rules the Commission adopted in the *Report and Order,* the *Second Report and Order* also requires MVPDs, as well as manufacturers, to ensure that the contact office or person listed on their Web site is able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing

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The NPRM asked for comment on whether we should require single step activation, and provided examples of gesture activation that we would consider, such as ''pressing'' or ''clicking'' a button, key, or icon. *See NPRM,* para. 43 (seeking comment about single step activation, that is ''users would be able to activate closed captioning features on an MVPD-provided navigation device or other digital apparatus immediately in a single step just as a button, key, or icon can be pressed or clicked in a single step''). Indeed, four commenters addressed gesture activation in their comments submitted in response to the NPRM. *See* Comments of the Consumer Electronics Association at 20 (''Even more significantly, some devices do not include any buttons but instead rely on voice or gesture recognition to activate and deactivate certain features, which for some users may be better accessibility solutions than a designated physical button.''); Comments of DIRECTV, LLC at 9 (''Thus, a user could access this [closed captioning] functionality by simultaneously pressing two specified keys on the remote control. Alternatively, the user could shake a hand-held device or swipe her fingers across a touchscreen device, interact with a device that responds to voice commands, or even interact with a device that detects motion patterns.''); Comments of the Information Technology Industry Council at 7 (''[S]ome devices do not have buttons at all, but rather, rely either on touch interfaces, gestures or voice commands.''); Comments of the National Cable & Telecommunications Association at 14–15 (''[O]perators may eventually deploy devices with gesture recognition that will revolutionize accessibility.''). All comments above were filed July 15, 2013 in MB Docket No. 12–108.

[122] Consumer/Academic Groups Petition at 4.

[123] *Id.*

[124] CEA Opposition at 5.

[125] 47 U.S.C. 303(aa)(3), 303(bb)(2).

[126] *Report and Order and Further NPRM,* para. 81.

[127] *See* NCTA Opposition at 7; TIA Opposition at 5.

[128] For example, the Commission has stated that captions can benefit Americans with hearing disabilities who also have a visual disability. *Closed Captioning Requirements for Digital Television Receivers; Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility,* ET Docket No. 99–254, MM Docket No. 95–176, Report and Order, 65 FR 58467, para. 10 (2000) (''*DTV Closed Captioning Order*'').

[129] *See id.* at para. 13, in which the Commission, in adopting requirements for captioning display standards, stated that ''[o]nly by requiring decoders to respond to these various features can we ensure that closed captioning will be accessible for the greatest number of persons who are deaf and hard of hearing, and thereby achieve Congress' vision that to the fullest extent made possible by technology, people who are deaf or hard of hearing have equal access to the television medium.''

consumers to a place where they can locate information about how to activate and use accessibility features. The regulations adopted herein further the purpose of the CVAA to ''update the communications laws to help ensure that individuals with disabilities are able to fully utilize communications services and equipment and better access video programming.''

34. *Legal Basis.* The authority for the action taken in this rulemaking is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751, and Sections 4(i), 4(j), 303(aa), 303(bb), and 716(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(aa), 303(bb), and 617(g).

2. Summary of Significant Issues Raised in Response to the IRFA

35. No comments were filed in response to the IRFA.

36. Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

3. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

37. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted in the *Second Report and Order.* The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Small entities that are directly affected by the rules adopted in the *Second Report and Order* include manufacturers of digital apparatus and navigation devices and MVPDs.

38. *Cable Television Distribution Services.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline businesses. This category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities.

39. *Cable Companies and Systems.* The Commission has also developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data shows that there were 1,141 cable companies at the end of June 2012. Of this total, all but 10 incumbent cable companies are small under this size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,945 cable systems nationwide. Of this total, 4,380 cable systems have less than 20,000 subscribers, and 565 systems have 20,000 subscribers or more, based on the same records. Thus, under this standard, we estimate that most cable systems are small.

40. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 56.4 million incumbent cable video subscribers in the United States today. Accordingly, an operator serving fewer than 564,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but 10 incumbent cable operators are small under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

41. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, Wired Telecommunications Carriers, which was developed for small wireline businesses. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small. However, the data we have available as a basis for estimating the number of such small entities were gathered under a superseded SBA small business size standard formerly titled ''Cable and Other Program Distribution.'' The definition of Cable and Other Program Distribution provided that a small entity is one with $12.5 million or less in annual receipts. Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and DISH Network. Each currently offer subscription services. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial

wherewithal to become a DBS service provider.

42. *Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs).* SMATV systems or PCOs are video distribution facilities that use closed transmission paths without using any public right-of-way. They acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. SMATV systems or PCOs are now included in the SBA's broad economic census category, Wired Telecommunications Carriers, which was developed for small wireline businesses. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small.

43. *Home Satellite Dish (HSD) Service.* HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers, and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD antennas are between four and eight feet in diameter and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from program packagers that are licensed to facilitate subscribers' receipt of video programming. Because HSD provides subscription services, HSD falls within the SBA-recognized definition of Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities.

44. *Open Video Services.* The open video system (OVS) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (''BSPs'') are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

45. *Wireless cable systems—Broadband Radio Service and Educational Broadband Service.* Wireless cable systems use the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) to transmit video programming to subscribers. In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, we estimate that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the 10 winning bidders, two bidders that claimed small business status won four licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

46. In addition, the SBA's placement of Cable Television Distribution Services in the category of Wired Telecommunications Carriers is applicable to cable-based Educational Broadcasting Services. Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline businesses. This category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more

employees. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities. In addition to Census data, the Commission's internal records indicate that as of September 2012, there are 2,241 active EBS licenses. The Commission estimates that of these 2,241 licenses, the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.

47. *Incumbent Local Exchange Carriers (ILECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. ILECs are included in the SBA's economic census category, Wired Telecommunications Carriers. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small.

48. *Small Incumbent Local Exchange Carriers.* We have included small incumbent local exchange carriers in this present RFA analysis. A ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

49. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. These entities are included in the SBA's economic census category, Wired Telecommunications Carriers. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small.

50. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for this category, which is: All such businesses having 750 or fewer employees. Census data for 2007 shows that there were 939 establishments that operated for part or all of the entire year. Of those, 912 operated with fewer than 500 employees, and 27 operated with 500 or more employees. Therefore, under this size standard, the majority of such establishments can be considered small.

51. *Audio and Video Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing electronic audio and video equipment for home entertainment, motor vehicles, and public address and musical instrument amplification. Examples of products made by these establishments are video cassette recorders, televisions, stereo equipment, speaker systems, household-type video cameras, jukeboxes, and amplifiers for musical instruments and public address systems.'' The SBA has developed a small business size standard for this category, which is: All such businesses having 750 or fewer employees. Census data for 2007 shows that there were 492 establishments in this category operated for part or all of the entire year. Of those, 488 operated with fewer than 500 employees, and four operated with 500 or more employees. Therefore, under this size standard, the majority of such establishments can be considered small.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

52. In this section, we describe the reporting, recordkeeping, and other compliance requirements adopted in the *Second Report and Order* and consider whether small entities are affected disproportionately by these requirements.

53. *Reporting Requirements.* The *Second Report and Order* does not adopt reporting requirements.

54. *Recordkeeping and Other Compliance Requirements.* The *Second Report and Order* adopts certain recordkeeping and other compliance requirements, which are applicable to covered small entities. First, the *Second Report and Order* requires manufacturers of Section 204 digital apparatus to ensure that both the ''appropriate built-in apparatus functions'' and ''on-screen text menus or other visual indicators built in to the digital apparatus'' to access those functions be ''usable by individuals who are blind or visually impaired.'' Specifically, the *Second Report and Order* requires require manufacturers of Section 204 digital apparatus to ensure that individuals with disabilities have access to information and documentation on the full functionalities of digital apparatus, including instructions, product information (including accessible feature information), documentation, bills, and technical support which are provided to individuals without disabilities.

55. Second, the *Second Report and Order* adopts information, documentation, and training requirements consistent with those set forth in Section 6.11 of our rules for entities covered by both Section 204 and Section 205 of the CVAA. These rules require covered entities to ensure access to information and documentation it provides to its customers, if achievable. Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. In addition, the rules require covered entities to include the contact method for obtaining the required information and documentation in general product information, to consider certain accessibility-related topics when developing or modifying training programs, and to take other achievable steps, as necessary.

56. Third, the *Second Report and Order* imposes notification requirements for manufacturers of digital apparatus and navigation devices. Digital apparatus manufacturers must provide prominent notice on their official Web sites about the availability of accessible digital apparatus in a Web site format that is accessible to people with disabilities. The notice must publicize

the availability of accessible devices and the specific person, office, or entity who can answer consumer questions about which products contain the required accessibility features. Navigation device manufacturers must also provide prominent notice on their official Web site about the availability of accessible navigation devices in a Web site format that is accessible to people with disabilities. For navigation device manufacturers, the notice must publicize the availability of accessible devices and solutions and explain the means for making requests for accessible equipment and the specific person, office, or entity to which such requests are to be made.

57. *Potential for disproportionate impact on small entities.* Section 204 of the CVAA requires both ''the appropriate built-in apparatus functions'' and ''on-screen text menus or visual indicators built in to the digital apparatus'' to access those functions to be ''usable by individuals who are blind or visually impaired.'' The *Second Report and Order* adopts the definition of ''usable'' in Section 6.3(l) of the Commission's rules to implement this Section 204 mandate. The definition of ''usable'' requires that individuals with disabilities have access to information and documentation on the full functionalities of digital apparatus, including instructions, product information (including accessible feature information), documentation, bills, and technical support which are provided to individuals without disabilities. No commenter provided information concerning the costs and administrative burdens associated with this specific compliance requirement. Nevertheless, both industry and consumer commenters supported the Commission's application of the Section 6.3(l) ''usable'' definition to implement Section 204. Manufacturers must comply with the usability standard only if compliance is ''achievable.'' Thus, in the event that this compliance requirement disproportionately affects small entities, the Commission will have a way to minimize the impact on such entities.

58. The *Second Report and Order* also adopts the information, documentation, and training requirements in Section 6.11 of the Commission's rules for Section 204 digital apparatus and Section 205 navigation devices. Specifically, the rules the Commission adopts require covered entities to ensure access to information and documentation it provides to its customers, if achievable. This includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. This requirement also considers achievability, which will allow to minimize the impact on small entities, and still further recognizes the impact on small businesses by requiring ''other achievable steps'' that should only be taken ''as necessary.'' In the record of this proceeding, the American Cable Association (''ACA'') expressed concern that the information, documentation, and training requirements ''would . . . disproportionately burden smaller cable operators who would have to produce the required accessibility support materials and training without the benefits of scale to help them to spread the costs of such initiatives over a large user base.'' As such, ACA requested that small- and medium-sized cable operators receive an extended deadline to come into compliance with any information, documentation, and training requirements imposed on Section 205 entities. The Commission agrees that providing some relief to small- and mid-sized operators is reasonable. The *Second Report and Order* notes that the Commission in the *Report and Order* already delayed the time by which mid-sized and smaller MVPD operators and small MVPD systems must comply with the requirements of Section 205 by two years. Therefore, while MVPDs generally must comply with the rules adopted in the *Second Report and Order* by December 20, 2016, certain mid-sized and smaller MVPD operators and small MVPD systems need not comply until December 20, 2018. This delay afforded to certain mid-sized and smaller MVPD operators and small MVPD systems will provide sufficient time in which to implement the information, documentation, and training requirements adopted in the *Second Report and Order.* In addition, we note that covered entities, including small entities, may petition for a waiver of these requirements for good cause pursuant to the existing waiver process in Section 1.3 of our rules.

59. The *Second Report and Order* also imposes notification requirements for manufacturers of digital apparatus and navigation devices and MVPDs. No commenter provided information concerning the costs and administrative burdens associated with this specific compliance requirement.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

60. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The *FNPRM* invited comment on issues that had the potential to have significant impact on some small entities.

61. The rules adopted in this *Second Report and Order* may have a significant economic impact in some cases, and that impact may affect small entities. Although the Commission has considered alternatives where possible, as directed by the RFA, to minimize economic impact on small entities, we emphasize that our action is governed by the congressional mandate contained in Sections 204 and 205 of the CVAA.

62. In formulating the final rules, however, the Commission has considered a number of methods to minimize the economic impact on small entities. With regard to the usability and information, documentation, and training requirements modeled on Sections 6.3(l) and 6.11, the *Second Report and Order* adopts procedures enabling the Commission to grant exemptions to the rules where a petitioner has shown that compliance is not achievable (*i.e.,* cannot be accomplished with reasonable effort or expense). This process will allow the Commission to address the impact of the rules on individual entities, including smaller entities, on a case-by-case basis and to modify the application of the rules to accommodate individual circumstances, which can reduce the costs of compliance for these entities. We note that two of the four statutory factors that the Commission will consider in determining achievability are particularly relevant to small entities: The nature and cost of the steps needed to meet the requirements, and the technical and economic impact on the entity's operations.

63. The *Second Report and Order* also adopts consumer notification requirements for manufacturers of both digital apparatus and navigation devices

and MVPDs. Specifically, manufacturers are required to publicize the availability of accessible devices on their Web sites (which must also be accessible for those with disabilities). Both manufacturers and MVPDs must ensure that the contact office or person listed on their Web site is able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features. The Commission has not dictated the means by which manufacturers must comply with the requirements. Furthermore, in an attempt to simplify the notification requirements and facilitate small entity compliance, the Commission limits these requirements to Web sites only.

64. Further, MVPD operators with 400,000 or fewer subscribers as of year-end 2012, and MVPD systems with 20,000 or fewer subscribers that are not affiliated with an operator serving more than 10 percent of all MVPD subscribers as of year-end 2012, were afforded with a two-year delay of the compliance deadline for the requirements adopted pursuant to Section 205 of the CVAA, and this deadline also applies to the rules adopted in the *Second Report and Order.* The delayed compliance deadline for small MVPDs will help minimize any disproportionate impact of the requirements adopted in the *Second Report and Order.*

65. Overall, we believe we have appropriately considered both the interests of individuals with disabilities and the interests of the entities who will be subject to the rules, including those that are smaller entities, consistent with Congress' goal to ''update the communications laws to help ensure that individuals with disabilities are able to fully utilize communications services and equipment and better access video programming.''

6. Report to Congress

66. The Commission will send a copy of the *Second Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Second Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. The *Second Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

B. Paperwork Reduction Act

67. The *Second Report and Order* contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).[130] The requirements will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the information collection requirements contained in this proceeding. The Commission will publish a separate document in the **Federal Register** at a later date seeking these comments. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002 (SBPRA),[131] we seek specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Congressional Review Act

68. The Commission will send a copy of the *Second Report and Order* and *Order on Reconsideration* in MB Docket No. 12–108 in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

D. Ex Parte Rules

69. We remind interested parties that this proceeding is treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.[132] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

VI. Ordering Clauses

70. Accordingly, *it is ordered* that, pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. 111–260, 124 Stat. 2751, and the authority found in Sections 4(i), 4(j), 303(r), 303(u), 303(aa), 303(bb), and 716(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 303(u), 303(aa), 303(bb), and 617(g), this *Second Report and Order* and *Order on Reconsideration is adopted,* effective March 7, 2016 except for 47 CFR 79.107(a)(5), (d), and (e), 79.108(d)(2) and (f), which shall become effective upon announcement in the **Federal Register** of OMB approval and an effective date of the rules.

71. *It is ordered* that, pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. 111–260, 124 Stat. 2751, and the authority found in Sections 4(i), 4(j), 303(r), 303(u), 303(aa), 303(bb), and 716(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 303(u), 303(aa), 303(bb), and 617(g), the Commission's rules *are hereby amended* as set forth herein.

72. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Second Report and Order* and *Order on Reconsideration* in MB Docket No. 12–108, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

73. *It is further ordered* that the Commission *shall send* a copy of this *Second Report and Order* and *Order on Reconsideration* in MB Docket No. 12–108 in a report to be sent to Congress

[130] The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, 109 Stat. 163 (1995) (codified in Chapter 35 of title 44 U.S.C.).

[131] The Small Business Paperwork Relief Act of 2002 (SBPRA), Pub. L. 107–198, 116 Stat. 729 (2002) (codified in Chapter 35 of title 44 U.S.C.). *See* 44 U.S.C. 3506(c)(4).

[132] 47 CFR 1.1200 thorugh 1.1216.

and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

74. *It is further ordered* that Consumer/Academic Groups Petition for Reconsideration, filed January 20, 2014, is *granted in part* and *denied in part,* to the extent provided herein.

List of Subjects in 47 CFR Part 79

Cable television operators, Communications equipment, Multichannel video programming distributors (MVPDs), Satellite television service providers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 79 as follows:

PART 79—ACCESSIBILITY OF VIDEO PROGRAMMING

■ 1. The authority citation for part 79 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 330, 544a, 613, 617.

■ 2. Amend § 79.107 by adding paragraphs (a)(5), (d), and (e) to read as follows:

§ 79.107 User interfaces provided by digital apparatus.

(a)(1) * * *

(5) As used in this section, the term ''usable'' shall mean that individuals with disabilities have access to information and documentation on the full functionalities of digital apparatus, including instructions, product information (including accessible feature information), documentation, bills, and technical support which are provided to individuals without disabilities.

* * * * *

(d)(1) *Information, documentation, and training.* Manufacturers of digital apparatus shall ensure access to information and documentation it provides to its customers, if achievable. Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. Manufacturers shall take such other achievable steps as necessary including:

(i) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge;

(ii) Providing end-user product documentation in alternate formats or alternate modes upon request at no additional charge; and

(iii) Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge.

(2) Manufacturers of digital apparatus shall include in general product information the contact method for obtaining the information required by paragraph (d)(1) of this section.

(3) In developing, or incorporating existing training programs, manufacturers of digital apparatus shall consider the following topics:

(i) Accessibility requirements of individuals with disabilities;

(ii) Means of communicating with individuals with disabilities;

(iii) Commonly used adaptive technology used with the manufacturer's products;

(iv) Designing for accessibility; and

(v) Solutions for accessibility and compatibility.

(e) *Notices.* Digital apparatus manufacturers must notify consumers that digital apparatus with the required accessibility features are available to consumers as follows: A digital apparatus manufacturer must provide notice on its official Web site about the availability of accessible digital apparatus. A digital apparatus manufacturer must prominently display information about accessible digital apparatus on its Web site in a way that makes such information available to all consumers. The notice must publicize the availability of accessible devices and the specific person, office or entity who can answer consumer questions about which products contain the required accessibility features. The contact office or person listed on the Web site must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features. All information required by this section must be provided in a Web site format that is accessible to people with disabilities.

■ 3. Amend § 79.108 by revising paragraph (d) and adding paragraph (f) to read as follows:

§ 79.108 Video programming guides and menus provided by navigation devices.

* * * * *

(d)(1) *MVPD notices.* Covered MVPDs must notify consumers that navigation devices with the required accessibility features are available to consumers who are blind or visually impaired upon request as follows:

(i) When providing information about equipment options in response to a consumer inquiry about service, accessibility, or other issues, MVPDs must clearly and conspicuously inform consumers about the availability of accessible navigation devices.

(ii) MVPDs must provide notice on their official Web sites about the availability of accessible navigation devices. MVPDs must prominently display information about accessible navigation devices and separate solutions on their Web sites in a way that makes such information available to all current and potential subscribers. The notice must publicize the availability of accessible devices and separate solutions and explain the means for making requests for accessible equipment and the specific person, office or entity to whom such requests are to be made. The contact office or person listed on the Web site must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features. All information required by this section must be provided in a Web site format that is accessible to people with disabilities.

(2) *Manufacturer notices.* Navigation device manufacturers must notify consumers that navigation devices with the required accessibility features are available to consumers who are blind or visually impaired upon request as follows: A navigation device manufacturer must provide notice on its official Web site about the availability of accessible navigation devices. A navigation device manufacturer must prominently display information about accessible navigation devices and separate solutions on its Web site in a way that makes such information available to all consumers. The notice must publicize the availability of accessible devices and separate solutions and explain the means for making requests for accessible equipment and the specific person, office or entity to whom such requests are to be made. The contact office or person listed on the Web site must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information

about how to activate and use accessibility features. All information required by this section must be provided in a Web site format that is accessible to people with disabilities.

* * * * *

(f)(1) *Information, documentation, and training.* MVPDs and manufacturers of navigation devices shall ensure access to information and documentation it provides to its customers, if achievable. Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. MVPDs and manufacturers of navigation devices shall take such other achievable steps as necessary including:

(i) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge;

(ii) Providing end-user product documentation in alternate formats or alternate modes upon request at no additional charge; and

(iii) Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge.

(2) MVPDs and manufacturers of navigation devices shall include in general product information the contact method for obtaining the information required by paragraph (f)(1) of this section.

(3) In developing, or incorporating existing training programs, MVPDs and manufacturers of navigation devices shall consider the following topics:

(i) Accessibility requirements of individuals with disabilities;

(ii) Means of communicating with individuals with disabilities;

(iii) Commonly used adaptive technology used with the manufacturer's products;

(iv) Designing for accessibility; and

(v) Solutions for accessibility and compatibility.

(4) If a consumer with a disability requests an accessible navigation device pursuant to Section 205, this also constitutes a request for a description of the accessibility features of the device and end-user product documentation in accessible formats.

[FR Doc. 2016–00929 Filed 2–3–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 501

[Docket No. NHTSA–2015–0129]

RIN 2127–AL46

Organization and Delegation of Duties

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT) is updating its regulations governing the organization of NHTSA and delegations of authority from the Administrator to Agency officials, to provide for a reorganization of the Agency's internal structure. These changes will enable NHTSA to achieve its mission more effectively and efficiently.

DATES: This rule is effective February 4, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Russell Krupen, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: (202) 366–1834.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends 49 CFR part 501, the chapter of the Code of Federal Regulations (CFR) that sets forth the organization of the National Highway Traffic Safety Administration (NHTSA) and delegations of authority from the NHTSA Administrator to other Agency officials, to reflect a reorganization of the Agency's internal structure, to update out-of-date information, and to improve accuracy and clarity. In addition, this rule amends the succession to the Administrator to conform to the new organizational structure. These changes will enable the Agency to achieve its mission more effectively and efficiently.

In particular, NHTSA is eliminating the Senior Associate Administrator positions that were created in 2002 (67 FR 44083) from its internal organization and adding the Executive Director and the Chief Financial Officer positions, as well as their functions and responsibilities. Conforming changes to the regulations, including descriptions of the Associate Administrator positions, succession to the Administrator, and delegations of authority, are included. Additional changes have been made to improve formatting and consistency throughout part 501.

The amendments in this final rule relate solely to changes in the organizational structure and the placement of the delegations of authority for various functions within the agency. This final rule does not impose substantive requirements on the public. It is ministerial in nature and relates only to Agency management, organization, procedure, and practice. Therefore, the Agency has determined that notice and comment are unnecessary and that the rule is exempt from prior notice and comment requirements under 5 U.S.C. 553(b)(3)(A). As these changes will not have a substantive impact on the public, the Agency does not expect to receive significant comments on the substance of the rule. Therefore, the Agency finds that there is good cause under 5 U.S.C. 553(d)(3) to make this rule effective less than 30 days after publication in the **Federal Register**.

II. Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

NHTSA has determined that this final rule is not a significant regulatory action under Executive Order 12866 and DOT Regulatory Policies and Procedures (44 FR 11034). It was not reviewed by the Office of Management and Budget. There are no costs associated with this rule.

Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the consultation requirements of Executive Order 13132 do not apply.

Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the

funding and consultation requirements of Executive Order 13175 do not apply.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act, 5 U.S.C. 553, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This rule will not impose any costs on small entities because it is merely organizational in nature and will not have a substantive impact on the public. I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) does not require a written statement for this final rule because the rule does not include a Federal mandate that may result in the expenditure in any one year by State, local, and tribal governments, or the private sector, exceeding the threshold set forth in 2 U.S.C. 1532(a).

List of Subjects in 49 CFR Part 501

Authority delegations (Government agencies), Organization and functions (Government agencies).

For the reasons stated in the preamble, NHTSA revises 49 CFR part 501 to read as follows:

PART 501—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Sec.

501.1 Purpose.
501.2 General.
501.3 Organization and general responsibilities.
501.4 Succession to Administrator.
501.5 Exercise of authority.
501.6 Secretary's reservations of authority.
501.7 Administrator's reservations of authority.
501.8 Delegations.

Authority: 49 U.S.C. 105 and 322, and delegations of authority at 49 CFR 1.81 and 1.95.

§ 501.1 Purpose.

This part describes the organization of the National Highway Traffic Safety Administration (NHTSA), an operating administration within the U.S. Department of Transportation, and provides for the performance of duties imposed on, and the exercise of powers vested in, the Administrator of NHTSA.

§ 501.2 General.

The responsibilities and authorities delegated to NHTSA and the Administrator are set forth in §§ 1.81, 1.94, and 1.95 of this title.

§ 501.3 Organization and general responsibilities.

NHTSA consists of a headquarters organization located in Washington, DC, a unified field organization consisting of ten geographic regions with a Regional Office located in each region, the Vehicle Research and Test Center located in East Liberty, Ohio, and the Uniform Tire Quality Grading Test Facility located in San Angelo, Texas. The organization of, and general spheres of responsibility within, NHTSA are as follows:

(a) *Office of the Administrator*—(1) *Administrator.* (i) Represents the Department and is the principal advisor to the Secretary in all matters related to 49 U.S.C. chapters 301, 303, 321, 323, 325, 327, 329 and 331; 23 U.S.C. chapter 4, except section 409; 23 U.S.C. 153, 154, 158, 161, 163, 164 and 313 (with respect to matters within the primary responsibility of NHTSA); and such other responsibilities and authorities as are delegated by the Secretary of Transportation (49 CFR 1.94 and 1.95);

(ii) Establishes NHTSA program policies, objectives, and priorities and directs the development of action plans to accomplish the NHTSA mission;

(iii) Directs, controls, and evaluates the organization, program activities, performance of NHTSA staff, program and field offices;

(iv) Approves broad legislative, budgetary, fiscal and program proposals and plans; and

(v) Takes management actions of major significance, such as those relating to changes in basic organizational structure, appointment of key personnel, allocation of resources, and matters of special political or public interest or sensitivity.

(2) *Deputy Administrator.* Assists the Administrator in discharging responsibilities. Directs and coordinates the Administration's management and operational programs, and related policies and procedures at headquarters and in the field.

(3) *Executive Director.* As the principal advisor to the Administrator and Deputy Administrator, provides direction on internal management and mission support programs. Provides executive direction over the Associate Administrators, Chief Financial Officer, and Chief Information Officer.

(4) *Director, Office of Civil Rights.* As the principal advisor to the Administrator and Deputy Administrator on all matters pertaining to civil rights, serves as Director of Equal Employment Opportunity and of Title VI Compliance (Civil Rights Act of 1964, as amended, and related regulations). Assures agency compliance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), and other nondiscrimination statutes, regulations, Executive Orders, and policies. Periodically reviews and evaluates the civil rights programs of State Department of Motor Vehicles and Highway Safety Offices to ensure that recipients of NHTSA financial assistance meet applicable Federal civil rights requirements. Monitors the implementation of and compliance with civil rights requirements, investigates complaints of discrimination, conducts compliance reviews, provides technical assistance to recipients of NHTSA financial assistance and stakeholders, and provides assistance to the Office of the Secretary in investigating and adjudicating formal complaints of discrimination.

(5) *Director, Office of Governmental Affairs, Policy & Strategic Planning.* As the principal advisor to the Administrator and Deputy Administrator on all intergovernmental matters, including communications with Congress, communicates agency policy and serves as coordinator on legislative affairs. Also, serves as coordinator of agency policy discussions and activities and communicates with other operating administrations and the Office of Secretary on strategic planning efforts.

(6) *Director of Communications.* As the principal advisor to the Administrator and Deputy Administrator on external communications and information dissemination, serves as coordinator on public affairs.

(b) *Chief Counsel.* As chief legal officer for the Administrator and the Administration, provides general legal services and legal services related to legislative activities; prepares litigation and issues subpoenas; and effects rulemaking actions.

(c) *Associate Administrators, Chief Financial Officer, and Chief Information Officer*—(1) *Associate Administrator for Administration.* Administers and conducts NHTSA's personnel management activities; initiates and oversees a comprehensive program of administrative support services to meet agency requirements, including development, maintenance, and operation of NHTSA's manuals, notices, and orders, property management, and the purchase, delivery, and

administration of a range of supplies, equipment, and other support services; is responsible for administrative operational expenses and working capital fund operations; serves as the agency's technical expert for all administrative activities; and administers an executive correspondence program and maintains policy files for the Administrator and Deputy Administrator.

(2) *Associate Administrator for Communications and Consumer Information.* Represents NHTSA to the general public and others; provides reliable, timely, and accurate traffic safety information to the general public, consumers, partner organizations, and citizens groups through media and public education efforts; and provides scheduling and speechwriting support for the Administrator.

(3) *Associate Administrator for Enforcement.* Directs matters related to the enforcement of motor vehicle safety, fuel economy, theft prevention, damageability, consumer information, and odometer laws and regulations; conducts testing, inspection, and investigation necessary for the identification and correction of safety-related defects in motor vehicles and motor vehicle equipment; and ensures recalls of noncomplying and defective vehicles and motor vehicle equipment are effective and are conducted in accordance with Federal law and regulations.

(4) *Associate Administrator for National Center for Statistics and Analysis.* Provides the data, analysis, and evaluation to support determination of the nature, causes, and injury outcomes of motor vehicle traffic crashes, the strategies and interventions that will reduce crashes and their consequences, and the potential impact, costs, and benefits of highway safety programs and regulatory activities; targets the collection and analysis of data and the dissemination of information to identify potential highway safety problems, evaluate expected program and regulatory impact and actual goal achievement, and support data driven decisions; and identifies, advances, and promotes new methodologies, technologies, systems, and procedures that improve the completeness, accuracy, timeliness, and accessibility of data collection, analysis, and evaluation.

(5) *Associate Administrator for Regional Operations and Program Delivery.* Directs the management of State and community highway safety programs; administers and coordinates all Regional activities, including activities having a headquarters-regional interface; develops, reviews, implements, and coordinates related programs, policies, and procedures; and coordinates with the Federal Highway Administration, the Federal Motor Carrier Safety Administration, and other Federal agencies on traffic safety programs, as appropriate.

(6) *Associate Administrator for Research and Program Development.* Administers traffic safety programs and provides national leadership and technical assistance to States, local communities, national organizations, and other partners in the identification, research, planning, development, demonstration, implementation, evaluation, and dissemination of highway safety programs designed to prevent or reduce traffic-related crashes and the resulting deaths, injuries, property damage, and associated costs. Coordinates with the Federal Highway Administration, the Federal Motor Carrier Safety Administration, and other Federal agencies on traffic safety programs, as appropriate.

(7) *Associate Administrator for Rulemaking.* Develops and promulgates Federal standards dealing with motor vehicle safety, theft prevention, consumer information, the National Driver Register, and fuel economy, and directs programs relating to bumper standards, safety performance standards, and other regulations for new and used motor vehicles and equipment, including tires. Develops and conducts the New Car Assessment Program.

(8) *Associate Administrator for Vehicle Safety Research.* Develops and conducts research, development, test, and evaluation programs and projects necessary to support consumer information programs, guidelines, industry voluntary standards, and Federal motor vehicle regulations; manages the facilities and programs related to these activities; and conducts crash data analyses in defining safety problems.

(9) *Chief Financial Officer.* Administers the agency planning and budget activities in coordination with the Department of Transportation, the Office of Management and Budget, and Congress; assures the appropriate development of budget requests and the subsequent execution of operating budgets within the agency to meet all programmatic requirements; conducts all necessary accounting transactions to assure full and accurate accountability for all financial resources of the agency; initiates and oversees a comprehensive program of acquisition support for agency buying and supplier requirements, including acquisition planning, purchasing, payments, and administration; facilitates, coordinates, tracks, and monitors all external audits, reviews, and other oversight activities of agency programs, finances, transactions, or activities—working closely with responsible program and operational officials; facilitates and oversees the agency travel program, including the administration and operation of the travel management system, the travel card program, and the provision of travel management advice and guidance; and serves as the agency's technical expert for all financial management activities.

(10) *Chief Information Officer.* Administers all NHTSA Information Technology functions and needs to ensure that IT resources are effectively acquired and managed to maximize mission performance and return on IT investments.

§ 501.4 Succession to Administrator.

(a) The Deputy Administrator is the ''first assistant'' to the Administrator for purposes of the Federal Vacancies Reform Act of 1998 (5 U.S.C. 3345–3349d) and shall, in the event the Administrator dies, resigns, or is otherwise unable to perform the functions and duties of the office, serve as the Acting Administrator, subject to the limitations established by law.

(b) In the event both the Administrator and the Deputy Administrator die, resign, and/or are otherwise unable to perform the functions and duties of their respective offices, or in the event that both positions are vacant, the following officials, subject to paragraph (c) and in the order indicated, shall serve as Acting Deputy Administrator and shall perform the functions and duties of the Administrator, except for any non-delegable statutory and/or regulatory functions and duties:

(1) The Chief Counsel;

(2) The Executive Director;

(3) Further officials as may be designated in an internal order on succession.

(c) In order to qualify for the line of succession, officials must be encumbered in their position on a permanent basis.

§ 501.5 Exercise of authority.

(a) All authorities lawfully vested in and reserved to the Administrator in this title, part, or other NHTSA regulation or directive may be exercised by the Deputy Administrator and, in the absence or disability of both officials, by the Chief Counsel, unless specifically prohibited by statute, regulation, or order.

(b) In exercising the powers and performing the duties delegated by this part, officers of NHTSA and their delegates are governed by applicable laws, executive orders, regulations, and other directives, and by policies, objectives, plans, standards, procedures, and limitations as may be issued from time to time by or on behalf of the Secretary of Transportation, the Administrator, the Deputy Administrator, the Chief Counsel, and the Executive Director or, with respect to matters under their jurisdiction, by or on behalf of the Associate Administrators, the Regional Administrators, and the Directors of Staff Offices.

(c) Each officer to whom authority is delegated by this part may redelegate and authorize successive redelegations of that authority subject to any conditions the officer prescribes.

(d) Each officer to whom authority is delegated will administer and perform the functions described in the officer's respective functional statements.

§ 501.6 Secretary's reservations of authority.

The authorities reserved to the Secretary of Transportation are set forth in § 1.21 of this title.

§ 501.7 Administrator's reservations of authority.

The delegations of authority in this part do not extend to the following authority, which is reserved to the Administrator, except when exercised pursuant to §§ 501.4 and 501.5(a):

(a) The authority under 23 U.S.C. chapter 4 (except section 403) and any uncodified provision of law to apportion authorization amounts and distribute obligation limitations or award grants to States for highway safety programs or other highway safety purposes;

(b) The authority to issue, amend, or revoke uniform State highway safety guidelines and rules identifying highly effective highway safety programs under 23 U.S.C. 402;

(c) The authority to fix the rate of compensation for non-government members of agency sponsored committees which are entitled to compensation.

(d) The authority under 49 U.S.C. chapter 301 to:

(1) Issue, amend, or revoke final Federal motor vehicle safety standards and regulations;

(2) Make final decisions concerning alleged safety-related defects and noncompliances with Federal motor vehicle safety standards;

(3) Grant or renew temporary exemptions from Federal motor vehicle safety standards; and

(4) Grant or deny appeals from determinations upon a manufacturer's petition for decision of inconsequential defect or noncompliance and exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 in connection with a defect or noncompliance.

(e) The authority under 49 U.S.C. chapters 303, 321, 323, 325, and 329 (except section 32916(b)) to:

(1) Issue, amend, or revoke final rules and regulations; and

(2) Assess civil penalties and approve manufacturer fuel economy credit plans under chapter 329.

(f) The authority to carry out, in coordination with the Federal Motor Carrier Safety Administrator, the authority vested in the Secretary by 49 U.S.C. chapter 311 subchapter III, to promulgate safety standards for commercial motor vehicles and equipment subsequent to initial manufacture when the standards are based upon and similar to a Federal Motor Vehicle Safety Standard promulgated, either simultaneously or previously, under 49 U.S.C. chapter 301.

§ 501.8 Delegations.

(a) *Deputy Administrator.* The Deputy Administrator is delegated authority to act for the Administrator, except where specifically limited by law, order, regulation, or instructions of the Administrator. The Deputy Administrator is delegated authority to assist the Administrator in providing executive direction to all organizational elements of NHTSA.

(b) *Executive Director.* The Executive Director is delegated line authority for executive direction over the Associate Administrators, the Chief Financial Officer, and the Chief Information Officer.

(c) *Director, Office of Civil Rights.* The Director, Office of Civil Rights is delegated authority to:

(1) Serve as the Director of Equal Employment Opportunity.

(2) Serve as the compliance coordinator for:

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), as amended, and related regulations;

(ii) Section 504 of the Rehabilitation Act of 1973;

(iii) The Americans with Disabilities Act (ADA); and

(iv) Other nondiscrimination statutes, regulations, Executive Orders, and policies.

(3) Investigate complaints of civil rights discrimination, conduct compliance reviews, and provide technical assistance to recipients of NHTSA financial assistance and stakeholders.

(4) Review and evaluate the civil rights programs of State Department of Motor Vehicles and Highway Safety Offices to ensure that recipients of NHTSA financial assistance meet applicable Federal civil rights requirements.

(d) *Chief Counsel.* The Chief Counsel is delegated authority to:

(1) Exercise the powers and perform the duties of the Administrator with respect to:

(i) Issuing odometer regulations authorized under 49 U.S.C. chapter 327.

(ii) Providing technical assistance and granting extensions of time to the states under 49 U.S.C. 32705.

(iii) Granting or denying petitions for approval of alternate motor vehicle mileage disclosure requirements under 49 U.S.C. 32705.

(2) Establish the legal sufficiency of all investigations and enforcement actions conducted under the authority of 49 U.S.C. chapters 301, 303, 321, 323, 325, 327, 329 and 331; to make an initial penalty demand based on a violations of any of these chapters; and to compromise:

(i) Any civil penalty imposed under 49 U.S.C. 30165 in an amount of $1,000,000 or less.

(ii) Any civil penalty or monetary settlement other than those imposed under 49 U.S.C. 30165 in an amount of $100,000 or less.

(3) Exercise the powers of the Administrator under 49 U.S.C. 30166(c), (g), (h), (i), and (k).

(4) Issue subpoenas, after notice to the Administrator, for the attendance of witnesses and production of documents pursuant to 49 U.S.C. chapters 301, 321, 323, 325, 327, 329 and 331.

(5) Issue authoritative interpretations of the statutes administered by NHTSA and the regulations issued by the agency.

(6) Administer 5 U.S.C. 552 (FOIA) and 49 CFR part 7 (Public Availability of Information) in connection with the records of NHTSA.

(7) Administer the Privacy Act of 1974, 5 U.S.C. 552a, and 49 CFR part 10 (Maintenance of and Access to Records Pertaining to Individuals) in connection with the records of NHTSA.

(8) Carry out the functions and exercise the authority vested in the Secretary for 23 U.S.C. 313 (Buy America), with respect to matters within the primary responsibility of NHTSA.

(e) *Associate Administrator for Administration.* The Associate Administrator for Administration is

delegated authority to administer and conduct NHTSA's personnel management activities; conduct administrative and management services in support of NHTSA missions and programs; and administer an executive correspondence program.

(f) *Associate Administrator for Communications and Consumer Information.* The Associate Administrator for Communications and Consumer Information is delegated authority to manage and coordinate market research, planning coordination, development, and promotion of public education campaigns for both paid media and unpaid public services to support program efforts; develop overall agency messaging and communications strategies in support of program initiatives; and develop agency policies on messaging and communications procedures and processes.

(g) *Associate Administrator for Enforcement.* The Associate Administrator for Enforcement is delegated authority to administer the NHTSA enforcement program for all laws, standards, and regulations pertinent to vehicle safety, fuel economy, theft prevention, damageability, consumer information, and odometers, authorized under 49 U.S.C. chapters 301, 323, 325, 327, 329, and 331; conduct testing, inspection, and investigation necessary for the identification and correction of safety-related defects in motor vehicles and motor vehicle equipment and noncompliances with Federal motor vehicle safety standards; make initial decisions concerning alleged safety-related defects and noncompliances with Federal motor vehicle safety standards; grant or deny a manufacturer's petition for decision of inconsequential defect or noncompliance and exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 in connection with a defect or noncompliance; issue regulations relating to the importation of motor vehicles under 49 U.S.C. 30141–30147; and grant and deny petitions for import eligibility determinations submitted to NHTSA by motor vehicle manufacturers and registered importers under 49 U.S.C. 30141.

(h) *Associate Administrator for National Center for Statistics and Analysis.* The Associate Administrator for National Center for Statistics and Analysis is delegated authority to provide the data, analysis, and evaluation and create and maintain information systems necessary to support the purposes of 49 U.S.C. chapters 301, 303, 323, 325, 327, 329, and 331, 23 U.S.C. chapter 4, any uncodified provisions of law related to such issues, and any cross-cutting safety initiatives; to develop, maintain, and operate the National Driver Register and a nationwide clearinghouse of problem drivers; and to support State integrated highway and traffic records safety information systems.

(i) *Associate Administrator for Regional Operations and Program Delivery.* The Associate Administrator for Regional Operations and Program Delivery is delegated authority, except for authority reserved to the Administrator, to exercise the powers and perform the duties of the Administrator with respect to grants to States for highway safety programs or other State programs under 23 U.S.C. chapter 4 (except section 403) and uncodified provisions of law, including approval and disapproval of State highway safety plans and vouchers, in accordance with the procedural requirements of the Administration. The Associate Administrator for Regional Operations and Program Delivery is also delegated authority over programs with respect to the authority vested by section 210(2) of the Clean Air Act, as amended (42 U.S.C. 7544(2)); the authority vested by 49 U.S.C. 20134(a) with respect to laws administered by NHTSA pertaining to highway, traffic, and motor vehicle safety, in coordination with the Associate Administrator for Research and Program Development; the authority vested by 23 U.S.C. 153, 154, 158, 161, 163, and 164, in coordination with the Federal Highway Administrator as appropriate; and the authority vested by 23 U.S.C. 404, in coordination with the Associate Administrator for Communications and Consumer Information.

(j) *Associate Administrator for Research and Program Development.* The Associate Administrator for Research and Program Development is delegated authority to develop and conduct research and development programs and projects necessary to support the purposes of 23 U.S.C. chapter 4, any uncodified provisions of law related to that chapter, and cross-cutting safety initiatives; conduct research and development activities described or specifically enumerated in 23 U.S.C. 403; carry out the functions and exercise the authority vested in the Secretary and Administrator under section 10202 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Public Law 109–59 [42 U.S.C. 300d–4], as amended by section 31108 of the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141, relating to emergency medical services, except for authority reserved to the Secretary under § 1.21 or the Administrator under § 501.7; and exercise the authority vested by 49 U.S.C. 20134(a) with respect to laws administered by NHTSA pertaining to highway, traffic, and motor vehicle safety, in coordination with the Associate Administrator for Regional Operations and Program Delivery.

(k) *Associate Administrator for Rulemaking.* The Associate Administrator for Rulemaking is delegated authority, except for authority reserved to the Administrator or delegated to the Chief Counsel, to exercise the powers and perform the duties of the Administrator with respect to the setting of motor vehicle safety and theft prevention standards, fuel economy standards, procedural regulations, the National Driver Register, and the development of consumer information and odometer regulations authorized under 49 U.S.C. chapters 301, 303, 321, 323, 325, 327, 329, and 331, and any uncodified provisions of law related to such issues. The Associate Administrator for rulemaking is also delegated authority to perform activities that support the development of these regulations and standards; extend comment periods (both self-initiated and in response to a petition or request for extension of time) for noncontroversial rulemakings; make technical amendments or corrections to a final rule; extend the effective date of a noncontroversial final rule; and develop and conduct the New Car Assessment Program.

(l) *Associate Administrator for Vehicle Safety Research.* The Associate Administrator for Vehicle Safety Research is delegated authority to develop and conduct research, development, test, and evaluation programs and projects necessary to support the purposes of 49 U.S.C. chapters 301, 323, 325, 327, 329, and 331, any uncodified provisions of law related to such issues, and any cross-cutting safety initiatives.

(m) *Chief Financial Officer.* The Chief Financial Officer is delegated authority to direct the NHTSA planning and evaluation system in conjunction with Departmental requirements and planning goals; coordinate the development of the Administrator's plans, budgets, and programs, and analyses of their expected impact; exercise procurement authority with respect to NHTSA requirements; administer NHTSA financial management programs, including systems of funds control and accounts of all financial transactions; and enter into inter- and intra-departmental reimbursable agreements other than

with the head of another Department or agency, provided that this authority to enter into such agreements may be redelegated only to Office Directors and Contracting Officers.

(n) *Chief Information Officer.* The Chief Information Officer is delegated authority to formulate IT policy, guidance, procedures, security, and best practices; implement an IT capital planning program, an integrated Enterprise Architecture program, and a mission information protection program that ensures privacy, security, and critical infrastructure protection for NHTSA systems and data; and provide for other NHTSA IT functions to support the agency's mission, performance goals, and objectives.

Issued in Washington, DC, under authority delegated in 49 CFR 1.81 and 1.95.

Mark R. Rosekind,

Administrator.

[FR Doc. 2016–02101 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 81, No. 23
Thursday, February 4, 2016

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

FEDERAL RESERVE SYSTEM

12 CFR Part 217 and 252

[Regulations Q and YY; Docket No. R–1523]

RIN 7100–AE37

Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations; Regulatory Capital Deduction for Investments in Certain Unsecured Debt of Systemically Important U.S. Bank Holding Companies

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Proposed rulemaking; extension of comment period.

SUMMARY: On November 30, 2015, the Board published in the **Federal Register** a notice of proposed rulemaking inviting public comment on a proposed rule to promote financial stability by improving the resolvability and resiliency of large, interconnected U.S. bank holding companies and the U.S. operations of large, interconnected foreign banking organizations pursuant to section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and related deduction requirements for all banking organizations subject to the Board's capital rules.

Due to the range and complexity of the issues addressed in the notice of proposed rulemaking, the Board has determined that an extension of the public comment period until February 19, 2016, is appropriate. This action will allow interested persons additional time to analyze the notice and prepare their comments.

DATES: The comment period for the proposed rule published on November 30, 2015 (80 FR 74925), is extended. Comments on the proposed rule must be received on or before February 19, 2016.

ADDRESSES: You may submit comments by any of the methods identified in the notice of proposed rulemaking.[1] Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Constance M. Horsley, Assistant Director, (202) 452–5239, Thomas Boemio, Senior Project Manager, (202) 452–2982, Juan C. Climent, Manager, (202) 872–7526, Felton Booker, Senior Supervisory Financial Analyst, (202) 912–4651, Sean Healey, Senior Financial Analyst, (202) 912–4611, or Mark Savignac, Senior Financial Analyst, (202) 475–7606, Division of Banking Supervision and Regulation; or Laurie Schaffer, Associate General Counsel, (202) 452–2272, Benjamin McDonough, Special Counsel, (202) 452–2036, Jay Schwarz, Senior Counsel, (202) 452–2970, Will Giles, Counsel, (202) 452–3351, Mark Buresh, Senior Attorney, (202) 452–5270, or Greg Frischmann, Senior Attorney, (202) 452–2803, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: On November 30, 2015, the Board published in the **Federal Register** a notice of proposed rulemaking inviting public comment on a proposed rule to promote financial stability by improving the resolvability and resiliency of large, interconnected U.S. bank holding companies and the U.S. operations of large, interconnected foreign banking organizations pursuant to section 165 of the Dodd-Frank Act and related deduction requirements for all banking organizations subject to the Board's capital rules. Under the proposed rule, a U.S. top-tier bank holding company identified by the Board as a global systemically important banking organization (covered BHC) would be required to maintain outstanding a minimum amount of loss-absorbing instruments, including a minimum amount of unsecured long-term debt, and related buffer. Similarly, the proposed rule would require the top-tier U.S. intermediate holding company of a global systemically important foreign banking organization with $50 billion or more in U.S. non-branch assets (covered IHC) to maintain outstanding a minimum amount of intra-group loss-absorbing instruments, including a minimum amount of unsecured long-term debt, and related buffer. The proposed rule would also impose restrictions on the other liabilities that a covered BHC or covered IHC may have outstanding. Finally, the proposed rule would require state member banks, bank holding companies, and savings and loan holding companies that are subject to the Board's capital rules to apply a regulatory capital deduction treatment to their investments in unsecured debt issued by covered BHCs.

In recognition of the complexities of the issues involved and the variety of considerations involved in its impact and implementation, the Board requested that commenters respond to numerous questions. The proposed rule stated that the public comment period would close on February 1, 2016.[2]

The Board has received a request from the public for an extension of the comment period to allow for additional time for comments related to the provisions of the proposed rule.[3] The Board believes that the additional period for comment will facilitate public comment on the questions posed by the Board in the proposed rule. Therefore, the Board is extending the end of the comment period for the proposed rule from February 1, 2016, to February 19, 2016.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, January 29, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–02113 Filed 2–3–16; 8:45 am]

BILLING CODE P

[1] *See* Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations; Regulatory Capital Deduction for Investments in Certain Unsecured Debt of Systemically Important U.S. Bank Holding Companies, 80 FR 74925 (Nov. 30, 2015).

[2] *Id.*

[3] *See* Comment letter to the Board from the American Bankers Association *et al.* (Jan. 25, 2016).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1130; Directorate Identifier 2015–CE–008–AD]

RIN 2120–AA64

Airworthiness Directives; DG Flugzeugbau GmbH Gliders

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for DG Flugzeugbau GmbH Model DG–1000T gliders equipped with a Solo Kleinmotoren Model 2350 C engine that would revise AD 2015–09–04. This proposed AD results from 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 engine shaft failure and consequent propeller detachment. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by March 21, 2016.

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

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

For service information identified in this proposed AD, contact Solo Kleinmotoren GmbH, Postfach 600152, 71050 Sindelfingen, Germany; telephone: +49 7031 301–0; fax: +49 7031 301–136; email: *aircraft@solo-germany.com*; Internet: *http://aircraft.solo-online.com* and DG Flugzeugbau GmbH, Otto Lilienthal Weg 2/Am Flugplatz, 76646 Bruchsal, Germany; telephone: +49 7251 3020–0; fax: +49 7251 3020–200; email: *wassenaar@dg-flugzeugbau.de*; Internet: *http://www.dg-flugzeugbau.de/index.php?id=1329.* 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.

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–2015–1130; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–1130; Directorate Identifier 2015–CE–008–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On April 22, 2015, we issued AD 2015–09–04, Amendment 39–18150 (80 FR 25591, May 5, 2015). That AD required actions intended to address an unsafe condition on DG Flugzeugbau GmbH Model DG–1000T gliders equipped with a Solo Kleinmotoren Model 2350 C engine and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

Since we issued AD 2015–09–04, Amendment 39–18150 (80 FR 25591, May 5, 2015), new service information has been issued that includes procedures for replacement of excenter axle-pulley assembly and installation of an elastomeric damper element between the propeller and upper pulley. This optional modification will allow resuming engine operation.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2015–0052R1, dated November 19, 2015 (referred to after this as ''the MCAI''), to correct the above-referenced unsafe condition for the specified products. The MCAI states:

> An occurrence of engine shaft failure and consequent propeller detachment was reported on a Solo 2350 C engine.
>
> This condition, if not corrected, could lead to additional cases of release of the propeller from the engine, possibly resulting in damage to the sailplane, or injury to persons on the ground.
>
> To address this unsafe condition, EASA issued Emergency AD 2013–0217–E to prohibit operation of the engine. That AD was later revised to introduce an optional modification, through Solo Kleinmotoren Service Bulletin (SB) 4603–14, to install a modified excenter axle-pulley assembly, allowing to resume operation of the engine.
>
> Since EASA AD 2013–0217R1 was issued, another occurrence of engine shaft failure and propeller detachment was reported on a Solo 2350 C engine which had been modified in accordance with Solo Kleinmotoren SB 4603–14.
>
> Consequently, EASA issued Emergency AD 2015–0052–E, which superseded AD 2013–0217R1, to prohibit operation of all Solo 2350 C engines, including those engines which had been modified in accordance with Solo Kleinmotoren SB 4603–14. That AD also required a one-time inspection of the propeller shaft to detect cracks and the reporting of findings.
>
> Since that AD was issued, Solo Kleinmotoren GmbH developed modification drawing nb. 2031211–V2 available for in service application through Solo SB 4603–17 and DG Flugzeugbau GmbH developed modifications drawing nb. 10 M 067, available for in service application through DG Flugzeugbau Technical Note (TN) 1000/26 which include replacement of excenter axle-pulley assembly and installation of an elastomeric damper element between the propeller and upper pulley.
>
> This AD is revised to introduce optional modifications to allow resuming operation of an engine.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1130.

Related Service Information Under 1 CFR 51

We reviewed Solo Kleinmotoren GmbH Anleitung zur Inspektion (English translation: Inspection Instruction), Nr. 4603–1, Ausgabe (English translation: Dated) March 26, 2015; Solo Kleinmotoren GmbH Technische Mitteilung (English translation: Service Bulletin) Nr. 4603–17, Ausgabe (English translation: Dated) July 15, 2015; and DG Flugzeugbau GmbH Technical note No. 1000/26, dated September 23, 2015, with 10M072 titled Propellermontage nach TM 1000–26 (English translation: Propeller assembly TN 1000–26), dated July 14, 2015. Solo Kleinmotoren GmbH Anleitung zur Inspektion (English translation: Inspection Instruction), Nr. 4603–1, Ausgabe (English translation: Dated) March 26, 2015, describes procedures for inspecting the propeller shaft for cracking and reporting the results to the manufacturer. Solo Kleinmotoren GmbH Techniseche Mitteilung (English translation: Service Bulletin) Nr. 4603–17, Ausgabe (English translation: Dated) July 15, 2015, describes procedures for replacement of the excenter axle-pulley assembly. DG Flugzeugbau GmbH Technical note No. 1000/26, dated September 23, 2015, describes procedures for removing the excenter axle-pulley assembly and sending it to Solo Kleinmotoren GmbH for modification with a new rear bearing, axle, and elastomeric damper element. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of the Proposed AD

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

Costs of Compliance

We estimate that this proposed AD would affect 2 products of U.S. registry. We also estimate that it would take about .5 work-hour per product to comply with the basic operational limitation requirement of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this portion of this proposed AD on U.S. operators to be $85, or $42.50 per product.

We also estimate that it would take about 1.5 work-hours per product to comply with the basic axle inspection (remove, inspect, and reinstall) requirement of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this portion of this proposed AD on U.S. operators to be $255, or $127.50 per product.

We also estimate that it would take about 2 work-hours per product to comply with the optional axle with drive belt pulley unit replacement and engine test run of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $100 per product.

Based on these figures, we estimate the cost of this optional proposed AD action on U.S. operators to be $540, or $270 per product.

We also estimate that it would take about .5 work-hour per product to comply with the removal of the operational limitation requirement after doing the optional replacement of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this proposed AD action on U.S. operators to be $85, or $42.50 per product.

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–18150 (80 FR 25591, May 5, 2015), and adding the following new AD:

DG Flugzeugbau GmbH: Docket No. FAA–2015–1130; Directorate Identifier 2015–CE–008–AD.

(a) Comments Due Date

We must receive comments by March 21, 2016.

(b) Affected ADs

This AD replaces AD 2015–09–04, Amendment 39–18150 (80 FR 25591, May 5, 2015) (''AD 2015–09–04'').

(c) Applicability

This AD applies to DG Flugzeugbau GmbH Model DG–1000T gliders, all serial numbers, that are:

(1) Equipped with a Solo Kleinmotoren Model 2350 C engine; and

(2) Certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 72: Engine.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as engine shaft failure with consequent propeller detachment. We are issuing this AD to prevent failure of the engine shaft with consequent propeller detachment, which could result in damage to the glider or injury of persons on the ground.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) As of November 25, 2013 (the effective date retained from AD 2013–22–14, Amendment 39–17646 (78 FR 65869, November 4, 2013)), do not operate the engine unless the engine is modified following instructions that are FAA-approved specifically for this AD.

(2) Modification of an engine following the instructions in Solo Kleinmotoren Service Bulletin 4603–14, dated April 28, 2014, is not an acceptable modification to comply with paragraph (f)(1) of this AD.

(3) As of May 26, 2015 (the effective date retained from AD 2015–09–04), place a copy of this AD into the Limitations section of the aircraft flight manual (AFM).

(4) Within the next 30 days after May 26, 2015 (the effective date retained from AD 2015–09–04), do a one-time inspection (magnetic particle or dye penetrant) of the propeller shaft following Solo Kleinmotoren GmbH Anleitung zur Inspektion (English translation: Inspection Instruction), Nr. 4603–1, Ausgabe (English translation: Dated) March 26, 2015.

Note 1 to paragraph (f)(4) of this AD: This service information contains German to English translation. The EASA used the English translation in referencing the document. For enforceability purposes, we will refer to the Solo Kleinmotoren service information as it appears on the document.

(5) Within the next 30 days after May 26, 2015 (the effective date retained from AD 2015–09–04), report the results of the inspection required in paragraph (f)(4) of this AD to Solo Kleinmotoren GmbH. Include the serial number of the engine and the operational time since change of the axle in your report. You may find contact information for Solo Kleinmotoren GmbH in paragraph (h) of this AD.

(6) At any time after the effective date of this AD, you may modify the engine following Solo Kleinmotoren GmbH Techniseche Mitteilung (English translation: Service Bulletin) Nr. 4603–17, Ausgabe (English translation: Dated) July 15, 2015; and DG Flugzeugbau GmbH Technical note No. 1000/26, dated September 23, 2015, with 10M072 titled Propellermontage nach TM 1000–26 (English translation: Propeller assembly TN 1000–26), dated July 14, 2015. This modification allows engine operation.

Note 1 to paragraph (f)(6) of this AD: This service information contains German to English translation. The EASA used the English translation in referencing the document. For enforceability purposes, we will refer to the Solo Kleinmotoren service information and the DG Flugzeugbau GmbH as it appears on the document.

(7) Before further flight after doing the modification allowed in (f)(6) of this AD, remove the AD placed into the Limitations section of the AFM as required in paragraph (f)(3) of this AD.

(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, 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 airplane 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.

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2015–0052R1, dated November 19, 2015, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1130. For service information related to this AD, contact Solo Kleinmotoren GmbH, Postfach 600152, 71050 Sindelfingen, Germany; telephone: +49 7031 301–0; fax: +49 7031 301–136; email: *aircraft@solo-germany.com;* Internet: *http://aircraft.solo-online.com* and DG Flugzeugbau GmbH, Otto Lilienthal Weg 2/Am Flugplatz, 76646 Bruchsal, Germany; telephone: +49 7251 3020–0; fax: +49 7251 3020–200; email: *wassenaar@dg-flugzeugbau.de;* Internet: *http://www.dg-flugzeugbau.de/index.php?id=1329.* 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.

Issued in Kansas City, Missouri, on January 28, 2016.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–01962 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–0835; Airspace Docket No. 16–ASW–1]

Proposed Establishment of Class E Airspace; Hollis, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Hollis, OK. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures developed at Hollis Municipal Airport, for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before March 21, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2016–0835; Docket No.16–ASW–1, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 29591; telephone: 202–267–8783. The order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone: 817–222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Hollis Municipal Airport, Hollis, OK.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–0835/Airspace Docket No. 16–ASW–1.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Central Service Center, Operation Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

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

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within an 6-mile radius of Hollis Municipal Airport, Hollis, OK, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

ASW OK E5 Hollis, OK [New]

Hollis Municipal Airport, OK
(Lat. 34°42′19″ N., long. 099°54′31″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hollis Municipal Airport.

Issued in Fort Worth, TX, on January 27, 2016.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–02034 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–5801; Airspace Docket No. 15–AGL–18]

Proposed Establishment of Class E Airspace; Beach, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Beach, ND. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures developed at Beach Airport, for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before March 21, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2015–5801; Docket No.15–AGL–18, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 29591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone: 817–222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Beach Airport, Beach, ND.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–5801/Airspace Docket No. 15–AGL–18.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Central Service Center, Operation Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within an 9-mile radius of Beach Airport, Beach, ND, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AGL ND E5 Beach, ND [New]

Beach Airport, ND

(Lat. 46°55′31″ N., long. 103°58′55″ W.)

That airspace extending upward from 700 feet above the surface within a 9.0-mile radius of Beach Airport.

Issued in Fort Worth, TX, on January 26, 2016.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–02025 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–4513; Airspace Docket No. 15–AEA–8]

Proposed Amendment of Class D and Class E Airspace; Hagerstown, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace Designated as an Extension to a Class D Surface Area by removing the Notice to Airmen (NOTAM) part time status for Hagerstown Regional Airport-Richard A. Henson Field, Hagerstown, MD. Also, this action would amend Class D and Class E airspace at Hagerstown, MD by recognizing the name change to Hagerstown Regional Airport-Richard A. Henson Field, and updating the geographic coordinates of the airport. This action would enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before March 21, 2016.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg. Ground Floor, Rm W12–140, Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2015–4513; Airspace Docket No. 15–AEA–8, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

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

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in

Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class D and E airspace areas at Hagerstown Regional Airport-Richard A. Henson Field, Hagerstown, MD.

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2015–4513; Airspace Docket No. 15–AEA–8) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–4513; Airspace Docket No. 15–AEA–8.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E Airspace Designated as an Extension to a Class D Surface Area at Hagerstown Regional Airport-Richard A. Henson Field, Hagerstown, MD, by eliminating the NOTAM information that reads, ''This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.'' from the regulatory text. This action also would change the airport name and navigation aid from Washington County Regional Airport to Hagerstown Regional Airport-Richard A. Henson Field, and adjust the geographic coordinates of the airport for the Class D and Class E Airspace Areas listed in this proposal.

Class D and Class E airspace designations are published in Paragraphs 5000, 6002, 6004 and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

AEA MD D Hagerstown, MD [Amended]

Hagerstown Regional Airport-Richard A. Henson Field, MD
(Lat. 39°42′31″ N., long. 77°43′35″ W.)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.1-mile radius of Hagerstown Regional Airport-Richard A. Henson Field. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

AEA MD E2 Hagerstown, MD [Amended]

Hagerstown Regional Airport-Richard A. Henson Field, MD
(Lat. 39°42′31″ N., long.77°43′35″ W.)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.1-mile radius of Hagerstown Regional Airport-Richard A. Henson Field. This Class E2 airspace area is effective during the specific dates and times when the Class D airspace area, as published in the Airport/Facility Directory, is not in effect.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

AEA MD E4 Hagerstown, MD [Amended]

Hagerstown Regional Airport-Richard A. Henson Field, MD
(Lat. 39°42′31″ N., long. 77°43′35″ W.)
Hagerstown VOR
(Lat. 39°41′52″ N., long. 77°51′21″ W.)
Hagerstown Regional Airport-Richard A. Henson Field ILS Runway 27 Localizer
(Lat. 39°42′22″ N., long. 77°44′41″ W.)

That airspace extending upward from the surface within 2.7 miles each side of the Hagerstown VOR 237° radial and 057° radial extending from 7.4 miles southwest of the VOR to 1.8 miles northeast of the VOR and within 2.7 miles each side of the Hagerstown VOR 082° radial extending from the 4.1-mile radius of Hagerstown Regional Airport-Richard A. Henson Field to the VOR, and within 4 miles each side of the Hagerstown Regional Airport-Richard A. Henson Field ILS Runway 27 localizer course extending from the localizer to 11.8 miles east of the localizer, excluding that portion within Prohibited Area P–40.

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

* * * * *

AEA MD E5 Hagerstown, MD [Amended]

Hagerstown Regional Airport-Richard A. Henson Field, MD
(Lat. 39°42′31″ N., long. 77°43′35″ W.)
Hagerstown VOR
(Lat. 39°41′52″ N., long. 77°51′21″ W.)
St. Thomas VORTAC
(Lat. 39°56′00″ N., long. 77°57′03″ W.)
Hagerstown Regional Airport-Richard A. Henson Field ILS Runway 27 Localizer
(Lat. 39°42′22″ N., long. 77°44′41″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Hagerstown Regional Airport-Richard A. Henson Field and within 3.1 miles each side of the Hagerstown VOR 237° radial and 057° radial extending from 9.6 miles southwest of the VOR to 2.7 miles northeast of the VOR and within 4.4 miles each side of the Hagerstown Regional Airport-Richard A. Henson Field ILS Runway 27 localizer course extending from the localizer to 12.6 miles east of the localizer and within 4.4 miles each side of the St. Thomas VORTAC 141° radial extending from the 6.6-mile radius to the St. Thomas VORTAC, excluding that portion within Prohibited Area P–40.

Issued in College Park, Georgia, on January 27, 2016.

Ryan W. Almasy,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–02023 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM16–5–000]

Offer Caps in Markets Operated by Regional Transmission Organizations and Independent System Operators

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to revise its regulations to require that each regional transmission organization (RTO) and independent system operator (ISO) cap each resource's incremental energy offer to the higher of $1,000/MWh or that resource's verified cost-based incremental energy offer.

DATES: Comments are due April 4, 2016.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- *Electronic Filing through http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

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List of Short Names/Acronyms of Commenters.

1. In this Notice of Proposed Rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) is proposing to revise its regulations to require that each regional transmission organization (RTO) and independent system operator (ISO) cap each resource's incremental energy offer [1] to the higher of $1,000/MWh or that resource's verified cost-based incremental energy offer. Under this proposal, verified cost-based incremental energy offers above $1,000/MWh would be used for purposes of calculating Locational Marginal Prices (LMPs).

2. The Commission preliminarily finds that the offer cap [2] on incremental energy offers (offer cap) may no longer be just and reasonable for several reasons. The offer cap may unjustly prevent a resource from recouping its costs by not permitting that resource to include all of its short-run marginal costs within its energy supply offer (supply offer). The offer cap may result in unjust and unreasonable rates because it can suppress LMPs to a level below the marginal cost of production. Further, because of the offer cap, a resource with short-run marginal costs above that cap may choose not to offer its supply to the RTO/ISO, even though the market may be willing to purchase that supply.[3] Finally, when several resources have short-run marginal costs above the offer cap but are unable to reflect those costs within their incremental energy offers due to the offer cap, the RTO/ISO is not able to dispatch the most efficient set of resources because it will not have access to the underlying costs associated with the multiple incremental energy offers above the offer cap.

3. To remedy these potential problems associated with the offer cap, the Commission proposes to require that each RTO/ISO cap each resource's incremental energy offer to the higher of $1,000/MWh or an incremental energy offer based on that resource's short-run marginal cost (cost-based incremental energy offer). Under the proposal, the costs underlying each cost-based incremental energy offer above $1,000/MWh must be verified before that offer could be used for purposes of calculating LMPs. Under this proposal, the Market Monitoring Unit or the RTO/ISO, as prescribed in the RTO/ISO tariff and consistent with Order No. 719,[4] must verify the costs within a cost-based incremental energy offer.[5] The proposed offer cap would be resource neutral, that is, any resource, regardless of fuel-type, would be eligible to submit a cost-based incremental energy offer above $1,000/MWh.

4. The Commission proposes to make a generic change to the offer cap applicable to all RTOs/ISOs through a rulemaking to avoid exacerbating seams issues. Seams issues could arise if one RTO/ISO has an offer cap that materially differed from a neighboring RTO/ISO's offer cap. Different offer caps in neighboring RTOs/ISOs could result in flows that depend on the level of the two offer caps as opposed to economics or reliability needs.

5. The Commission seeks comment on these proposed reforms sixty (60) days after publication of this NOPR in the **Federal Register**.

I. Background

6. On June 19, 2014, the Commission initiated the price formation proceeding.[6] In initiating that proceeding, the Commission stated that there may be opportunities for the RTOs/ISOs to improve the energy and ancillary service price formation process. Staff conducted outreach and convened technical workshops on the following four general issues: (1) Use of uplift payments; (2) offer price mitigation and offer caps; (3) scarcity and shortage pricing; and (4) operator actions that affect prices.[7] During the fall of 2014, Commission staff convened three technical workshops and Commission staff issued reports on these topics. At the October 28, 2014 technical workshop, Commission staff explored, among other topics, the $1,000/MWh offer cap, including the purpose of the offer cap and the role it plays in market power mitigation.[8]

[1] The incremental energy offer is the portion of a resource's energy supply offer that varies with the output of the generator.

[2] The offer cap for purposes of this NOPR refers to the $/MWh limit on day-ahead and real-time incremental energy offers, and not any limits or penalty rates that may apply in the capacity or ancillary services markets.

[3] Resources that are subject to must-offer requirements, such as resources with a capacity supply obligation, are required to submit a supply offer to the energy market. Many resources are subject to must-offer requirements in either the day-ahead or real-time markets. The proposed reform would ensure that such a resource has an economic incentive that matches its tariff obligation. It would also provide an economic incentive to those resources that are not subject to a must-offer requirement.

[4] *Wholesale Competition in Regions with Organized Electric Markets,* Order No. 719, FERC Stats. & Regs. ¶ 31,281, at PP 370–375 (2008), *order on reh'g,* Order No. 719–A, FERC Stats. & Regs. ¶ 31,292 (2009), *order on reh'g,* Order No. 719–B, 129 FERC ¶ 61,252 (2009). *See also* 18 CFR 35.28(g)(3)(iii)(B) (2015).

[5] Pursuant to 18 CFR 35.28(g)(3)(iii)(B), either the internal or external market monitor can ''provide the inputs required to conduct prospective mitigation . . . including, but not limited to reference levels, identification of system constraints, and cost calculations.'' 18 CFR 35.28(g)(3)(iii)(B) (2015). However, prospective mitigation may only be carried out by an internal market monitor if the RTO/ISO has a hybrid Market Monitoring Unit structure. 18 CFR 35.28(g)(3)(iii)(D) (2015).

[6] *Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators,* Notice, Docket No. AD14–14–000 (June 19, 2014) (Price Formation Notice).

[7] *Id.* at 1, 3–4.

[8] *See* Supplemental Notice of Workshop on Price Formation: Scarcity and Shortage Pricing, Offer

While this action proposes to address mitigation relevant to energy offers above $1,000/MWh in RTO/ISO markets, the Commission has also instructed staff to undertake a more comprehensive review of the market power mitigation rules in the RTO/ISO markets.

7. Two of the Commission's goals in the price formation proceeding are relevant here. First, clearing prices in the energy and ancillary services markets should ideally ''reflect the true marginal cost of production, taking into account all physical system constraints.'' [9] Second, LMPs should ''ensure that all suppliers have an opportunity to recover their costs.'' [10] Establishing LMPs that accurately reflect the marginal cost of production is a central goal of the price formation effort. This goal is important because LMPs are an effective way to communicate information to market participants about the cost of providing the next unit of energy. In the short-run, accurate price signals from LMPs are particularly important during high price periods because they provide a signal to customers to reduce consumption and a signal to suppliers to increase production or to offer new supplies to the market. In the long-run, accurate price signals from LMPs are important because they inform investment decisions. It is also important that RTOs/ISOs give resources the opportunity to recover their costs because failing to do so may discourage resources from participating in RTO/ISO energy markets. Adequate investment in resources and participation of resources in RTO/ISO energy markets are necessary to ensure economic and reliable energy for consumers.

A. Offer Caps and Market Power Mitigation in RTOs/ISOs

8. Supply offers in day-ahead and real-time energy markets consist of both physical components and financial components. The physical components of a supply offer describe the resource's physical operating parameters, such as its minimum and maximum operating limits in a given day-ahead or real-time interval, and are denominated in MW, MWh, time, or some combination thereof. The financial components of a supply offer are denominated in dollars (*e.g.,* $/start and $/MWh) and represent the costs underlying a resource's offer to supply electricity in a given interval. The key financial components of a supply offer are the start-up cost, no-load cost, and incremental energy offers. A resource includes its costs that vary with output in its incremental energy offer, which typically consists of a supply curve made up of multiple (price, quantity) pairs that indicate the price, expressed in $/MWh, that a resource is willing to accept to produce a given quantity of energy.[11]

9. The LMP reflects the marginal cost of serving load at a specific location, given the set of generators that are dispatched and the limitations of the transmission system.[12] The LMP is calculated by an RTO/ISO as the sum of three components: An energy charge, a congestion charge, and a charge for transmission losses. The energy and congestion components of the LMP are established based on several factors, including the marginal resource's incremental energy offer, specifically the $/MWh price associated with the MW output of the marginal resource.

10. All six Commission-jurisdictional RTOs/ISOs have imposed a $1,000/MWh cap on incremental energy offers.[13] The offer cap remains at $1,000/MWh in all RTOs/ISOs except PJM because, as discussed further below, the Commission recently approved PJM's proposal to raise the offer cap on cost-based offers in PJM to $2,000/MWh.[14] In each RTO/ISO, a resource's incremental energy offer is subject not only to the offer cap, but also to market power mitigation provisions.[15] The Market Monitoring Unit for each RTO/ISO currently oversees, and in some cases implements, the market power mitigation provisions. In general, when a resource's incremental energy offer is mitigated, that offer is replaced with an estimate of a competitive offer or an estimate of that resource's short-run marginal cost.[16] In most instances, once mitigated, a resource's offer is eligible to set LMP.[17] Mechanically, the RTOs/ISOs have adopted mitigation rules that either develop a proxy for a competitive offer or explicitly estimate short-run marginal cost. Because we expect that a competitive offer will closely track a resource's short-run marginal cost, both methods for mitigating offers should arrive at roughly the same result. The Market Monitoring Units in CAISO, MISO, ISO–NE., and NYISO typically mitigate the resource's incremental energy offer to the proxy of a competitive offer that is calculated by the Market Monitoring Unit.[18] However, these RTOs/ISOs also have provisions whereby the Market Monitoring Unit, often after consultation with the resource itself, can estimate the resource's short-run marginal cost, which will form the basis of that resource's mitigated incremental energy offer. In PJM and SPP, resource owners develop cost-based incremental energy offers consistent with the requirements of these RTOs' tariffs and business practice manuals and those cost-based offers are subject to review by the Market Monitoring Unit.[19]

11. While the offer cap restricts incremental energy offers, the offer cap does not limit LMPs to the level of the offer cap (be it $1,000/MWh or $2,000/MWh) because the congestion and loss components of the LMP can cause the LMP to exceed the offer cap. Scarcity pricing and emergency purchases can

Mitigation, and Offer Caps in RTO and ISO Markets, Docket No. AD14–14–000 (Oct. 10, 2014).

[9] Price Formation Notice at 2.

[10] *See Price Formation in Energy and Ancillary Servs. Mkts. Operated by Reg'l Transmission Orgs. & Indep. Sys. Operators,* 153 FERC ¶ 61,221, at P 2 (2015); *see also* Price Formation Notice at 2.

[11] RTOs/ISOs typically restrict incremental energy supply curves to ten price and quantity pairs (*i.e.,* ($/MWh, MW)).

[12] *See* Federal Energy Regulatory Commission, Division of Energy Market Oversight Office of Enforcement, *Energy Primer,* at 60 (Nov. 2015), *http://www.ferc.gov/market-oversight/guide/energy-primer.pdf.*

[13] *See, e.g.,* California Independent System Operator Corporation (CAISO), eTariff, 39.6.1.1 (11.0.0); ISO New England Inc. (ISO–NE), Transmission, Markets and Services Tariff, Market Rule 1, III.1.10.1A(d)(ix), III,1.10.IA(c)(iv), III.2.6(b)(i), and III.A.15.1(b) (27.0.0); Midcontinent Independent System Operator, Inc. (MISO), FERC Electric Tariff, 39.2.5 (35.0.0), 39.2.5A (34.0.0), 39.2.5B (34.0.0), 40.2.5 (35.0.0), 40.2.6 (35.0.0) and 40.2.7 (33.0.0); New York Independent System Operator, Inc. (NYISO), NYISO Tariffs, NYISO Markets and Services Tariff, 21.4 and 21.5.1 (7.0.0); PJM Interconnection, L.L.C. (PJM), Intra-PJM Tariffs, OATT, Tariff Operating Agreement, Attachment K, Appendix, 1.10.1A(d) (24.0.0); Southwest Power Pool, Inc. (SPP), OATT, Sixth Revised Volume No. 1, Attachment AE, Section 4.1.1 (2.0.0).

[14] *PJM Interconnection L.L.C.,* 153 FERC ¶ 61,289, at P 25 (2015) (PJM 2015/16 Offer Cap Order). The tariff provisions related to the offer cap do not have a sunset date.

[15] *See* 18 CFR 35.28(g)(3)(iii)(B)–(D) (2015).

[16] The RTOs/ISOs use different terms for a mitigated offer. ISO–NE., MISO, and NYISO mitigate supply offers to a ''Reference Level.'' *See* ISO–NE., Transmission Markets and Services Tariff, Market Rule 1, III.A.7.2; MISO FERC Electric Tariff, 64.1.4 (30.0.0); NYISO, NYISO Tariffs, NYISO Markets and Services Tariff, 23.3.1.4 (11.0.0). CAISO mitigates supply offers to ''Default Energy Bids.'' *See* CAISO, eTariff, 39.7.1 (11.0.0). PJM mitigates supply offers to a ''cost-based offer.'' *See* PJM Operating Agreement, Schedule 1, 1.10.1A (24.0.0) and 6.4.1 (7.0.0). SPP mitigates supply offers to a ''Mitigated Energy Bid.'' *See* SPP OATT, Sixth Revised Volume No. 1, Attachment AF, 3.2 (7.0.0). For purposes of this NOPR, the offers RTOs/ISOs use for purposes of mitigation will be referred to as ''cost-based offers.''

[17] There are exceptions to this eligibility, for instance, when a resource is committed outside of the market clearing process.

[18] *See supra* n.16.

[19] PJM resources develop cost-based offers pursuant to PJM Manual 15: Cost Development Guidelines. SPP resources develop Mitigated Energy Bids pursuant to SPP's Mitigated Offer Guidelines in the SPP Market Protocols.

also cause LMPs to exceed the offer cap even though incremental energy offers are limited by the offer cap.

B. Offer Cap Waivers and Tariff Changes

12. The $1,000/MWh offer cap dates back to 1999 when PJM first launched its market.[20] According to PJM's market monitor, PJM's offer cap was then set to a level that stakeholders considered ''beyond the possible pale'' of a resource's short-run marginal cost.[21] PJM states that its $1,000/MWh offer cap was never intended to limit incremental energy offers below a resource's marginal cost to produce energy.[22]

13. Extreme weather during the winter of 2013/14, dubbed the ''Polar Vortex,'' caused PJM and NYISO to request tariff waivers associated with the $1,000/MWh offer cap. During the Polar Vortex, various weather-related conditions led to a significant increase in the price of natural gas.[23] Natural gas prices at two key pricing points in PJM rose above $120 per million British Thermal Units (MMBtu), which could have caused some PJM resources with must-offer requirements to operate at a loss because their short-run marginal costs were above the $1,000/MWh offer cap.[24]

14. In response, on January 23, 2014, PJM filed concurrently two tariff waiver requests related to its offer cap. In its first request, which the Commission granted for the January 24–February 10, 2014 period, PJM requested that certain resources with cost-based offers above $1,000/MWh receive uplift payments to recoup those costs.[25] In its second request, which the Commission granted for the February 11–March 31, 2014 period, PJM requested that certain resources be allowed to submit cost-based offers in excess of $1,000/MWh and cost-based offers were used for purposes of calculating LMPs.[26]

15. Similarly, high natural gas prices in New York prompted NYISO to file a waiver request related to its offer cap.[27] Natural gas prices at the Transco Zone 6 NY hub in New York rose above $120/MMBtu in January 2014. In response, NYISO requested that resources be permitted to recover any unrecovered costs above $1,000/MWh through uplift payments. The Commission granted NYISO's requested waiver for the January 22–February 28, 2014 period.[28]

16. In the following winter of 2014/15, citing concerns about the potential for a repeat of the high natural gas prices experienced during the Polar Vortex, PJM and MISO submitted fillings to allow recovery of costs above $1,000/MWh during the winter months. Both PJM[29] and MISO[30] expressed concerns that the $1,000/MWh offer cap could prevent a resource from recouping its short-run marginal costs. The Commission accepted tariff provisions that temporarily raised PJM's offer cap on cost-based offers to $1,800/MWh during the January 16–March 31, 2015 period.[31] The Commission granted a waiver that permitted resources in MISO to include incremental energy costs in excess of $1,000/MWh in the no-load component of their supply offers during the December 20, 2014–April 30, 2015 period.[32] When accepting PJM's proposal and granting MISO's waiver request, the Commission reasoned that market conditions during the previous 2013/14 winter demonstrated that the $1,000/MWh offer cap could prevent resources from submitting incremental energy offers that reflect their marginal costs and could therefore force resources to offer to sell electricity below cost.[33] Tariff provisions related to the offer cap in both MISO and PJM reverted back to their original form in spring 2015.

17. For the winter of 2015/16, PJM[34] and MISO[35] again filed requests to modify their respective offer caps. The Commission accepted tariff revisions in PJM that would raise the offer cap on cost-based offers to $2,000/MWh for purposes of calculating LMPs going forward.[36] In accepting the changes, the Commission reasoned that PJM's proposal would send transparent market signals, promote efficient resource selection, and address the risks caused by high natural gas prices while protecting consumers by requiring cost verification of incremental energy offers above $1,000/MWh.[37] The Commission granted MISO's request to waive provisions related to the offer cap for the January 1, 2016–April 30, 2016 period. The MISO waiver for the winter of 2015/16 was virtually identical to the waiver for the winter of 2014/15 and allowed MISO resources to include incremental energy costs in excess of $1,000/MWh in the no-load component of their offers.[38]

C. Comments About Offer Caps

18. In its January 2015 notice inviting post-technical workshop comments in the price formation proceeding, the Commission asked specific questions about the $1,000/MWh offer cap and asked stakeholders to comment on various alternative offer cap designs.[39] Comments about the $1,000/MWh offer cap focus on the need to modify the offer cap, the role that the offer cap plays in market power mitigation, alternative offer cap designs, potential seams issues, and other considerations.

1. Need To Modify the Offer Cap

19. Commenters differ about the need to raise or remove the $1,000/MWh offer cap. Several commenters argue that the $1,000/MWh offer cap should be raised or removed entirely, given recent occurrences of high natural gas prices.

[20] *See* Docket Nos. OA97–261–000 and ER97–1082–000 (Apr. 1, 1997); *Pennsylvania-New Jersey-Maryland Interconnection,* 81 FERC ¶ 61,257 (1997).

[21] Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. 209:18–22 (Oct. 28, 2014).

[22] PJM Comments at 2. All comments cited herein were submitted in Docket No. AD14–14–000 on or about March 6, 2015.

[23] *See, e.g.,* FERC Staff, *Commission and Industry Actions Relevant to Winter 2013–14 Weather Events* (Oct. 16, 2014), *https://www.ferc.gov/media/news-releases/2014/2014-4/10-16-14-A-4-presentation.pdf.*

[24] *PJM Interconnection, L.L.C.,* 146 FERC ¶ 61,041, at P 2, *order on reh'g,* 149 FERC ¶ 61,059 (2014). For example, a natural gas resource with a heat rate of 8,350 Btu/kWh could have short-run marginal fuel costs above $1,000/MWh if the natural gas price exceeds $120/MMBtu.

[25] *Id.* P 1.

[26] *PJM Interconnection, L.L.C.,* 146 FERC ¶ 61,078, at PP 3–4 (2014).

[27] *N.Y. Indep. Sys. Operator, Inc.,* 146 FERC ¶ 61,061, at PP 2–4 (2014).

[28] *Id.* P 24.

[29] *PJM Interconnection L.L.C.,* 150 FERC ¶ 61,020, at P 5 (2015) (PJM 2014/15 Offer Cap Order).

[30] *Midcontinent Indep. Sys. Operator, Inc.,* 150 FERC ¶ 61,083, at P 3 (2015) (MISO 2014/15 Offer Cap Order).

[31] PJM 2014/15 Offer Cap Order, 150 FERC ¶ 61,020.

[32] MISO 2014/15 Offer Cap Order, 150 FERC ¶ 61,083.

[33] *See* PJM 2014/15 Offer Cap Order, 150 FERC ¶ 61,020 at P 34; MISO 2014/15 Offer Cap Order, 150 FERC ¶ 61,083 at P 17.

[34] PJM, Proposed Tariff Revisions, Docket No. ER16–76–000 (filed Oct. 14, 2015).

[35] MISO, Request for Waiver, Docket No. ER16–248–000 (filed Nov. 2, 2015).

[36] PJM 2015/16 Offer Cap Order, 153 FERC ¶ 61,289 at P 25. The tariff provisions related to the offer cap do not have a sunset date.

[37] *Id.* PP 25–26. Resources can submit cost-based offers above $2,000/MWh and PJM will use such offers for merit order dispatch, but incremental energy offers used for purposes of calculating LMP are capped at $2,000/MWh.

[38] *Midcontinent Indep. Sys. Operator, Inc.,* 154 FERC ¶ 61,006 (2015) (MISO 2015/16 Offer Cap Order).

[39] *Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators,* Notice Inviting Post-Technical Workshop Comments, Docket No. AD14–14–000, at 2–3 (Jan. 16, 2015). A list of commenters and the abbreviated names the Commission will use for them in this document appears in Appendix A.

Some commenters cite the recent offer cap waiver orders as evidence that the current offer cap is not just and reasonable.[40] Several commenters reference the Polar Vortex in the winter of 2013/14, when resources experienced marginal production costs in excess of $1,000/MWh, as evidence that the current offer cap is inappropriate.[41] For example, OMS states that it is appropriate to consider an upward revision or removal of the offer cap to ensure supply adequacy during extreme events such as those that occurred during the winter of 2013/14.[42]

20. Several commenters also assert that the offer cap distorts price signals and creates market inefficiencies.[43] Commenters state that the offer cap artificially suppresses clearing prices.[44] Some commenters believe that the offer cap restricts market participants from receiving appropriate compensation for costs incurred legitimately.[45]

21. Several commenters stress that the offer cap should be high enough to ensure that resources can reflect their actual costs in supply offers.[46] EPSA maintains that the offer cap was never intended to suppress marginal cost bidding.[47] MISO states that the offer cap should be modified to ensure that all resources are able to recover at least the costs they incur to produce energy.[48] MISO and PJM contend that an offer cap that prevents resource cost recovery can increase the likelihood that resources will be unavailable to system operators.[49] SPP and Western Power Trading Forum state that raising the offer cap might reduce out-of-market operator actions and uplift.[50]

22. Some commenters oppose modifying the $1,000/MWh offer cap.[51] CAISO, ISO–NE, and NYISO assert that, because resource marginal costs are well below $1,000/MWh, there is no evidence that the $1,000/MWh offer cap should be raised in their respective markets.[52] CAISO opposes any effort to increase the offer cap until sufficient benefits are identified.[53] NCPA, PG&E, and SCE state that the current offer cap ensures just and reasonable rates and mitigates market power in CAISO.[54] NCPA and SCE state that the offer cap is sufficient in CAISO because generators there have never experienced costs above $1,000/MWh.[55] SCE adds that the marginal cost of the least efficient CAISO resource at the highest natural gas price seen in the region is only $390/MWh.[56] APPA and NRECA assert that there is insufficient justification to remove offer caps nationwide.[57]

2. Role of the Offer Cap in Market Power Mitigation

23. At the October 28, 2014 price formation technical workshop, several market monitors discussed the backstop role that the $1,000/MWh offer cap plays in market power mitigation. NYISO's internal market monitor stated that the offer cap provided a ''backstop'' assurance to protect consumers in the event that NYISO's market mitigation measures fail.[58] Similarly, ISO–NE's internal market monitor stated that the offer cap is a device that limits the potential damage to consumers or the market in the event that market power mitigation measures are unsuccessful.[59] CAISO's internal market monitor stated that the offer cap primarily functions as a ''damage control cap'' but also noted that the offer cap affects the penalty prices of constraints in CAISO's market software.[60] Potomac Economics, which serves as an external market monitor for MISO, ISO–NE., and NYISO, stated that the offer cap is too high to address general market power concerns, but explained that the offer cap addresses gaming strategies that market participants may engage in to collect undue uplift payments.[61]

24. In response to the Commission's request for comments on price formation topics, several commenters suggest that the offer cap's purpose has been supplanted by improvements in market monitoring and mitigation and the Commission's enforcement activity.[62] Wisconsin Electric asserts that the offer cap is irrelevant because RTO/ISO market monitors have effective mitigation measures in place and can refer suspected manipulation to the Commission's Office of Enforcement.[63] Direct Energy states that an offer cap is not necessary when resources cannot exercise market power because competition will discipline offers.[64] GDF SUEZ argues that offer caps are the least efficient method of protection against uncompetitive offers because offer caps are indifferent to the specifics of a supply offer and do not reflect potentially changed circumstances since the offer cap level was established over ten years ago.[65]

25. Several other commenters assert that the offer cap is a backstop measure to protect consumers against the exercise of market power during tight system conditions.[66] Other commenters emphasize the importance of strengthening market monitoring and mitigation provisions if offer caps are eliminated or increased.[67] ISO–NE asserts that while the offer cap has become less important with market power mitigation, the offer cap still serves as a ''fail-safe'' mechanism to protect consumers in the unlikely event that the market is not competitive and market power mitigation fails to assure competitive supply offers.[68] OMS warns that any effort to raise or remove the offer cap must be based on the Commission's confidence not only in the ability of RTO/ISO market power mitigation provisions to prevent

[40] ANGA Comments at 2; Brookfield Comments at 7; EPSA Comments at 24; Entergy Nuclear Power Marketing Comments at 11–12; Exelon Comments at 10–11; PJM Comments at 2–3; PJM Power Providers Comments at 2–4; SPP Comments at 1; Western Power Trading Forum Comments at 5–6.

[41] EPSA Comments at 21–24; Exelon Comments at 10–12; OMS Comments at 2; PJM Comments at 2–3; PJM Power Providers Comments at 2.

[42] OMS Comments at 2.

[43] PJM Utilities Coalition Comments at 3–4; Western Power Trading Forum Comments at 5.

[44] Direct Energy Comments at 2; EPSA Comments at 21.

[45] ANGA Comments at 2–3; Xcel Comments at 2.

[46] ANGA Comments at 2; Brookfield Comments at 7; Entergy Nuclear Power Marketing Comments at 11–12; ISO–NE Comments at 5; IRC Comments at 2–3; MISO Comments at 4; PJM Comments at 2; PJM Power Providers Group Comments at 2–4; Potomac Economics Comments at 3; Powerex Comments at 29–30; PSEG Companies Comments at 5–6; Western Power Trading Forum Comments at 5–6.

[47] EPSA Comments at 21–22.

[48] MISO Comments at 4.

[49] *Id.;* PJM Comments at 2.

[50] SPP Comments at 1; Western Power Trading Forum Comments at 5–6.

[51] APPA and NRECA Comments at 30; CAISO Comments at 3; ELCON Comments at 6.

[52] CAISO Comments at 3; ISO–NE Comments at 3 & n.2; NYISO Comments at 4.

[53] CAISO Comments at 3.

[54] NCPA Comments at 2; PG&E Comments at 3; SCE Comments at 3; *see also* California State Water Project Comments at 2; New York Transmission Owners Comments at 2.

[55] NCPA Comments at 2–3; SCE Comments at 2.

[56] SCE Comments at 2. According to SCE, the $390/MWh figure assumes a heat rate of 17,000 Btu/kWh, slightly higher than the least efficient unit in CAISO, and a natural gas price of $23/MMBtu.

[57] APPA and NRECA Comments at 32.

[58] Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. 205:6–15 (Oct. 28, 2014).

[59] *Id.* at 206:24–207:7.

[60] *Id.* at 210:14–23.

[61] *Id.* at 211:25–212:14.

[62] ANGA Comments at 2–3; Entergy Nuclear Power Marketing Comments at 11; EPSA Comments at 22–23; Exelon Comments at 11–12; Wisconsin Electric Comments at 2–3; Xcel Comments at 2.

[63] Wisconsin Electric Comments at 2.

[64] Direct Energy Comments at 2.

[65] GDF SUEZ Comments at 3.

[66] ISO–NE Comments at 4; MISO Comments at 5–6; New York Transmission Owners Comments at 2–3; NYISO Comments at 3; TAPS Comments at 10–11; California State Water Project Comments at 2–3.

[67] Direct Energy Comments at 2; MISO Comments at 9; NCPA Comments at 3; New York Transmission Owners Comments at 4; Wisconsin Electric Comments at 2–3.

[68] ISO–NE Comments at 4.

generator market power abuses, but also in whether the prices of input costs were developed in a competitive market.[69]

26. Potomac Economics maintains that the offer cap is necessary to keep resources from exploiting any previously unknown flaws in market rules.[70] Some commenters assert that due to load's inelastic demand for electricity, offer caps are necessary to protect consumers from excessive prices and to maintain confidence that rate structures are fair and nondiscriminatory.[71] TAPS states that on normal days when there are no generators with marginal costs ''anywhere close to'' $1,000/MWh, there are still 3,000 to 4,000 MW offered at the offer cap.[72] TAPS suggests that weakening the offer cap is particularly dangerous because energy markets cannot be halted, so if widespread abuse occurs, after-the-fact resettlements incur massive costs and diversion of resources.[73] APPA and NRECA assert that the offer cap should only be increased if RTOs/ISOs can guarantee that all offers are cost-based in order to guarantee appropriate prices and prevent the need to re-run markets after-the-fact.[74]

3. Alternative Offer Cap Designs

27. In its January 2015 notice inviting post-technical workshop comments in the price formation proceeding, the Commission sought comment on potential alternative offer cap designs, including (1) maintaining the $1,000/MWh offer cap and compensating resources for incremental energy costs above the $1,000/MWh offer cap through uplift; (2) adopting a floating offer cap that changes with natural gas prices; (3) raising the offer cap to a higher fixed level; and (4) allowing resources to submit cost-based offers above $1,000/MWh and allowing verified cost-based offers above $1,000/MWh to set LMP.

a. Maintain Current Offer Cap With Uplift

28. Some commenters assert that infrequent events where production costs exceed $1,000/MWh can be addressed effectively through uplift payments without raising the offer cap or otherwise including such costs in the LMP.[75] APPA and NRECA state they support generator recovery of legitimate and verified costs but assert that such costs should not necessarily be included in LMP.[76] APPA and NRECA add that uplift will ensure cost recovery without risking market power abuse and what APPA and NRECA say would be the attendant increased unjust and unreasonable rates.[77]

29. APPA and NRECA assert that the market clearing process does not allow sufficient time to verify whether incremental energy offers above $1,000/MWh are in fact cost-based; thus, these commenters argue, such cost verification should occur after-the-fact, with costs in excess of the offer cap recovered through uplift.[78] SCE and PG&E state that CAISO has tools to accommodate the rare instances when the $1,000/MWh offer cap is insufficient to recover a resource's costs.[79]

b. Floating Offer Cap

30. Several commenters support a floating offer cap that changes with generator input costs, such as the price of natural gas. Calpine asserts that offer caps should be flexible and responsive to changes in natural gas prices,[80] and recommends that the Commission encourage each RTO/ISO to implement a floating offer cap.[81] Powerex suggests that the offer cap could equal the higher of $1,000/MWh or some multiple of a pre-defined regional natural gas index.[82] SPP states that a seasonal fixed offer cap might be appropriate.[83] Similarly, OMS maintains that the offer cap need not be constant throughout the year if resource costs vary throughout the year.[84]

31. ISO–NE and MISO, however, argue that a floating offer cap would be difficult to implement.[85] ISO–NE opposes basing the offer cap on an index that attempts to track fuel prices, arguing that doing so would be complex and difficult to implement because intra-day natural gas indices are opaque and day-ahead natural gas indices, while arguably less opaque, can become ''stale'' during the operating day.[86] MISO argues that although it may consider a floating offer cap in the longer term, a transition to such an offer cap would likely require substantial system changes.[87] ISO–NE asserts that if the Commission is concerned that a fixed offer cap lacks flexibility, the Commission should revisit the offer cap over time as the markets for the major fuels used in power generation continue to evolve.[88]

c. Higher Fixed Offer Cap

32. Some commenters support raising the offer cap to a higher level. ANGA states that, at a minimum, the offer cap should be increased significantly to reduce unnecessary market distortions.[89] Exelon argues that the current $1,000/MWh cap on market-based offers in PJM should be eliminated, but maintains that, if the offer cap remains in place, it should be raised to account for the highest reasonably expected offer, and that cost-based offers should be allowed to exceed the market-based offer cap.[90]

33. If the Commission chooses to raise the offer cap, ISO–NE urges using a simple numerical value rather than a more complicated formula.[91] ISO–NE is neutral on raising the offer cap but suggests that any changes to the offer cap level be made in a straightforward manner so that participants know with certainty what the offer cap will be when they make advance fuel-supply arrangements.[92] MISO does not oppose raising the offer cap but favors a fixed offer cap to a floating offer cap in the short term.[93] MISO states that a fixed offer cap simplifies the process of implementing related market mechanisms such as scarcity or shortage pricing, ancillary services, and transmission demand curves and notes that MISO's current market software systems were designed based upon a fixed offer cap.[94]

34. TAPS asserts that permanently increasing the offer cap to allow incremental energy offers above $1,000/MWh ''day-in and day-out'' would sacrifice the benefits of the current offer cap as a ''backstop'' protection against market power abuse to address ''extreme circumstances'' that rarely, if ever,

[69] OMS Comments at 2.

[70] Potomac Economics Comments at 3–4.

[71] ELCON Comments at 6; TAPS Comments at 10–11.

[72] TAPS Comments at 12–13 (citing Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. 217:17–21 (Oct. 28, 2014)).

[73] TAPS Comments at 11 (citing Written Statement of Patrick T. Connors on Behalf of WPPI Energy and the Transmission Access Policy Study Group Regarding Impacts of Offer Caps and Market Power Mitigation, at 5 (Dec. 3, 2014)).

[74] APPA and NRECA Comments at 31–32.

[75] *Id.* at 29–31; California State Water Project Comments at 2–3; New York Transmission Owners Comments at 2–3.

[76] APPA and NRECA Comments at 31.

[77] *Id.* at 31.

[78] *Id.* at 31–32.

[79] PG&E Comments at 3–4; SCE Comments at 3.

[80] Calpine Comments at 4–6.

[81] *Id.* at 21.

[82] Powerex Comments at 30.

[83] SPP Comments at 1.

[84] OMS Comments at 3.

[85] ISO–NE Comments at 4–6; MISO Comments at 5–7.

[86] ISO–NE Comments at 6.

[87] MISO Comments at 5–6.

[88] ISO–NE Comments at 6–7.

[89] ANGA Comments at 3.

[90] Exelon Comments at 12.

[91] ISO–NE Comments at 6.

[92] *Id.* at 3–4.

[93] MISO Comments at 4–5.

[94] *Id.* at 5.

occur.[95] APPA and NRECA argue that it is not necessary to increase the offer cap broadly because APPA and NRECA say there is no evidence that the $1,000/MWh offer cap is persistently flawed.[96] APPA and NRECA add that resources' incremental energy offers only exceeded $1,000/MWh in PJM on ''just a few days in one month of one year.'' [97]

d. Permitting Cost-Based Incremental Energy Offers Above $1,000/MWh

35. Some commenters argue that cost-based incremental energy offers should not be capped.[98] PJM states that cost-based offers should not be subject to offer caps because offer caps impose arbitrary limits.[99] PJM suggests that one approach may be to set a market-based offer cap on an annual basis at some percentage above the highest cost-based incremental energy offer from previous time periods.[100] PJM Power Providers and PSEG Companies assert that cost-based offers should not be capped and should be eligible to set the LMP.[101] APPA and NRECA state that if the Commission wishes to revise the offer cap, it should limit any increase in the offer cap to periods when production costs exceed $1,000/MWh and ensure that any changes to the offer cap are accompanied by assurances that protect consumers against market power abuse.[102] Although TAPS does not support increasing the $1,000/MWh offer cap, TAPS similarly states that if the Commission wants to take temporary or seasonal action, the Commission should at the very least require that any incremental energy offer above $1,000/MWh be verified by the market monitor to be cost-justified.[103]

36. APPA and NRECA, CAISO and NCPA, however, argue that cost-based incremental offers must be verified *before* the market clears in order to avoid potentially disruptive after-the-fact corrections to clearing prices, and these commenters raise concerns that it is not feasible to do so.[104] CAISO does not believe there is a firm basis to verify the natural gas price included in supply offers because market participants might not purchase natural gas before submitting offers and because natural gas quotes might not be available. CAISO also states that natural gas prices and quotes may be subject to manipulation, thereby making fuel cost verification difficult.[105] CAISO requests that if the Commission directs RTOs/ISOs to pay resources uplift for fuel costs above the offer cap, then only incremental fuel costs associated with the incremental energy offer be reimbursable. In contrast, CAISO states that costs such as natural gas pooling, imbalance penalties, or risk premiums should be recovered through capacity payments.[106]

37. TAPS contends that advance review and verification of cost-based incremental offers should be possible for most generators.[107] Direct Energy states that RTOs/ISOs have sufficient time to verify natural gas costs in the day-ahead and real-time markets and suggests that LMPs can be ''flagged'' and revised after-the-fact should the RTOs/ISOs have any concerns.[108]

4. RTO/ISO Seams and the Offer Cap

38. Most commenters state that offer caps should be the same for each RTO/ISO, to minimize potential seams issues.[109] IRC, PJM, and PSEG Companies assert that transmission congestion and other market-to-market coordination will be disrupted if offer caps differ across markets.[110] ISO–NE and NYISO contend that different offer caps in neighboring markets could create perverse interchange flows resulting from the level of the offer caps instead of based on economic merit or reliability needs.[111] NYISO states that materially different offer caps between regions that depend on the same natural gas supply could require out-of-market operator actions to avoid reliability issues when natural gas prices are high.[112] MISO maintains that consistent offer caps across RTOs/ISOs will also establish consistent shortage pricing between neighboring RTOs/ISOs.[113]

39. In contrast, APPA and NRECA and NCPA state that offer cap levels should be set according to the needs of each individual RTO/ISO.[114] APPA and NRECA assert that the Commission should only consider raising the offer cap on a region-by-region basis where the evidence demonstrates a need for a higher offer cap.[115] Direct Energy and PJM Utilities Coalition, respectively, state that different offer caps may be appropriate if the RTOs/ISOs use the same methodology to determine the offer caps or where the different offer cap levels represent true differences in cost.[116]

5. Other Considerations

40. CAISO and MISO note that the offer cap level impacts other market parameters that affect LMPs, such as penalty prices associated with violating thermal or operating constraints that are contained in the RTO/ISO software used to calculate LMPs. SCE explains that when CAISO relaxes a transmission constraint, it uses the offer cap to set the congestion price.[117] CAISO states it would have to increase constraint penalty prices, currently set to levels above the offer cap, to ensure that the market operators would dispatch economic offers prior to relaxing transmission constraints.[118] MISO notes that some market parameters may be intrinsically tied to the maximum LMP in the energy market, including transmission constraint demand curves, emergency or scarcity pricing regimes, and some pricing of ancillary services.[119]

41. IRC and New York Transmission Owners state that changing the offer cap could affect natural gas markets.[120] New York Transmission Owners argue that allowing higher offers to set the LMP might increase the price generators will pay for spot natural gas beyond competitive levels since there is no mitigation procedure to test whether resources paid too much for natural gas.[121] IRC states that the Commission should focus on ensuring transparency and flexibility in natural gas markets to

[95] TAPS Comments at 13.

[96] APPA and NRECA Comments at 30–31.

[97] *Id.* at 30–31.

[98] Direct Energy Comments at 2; Exelon Comments at 12; PJM Comments at 3; PJM Power Providers Comments at 3–4; PSEG Companies Comments at 5.

[99] PJM Comments at 2–3.

[100] *Id.* at 4.

[101] PJM Power Providers Comments at 4; PSEG Companies Comments at 6.

[102] APPA and NRECA Comments at 30–32.

[103] TAPS Comments at 13–14.

[104] APPA and NRECA Comments at 32; CAISO Comments at 6–7, NCPA Comments at 2.

[105] CAISO Comments at 4–6.

[106] *Id.* at 6.

[107] TAPS Comments at 14–15.

[108] Direct Energy Comments at 3–4.

[109] Brookfield Comments at 8; Calpine Comments at 5; EEI Comments at 9; EPSA Comments at 21; Exelon Comments at 13–14; IRC Comments at 2; ISO–NE Comments at 6–7; MISO Comments at 8; New York Transmission Owners Comments at 3–4; NYISO Comments at 4; PJM Comments at 4; PJM Power Providers Comments at 5–6; PJM Utilities Coalition Comments at 6; PSEG Companies Comments at 6–7; Potomac Economics Comments at 5; Western Power Trading Forum Comments at 6; Wisconsin Electric Comments at 4.

[110] IRC Comments at 2; PJM Comments at 4; PSEG Companies Comments at 6–7.

[111] ISO–NE Comments at 7; NYISO Comments at 5.

[112] NYISO Comments at 4–5.

[113] MISO Comments at 8.

[114] APPA and NRECA Comments at 29–30; NCPA Comments at 3.

[115] APPA and NRECA Comments at 32.

[116] Direct Energy Comments at 4; PJM Utilities Coalition Comments at 6.

[117] SCE Comments at 2.

[118] CAISO Comments at 5.

[119] MISO Comments at 5.

[120] IRC Comments at 3; New York Transmission Owners Comments at 5.

[121] New York Transmission Owners Comments at 5.

assist RTOs/ISOs with gas price verification and to ameliorate natural gas price spikes.[122]

II. Need for Reform and Commission Proposal

42. In the following section, the Commission first explains the need to reform the current offer caps. The Commission next summarizes the alternative proposals that the Commission considered but declined to adopt. Finally, the Commission describes its proposal and the three requirements that underlie it.

A. Need for Reform

43. As stated above, five of the six Commission-jurisdictional RTOs/ISOs currently have a $1,000/MWh offer cap.[123] As noted previously, PJM currently has a $2,000/MWh offer cap on cost-based incremental energy offers used for purposes of calculating LMPs.[124] When the Commission first accepted these offer caps, the Commission did so, in many instances, as temporary measures until larger market reforms were implemented.[125] The offer caps have persisted, and are now viewed as a component of the market power mitigation measures adopted by RTOs/ISOs.[126] The Commission has reviewed the offer caps and preliminarily finds that the offer caps currently in effect in all RTOs/ISOs are unjust and unreasonable for several reasons.

44. First, the offer cap can prevent a resource from recouping its short-run marginal costs. With the current $1,000/MWh offer cap, a resource whose short-run marginal cost exceeds $1,000/MWh may operate at a loss. For example, in January 2014, resources in PJM faced high natural gas prices that caused their short-run marginal costs to exceed the $1,000/MWh offer cap in place at the time.[127] Similarly, MISO states that high natural gas prices in January and March 2014 caused some MISO resources to experience costs in excess of the $1,000/MWh offer cap.[128]

45. Second, the offer cap can impair price formation because it can result in LMPs that are suppressed below the marginal cost of production. An LMP that is less than the marginal cost of production may not be just and reasonable because it sends an inaccurate signal to load about the actual cost of producing the electricity, and to resources about the value of the next increment of supply. For example, if the marginal resource at a given location has a $1,100/MWh short-run marginal cost but faces a $1,000/MWh cap, that resource's incremental energy offer will be constrained to $1,000/MWh, and as a result, the energy component of LMP will be $100/MWh below the marginal cost of production. In a properly functioning market, the LMP should accurately reflect the costs of serving load and both customers and resources will be aware of that cost through an accurate and transparent price signal.

46. Third, the offer cap may discourage resources from offering their supply to the RTO/ISO when their short-run marginal costs exceed the offer cap, even though market participants may be willing to purchase that supply. For example, a resource may not be subject to a must-offer requirement, and thus be under no obligation to offer its supply to the energy market and therefore simply decide not to offer its supply to the market if its short-run marginal cost exceeds the offer cap. Both PJM and MISO state that an offer cap that prevents cost recovery can reduce the likelihood that resources with short-run marginal costs above the cap will offer their supply to the RTO/ISO.[129]

47. Fourth and finally, if several resources have short-run marginal costs above $1,000/MWh, the $1,000/MWh offer cap requires those resources to submit incremental energy offers equal to $1,000/MWh, even if the resources face different costs. Under this scenario, the $1,000/MWh offer cap will prevent the RTO/ISO from observing the cost differences among these resources and the RTO/ISO will not be able to select the most efficient resources because the resources with costs above $1,000/MWh were not able to submit incremental energy offers consistent with their short-run marginal cost. For these reasons, the Commission preliminarily finds that the current offer caps result in rates that are unjust and unreasonable. In addition, these reasons illustrate that the current offer caps may not achieve the price formation goals discussed above.

48. The Commission considered several alternatives to achieve the price formation goals. On balance, the Commission has preliminarily determined that the alternative that best achieves the price formation goals is to retain the existing $1,000/MWh offer cap except in circumstances when a resource has verifiable short-run marginal costs in excess of $1,000/MWh. The discussion at the technical workshop and subsequent comments received suggest that the $1,000/MWh offer cap is appropriate in most circumstances and serves as an appropriate backstop to the existing market power mitigation rules. However, recent experience also suggests that some resources may face short-run marginal costs greater than $1,000/MWh and, in such infrequent circumstances, the $1,000/MWh offer cap inappropriately limits those resources' incremental energy offers and the resulting LMP. To the extent incremental energy offers can be verified, we believe a generic reform to allow offers and LMPs to exceed $1,000/MWh will enhance market efficiency and mitigate the potential for seams issues.

B. Alternative Offer Cap Proposals Discussed in Comments

49. This section briefly discusses why the Commission has not proposed the other alternative offer cap designs. The Commission is not proposing the alternative that uses uplift payments to compensate resources with costs above the offer cap because, while uplift payments may ensure that a resource recoups its costs, such a proposal would not ensure that LMPs accurately reflect the marginal cost of production—a key goal of the price formation effort.[130]

50. The Commission is not proposing a floating offer cap that would change with natural gas prices. This alternative proposal would be unduly preferential to natural gas-fueled resources and discriminatory towards resources that do not use natural gas as fuel because such a cap would only vary with the cost inputs of resources that use natural gas as fuel. As such, this alternative proposal could prevent a resource that does not use natural gas as a fuel to generate electricity from submitting a legitimate cost-based incremental energy offer if that offer is above the natural gas-based floating cap. Although natural gas fueled resources are currently the most likely resources to have short-run marginal costs above $1,000/MWh, this may not always be

[122] IRC Comments at 3.

[123] *See supra* P 10.

[124] *See supra* P 17.

[125] *See, e.g., Midwest Indep. Transmission Sys. Operator, Inc.,* 108 FERC ¶ 61,163, at PP 380–381, *order on reh'g,* 109 FERC ¶ 61,157 (2004), *order on clarification,* 111 FERC ¶ 61,367 (2005); *N.Y. Indep. Sys. Operator, Inc.,* 97 FERC ¶ 61,095, at 61,496–97 (2001); *ISO New England, Inc.,* 97 FERC ¶ 61,090, at 61,471.

[126] *See supra* PP 23–26.

[127] PJM 2014/15 Offer Cap Order, 150 FERC ¶ 61,020 at P 2.

[128] MISO 2014/15 Offer Cap Order, 150 FERC ¶ 61,083 at P 2.

[129] MISO Comments at 4; PJM Comments at 2.

[130] *Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators,* Notice Inviting Post-Technical Workshop Comments, Docket No. AD14–14–000, at 2 (Jan. 16, 2015).

the case. Furthermore, setting the offer cap for all resources based on the price of natural gas would allow non-natural gas resources to submit offers above $1,000/MWh and below the natural-gas based offer cap with no cost basis for doing so, thereby potentially allowing them to exercise market power when natural gas prices rise but when these resources' costs do not similarly rise.

51. Finally, the Commission is not proposing to raise the offer cap to a higher fixed level. A higher fixed offer cap could still limit a resource's incremental energy offer below its short-run marginal cost and potentially suppress LMPs if that resource's costs rose above the fixed offer cap. Additionally, like the floating offer cap, a higher fixed offer cap could raise market power concerns.

C. Commission Proposal

52. To remedy any potentially unjust and unreasonable rates, the Commission proposes, pursuant to section 206 of the Federal Power Act (FPA),[131] to revise its regulations to require that each RTO/ISO cap a resource's incremental energy offer used for purposes of setting LMPs to the higher of $1,000/MWh or that resource's verified cost-based incremental energy offer. Under the proposal, consistent with Order No. 719[132] and as prescribed in the RTO/ISO tariffs, the Market Monitoring Unit or the RTO/ISO would verify the costs within such a cost-based incremental energy offer before that offer could be used to calculate LMPs. The proposed offer cap would apply to incremental energy offers in both the day-ahead and real-time energy markets. Under the proposal, each RTO/ISO must comply with the following three requirements: an offer cap structure, cost-based incremental energy offer verification, and resource neutrality, discussed in detail below. The Commission would not prescribe the precise manner in which the RTO/ISO must comply with the requirements in implementing the proposal. Each requirement, as established in the proposed regulations, is discussed in turn below.

1. Offer Cap Structure

53. The first proposed requirement is as follows:

A resource's incremental energy offer used for purposes of calculating Locational Marginal Prices in energy markets must be capped at the higher of $1,000/MWh or that resource's cost-based incremental energy offer.

This requirement would ensure that a resource is given the opportunity to recoup its short-run marginal costs during intervals when those costs exceed $1,000/MWh because the resource could include such costs within its cost-based incremental energy offer. Additionally, this requirement would ensure that LMPs are no longer suppressed by the offer cap when marginal production costs exceed $1,000/MWh. This requirement would permit RTOs/ISOs to accept cost-based incremental energy offers above $1,000/MWh and use those offers in the market clearing process that calculates LMPs, but only when such offers are cost-based. Accordingly, all incremental energy offers above $1,000/MWh would be subject to market power mitigation and the attendant requirement that the offer be equal to the short-run marginal cost of the associated resource. Incremental energy offers at or below $1,000/MWh will continue to be subject to existing market power mitigation provisions.

54. The Commission preliminarily finds that it is necessary to permit resources to submit cost-based incremental energy offers above $1,000/MWh, because as PJM and MISO indicated in recent filings, the $1,000/MWh offer cap appears to have limited some resources' incremental energy offers to a level below their short-run marginal cost during intervals with high natural gas prices.[133] In addition, allowing all resources to offer consistent with short-run marginal cost will enhance an RTO/ISO's ability to dispatch the lowest cost resources, particularly when multiple resources have short-run marginal cost greater than $1,000/MWh. Furthermore, allowing a resource to submit a cost-based incremental energy offer above $1,000/MWh would help ensure that resources with short-run marginal costs above $1,000/MWh have an incentive to offer electricity into the market during high price periods, when their electricity may be needed. Allowing LMPs to reflect a given RTO/ISO's marginal cost of production could result in more economic power flows across seams because electricity would flow to where it is most valued.

55. The Commission, however, does not propose to eliminate the $1,000/MWh offer cap entirely because the $1,000/MWh functions as a backstop for existing market power mitigation rules. Several market monitors at the Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop held on October 28, 2014,[134] as well as many commenters[135] noted this function of the offer cap. For example, ISO–NE states that the $1,000/MWh offer cap still serves as a ''fail-safe'' mechanism to protect consumers in the unlikely event that the market is not competitive and market power mitigation fails to assure competitive supply offers.[136] Additionally, ISO–NE, NYISO, and CAISO indicate that the $1,000/MWh offer cap is currently above the short-run marginal cost of resources in those RTOs/ISOs (*i.e.,* the offer cap does not currently force a resource to submit an incremental energy offer below its short-run marginal cost).[137] Under this proposal, verified cost-based incremental energy offers are not capped. The Commission recently approved tariff revisions in PJM that required all incremental energy offers above $1,000/MWh to be cost-based and also placed a $2,000/MWh hard cap on cost-based incremental energy offers used for purposes of calculating LMPs.[138] The Commission seeks comment on whether such a hard cap should be included in any final rule in this proceeding and, if so, whether the hard cap should equal $2,000/MWh or another value.

2. Cost-Based Incremental Energy Offer Verification

56. The second proposed requirement is as follows:

The costs underlying a resource's cost-based incremental energy offer above $1,000/MWh must be verified before that offer can be used for purposes of calculating Locational Marginal Prices. If a resource submits an incremental energy offer above $1,000/MWh and the costs underlying that offer cannot be verified before the market clearing process begins, that resource's incremental energy offer in excess of $1,000/MWh may not be used to calculate Locational Marginal Prices. In such circumstances a resource would be eligible for a make-whole payment if that resource clears the energy market and the resource's costs are verified after-the-fact.

[131] 16 U.S.C. 824e(b).

[132] *Wholesale Competition in Regions with Organized Electric Markets,* Order No. 719, FERC Stats. & Regs. ¶ 31,281, at PP 370–375 (2008), *order on reh'g,* Order No. 719–A, FERC Stats. & Regs. ¶ 31,292 (2009), *order on reh'g,* Order No. 719–B, 129 FERC ¶ 61,252 (2009).

[133] PJM 2015/16 Offer Cap Order, 153 FERC ¶ 61,289, at PP 2–3 (2015); MISO, Transmittal at 4, Docket No. ER16–248–000 (filed Nov. 2, 2015); MISO 2015/16 Offer Cap Order, 154 FERC ¶ 61,006.

[134] Scarcity and Shortage Pricing, Offer Mitigation and Offer Price Caps Workshop, Docket No. AD14–14–000, Tr. 205:11–19, 206:24–207:7, 210:14–211:8, 212:12–213:3 (Oct. 28, 2015).

[135] *See supra* PP 25–26.

[136] ISO–NE Comments at 4.

[137] CAISO Comments at 3; ISO–NE Comments at 3; NYISO Comments at 4.

[138] *See supra* n.36.

This requirement would ensure that the proposal results in LMPs that reflect the marginal cost of production during intervals when the marginal resource's short-run marginal cost exceeds $1,000/MWh.

57. The Commission preliminarily finds that verification of the costs underlying cost-based incremental energy offers above $1,000/MWh is warranted to reduce the potential exercise of market power. Without such verification, a resource may be able to submit an offer above $1,000/MWh not because its costs exceed $1,000/MWh, but rather because it recognizes that its energy is necessary to serve load and that it does not face competition from other resources. Using such an uncompetitive offer to calculate LMPs could result in unjust and unreasonable rates.

58. Under the proposal, the Market Monitoring Unit or the RTO/ISO would be required to verify that each cost-based incremental energy offer above $1,000/MWh is in fact cost-based. The Market Monitoring Unit or the RTO/ISO would verify that a resource's cost-based offer is an accurate reflection of that resource's short-run marginal cost. The Commission notes that for purposes of mitigation, the RTO/ISO tariffs use different terminology to describe the market power mitigation process, short-run marginal costs, and mitigated offers.[139] The Market Monitoring Units in some RTOs/ISOs currently have processes whereby the Market Monitoring Unit or the market participant itself can derive cost-based incremental energy offers that are specific to a given resource.[140] Additionally, ISO–NE and NYISO currently have processes in place where a resource can contact, before the close of the day-ahead or real-time markets, the Market Monitoring Unit to update the resource's cost-based incremental energy offer (*e.g.,* due to a change in fuel prices).[141] These updates are subject to verification by the Market Monitoring Unit.

59. Under the proposal, the Market Monitoring Unit or the RTO/ISO must verify the costs within a cost-based incremental energy offer above $1,000/MWh *before* that offer is used for purposes of calculating LMPs. The Commission seeks comment regarding the Market Monitoring Unit's or the RTO/ISO's ability to timely verify the costs within incremental energy offers above $1,000/MWh prior to the day-ahead or real-time market clearing process, including whether the verification of physical offer components is also necessary. The Commission seeks comment on whether the Market Monitoring Unit or RTO/ISO may need additional information to ensure that all short-run marginal cost components that are difficult to quantify, such as certain opportunity costs, are accurately reflected in a resource's cost-based incremental energy offer. For example, cost-based offers in PJM include a ten percent adder, which may account for such cost components. To the extent that RTOs/ISOs currently include an adder above cost in cost-based incremental energy offers, is such an adder appropriate for incremental energy offers above $1,000/MWh? The Commission also seeks comment on whether the Market Monitoring Unit or RTO/ISO may need additional information or new authority to require revisions or corrections to cost-based incremental energy offers to ensure that a cost-based incremental energy offer is an accurate reflection of a resource's short-run marginal cost.

60. Under this proposal, each RTO/ISO would be required to include in its tariff a process by which the Market Monitoring Unit or RTO/ISO verifies the costs included in cost-based incremental energy offers above $1,000/MWh. To create such a verification process, the Commission expects that the Market Monitoring Unit or RTO/ISO would build on its existing mitigation processes for calculating or updating cost-based incremental energy offers. The Commission notes that the nature of before-the-fact and after-the-fact cost verification processes often differ. The Commission expects that a market participant that seeks to submit a cost-based incremental energy offer above $1,000/MWh must provide appropriate documentation to the Market Monitoring Unit or the RTO/ISO. The Market Monitoring Unit or RTO/ISO should then have a before-the-fact verification process that would allow for timely cost verification such that an offer submitted in a reasonable period of time could be used for purposes of calculating LMPs. As noted already, the Commission emphasizes that this before-the-fact verification should build upon existing procedures.

61. Currently, RTOs/ISOs use different processes to develop and update offers for mitigation purposes. Under this proposal, the Commission would not require RTOs/ISOs to adopt the same approach to implement the cost-based incremental energy offer verification requirement.

62. RTOs/ISOs also differ in how they define the components of cost-based incremental energy offers for purposes of mitigation.[142] Each RTO/ISO has tariff provisions that set out the elements of a resource's short-run marginal cost for purposes of mitigation.[143] The Commission expects each RTO/ISO to use the elements set forth in its tariff provisions for purposes of determining a resource's cost-based incremental energy offer. Thus, the Commission is not proposing to define the elements of a short-run marginal cost as part of this proceeding.

63. Given that the verification process for cost-based incremental energy offers is intended to build on an RTO/ISO's existing mitigation processes, as proposed, external RTO/ISO resources (*i.e.,* imports) would not be eligible to submit cost-based incremental energy offers above $1,000/MWh because RTO/ISO processes to develop cost-based incremental energy offers for mitigation purposes typically apply to internal resources alone. However, the Commission would consider RTO/ISO proposals to develop cost-based incremental energy offers for external transactions in their respective compliance filings for any final rule in this proceeding.[144] The Commission seeks comments on whether the offer cap proposal should apply to imports and whether a cost verification process for import transactions is feasible.

64. The Commission preliminarily finds that, as financial instruments, virtual transactions have no short-run marginal production costs and, thus, could not provide a cost-basis for a virtual transaction above $1,000/MWh. Accordingly, virtual transactions in RTOs/ISOs which currently limit virtual transaction bid/offer caps to existing incremental energy offer caps, could not exceed $1,000/MWh under the proposal.[145] The Commission seeks

[139] *See supra* n.16.

[140] *Id.*

[141] ISO–NE, Markets and Services Tariff, Market Rule 1, III.A.3.1 (43.0.0); NYISO, NYISO Tariffs, NYISO Markets and Services Tariff, 23.3.1.4.6.7 (11.0.0). Resources in SPP may also contact the Market Monitoring Unit during the operating day and request a mitigation exception pursuant to SPP, OATT, Sixth Revised Volume No. 1, Attachment AF, 3.8 (7.0.0). Additionally, in MISO resources may consult with the Market Monitoring Unit to change reference levels as soon as practicable. MISO, FERC Electric Tariff, 64.1.4.h (30.0.0).

[142] For example, CAISO and PJM mitigate resources to cost-based offers that include a ten percent adder, while the standard cost-based offers in MISO, ISO–NE, and NYISO do not include an adder above cost.

[143] *See supra* n.16

[144] Any proposal to develop cost-based incremental energy offers for external transactions could address external resources generically or address certain scheduling practices (*e.g.,* dynamic or pseudo tie schedules).

[145] To the extent they currently exist, this proposal would not affect existing RTO/ISO tariff provisions that permit virtual transactions to exceed $1,000/MWh.

comment on whether prohibiting virtual transactions above $1,000/MWh could limit hedging opportunities, present opportunities for manipulation or gaming, create market inefficiencies, or have other undesirable consequences. Additionally, the Commission seeks comment on alternatives which would allow virtual increment offers and decrement bids to be submitted and cleared at prices above $1,000/MWh.[146]

65. The cost-based incremental energy offer verification requirement also ensures that a resource with short-run marginal costs above $1,000/MWh recoups its costs in the event that the Market Monitoring Unit or RTO/ISO cannot verify that resource's costs prior to the market clearing process. The Commission emphasizes that RTOs/ISOs would be expected to adopt a verification process that allows timely submitted and appropriately documented cost-based incremental energy offers to be used to calculate LMPs; compensating resources through make-whole payments should be treated only as a backstop. Under this proposal, the RTO/ISO would adopt a procedure to include the offer, modified as discussed below, in its market clearing process. Accordingly, if such an offer clears the energy market, that resource may be entitled to a make-whole payment if the Market Monitoring Unit or RTO/ISO can verify after-the-fact that the resource's short-run marginal cost was above $1,000/MWh. The basis of the make-whole payment would be the difference between a given resource's energy market revenues and that resource's total offer costs, including the cost-based incremental energy offer.[147]

66. The Commission's proposal would permit regional variation in the process for treating incremental energy offers above $1,000/MWh that the Market Monitoring Unit or RTO/ISO cannot verify prior to the start of the market clearing process. For example, the RTO/ISO could have procedures to change the incremental energy offer to $1,000/MWh and to mitigate that offer further to a level below $1,000/MWh pursuant to other applicable market power mitigation provisions. The Commission continues to find that regional variation is acceptable here because incremental energy offers are currently subject to the existing RTO/ISO mitigation procedures that vary across RTOs/ISOs to appropriately account for regional differences. Further, RTO/ISO mitigation procedures only affect resources within the RTO/ISO. However, as discussed below, the offer cap also affects inter-regional trading such that generic action is required to avoid exacerbating seams.

67. Existing Commission regulations, as described below, already create a framework that ensures cost-based incremental energy offers submitted as part of a supply offer are based on legitimate costs.[148] In existing mitigation processes, a resource must submit accurate cost information to the market monitor. In submitting a cost-based incremental energy offer above $1,000/MWh, a resource that misrepresents its costs would be in violation of the Commission's regulations requiring accurate statements. Section 35.41(b) of the Commission's regulations requires market participants to provide ''accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors . . . [or] Commission-approved independent system operators.'' [149] Additionally, a resource that intentionally misrepresents its costs could violate the Commission's Anti-Manipulation Rule. That rule prohibits a market participant from intentionally making ''any untrue statement of a material fact or to omit[ting] to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.'' [150] Thus, any resource that misrepresents its costs may be in violation of the Commission's regulations, even if its offer does not clear the day-ahead or real-time energy market.

68. Some commenters express concern that verification of cost-based incremental energy offers prior to the market clearing process may require RTOs/ISOs to re-run the market if the Market Monitoring Unit or RTO/ISO initially accepts a cost-based incremental energy offer above $1,000/MWh and subsequently determines through an after-the-fact review that the offer that established the LMP was not in fact cost-based.[151] The Commission preliminarily finds that the verification requirement in this proposal addresses this concern because cost-based incremental energy offers above $1,000/MWh should result in LMPs that are appropriate because they will accurately reflect the marginal cost of production. Accordingly, such LMPs will not require recalculation after-the-fact.

3. Resource Neutrality

69. The third proposed requirement is as follows:

All resources, regardless of type, are eligible to submit cost-based incremental energy offers in excess of $1,000/MWh.

This requirement would ensure that the eligibility to submit cost-based incremental energy offers in excess of $1,000/MWh would not be applied in an unduly discriminatory or unduly preferential manner. During the Polar Vortex, natural gas prices reached levels that caused the short-run marginal cost of natural gas-fueled resources that purchased gas on the natural gas spot market to exceed $1,000/MWh. However, limiting the opportunity to submit cost-based incremental energy offers in excess of $1,000/MWh to a particular resource type, such as natural-gas fueled resources, would be unduly preferential to those resources.[152] Even though natural gas resources are currently most likely to have cost-based incremental energy offers above $1,000/MWh, market conditions may change causing other resource types to have short-run marginal costs above $1,000/MWh. Accordingly, the Commission proposes that all resource types be eligible to submit a cost-based incremental energy offer above $1,000/MWh. The resource neutrality requirement is consistent with prior Commission orders related to the offer cap in PJM and MISO.[153]

4. Seams Issues

70. The Commission proposes to make a generic change to the offer cap applicable to all RTOs/ISOs through a rulemaking to avoid exacerbating seams issues. Seams issues could arise if one RTO/ISO has an offer cap that materially differed from a neighboring

[146] The Commission found it just and reasonable for virtual increment offers and decrement bids in PJM to clear up to $2,700/MWh, equal to the newly established energy and reserve market aggregate price cap. *PJM Interconnection, L.L.C.,* 139 FERC ¶ 61,057, at PP 123–143 (2012).

[147] Under this proposal, any make-whole payments associated with such an after-the-fact cost verification would not be duplicative or overcompensate a resource for the costs included in its energy supply offer.

[148] Several RTOs/ISOs also rely on procedures to temporarily strip resources of the opportunity to make fuel price related adjustments to their reference levels in the event after-the-fact verification processes fail to confirm the need for the reference level update. *See* ISO–NE., Transmission Markets and Services Tariff, Market Rule 1, III.A.3.4(c) (43.0.0); NYISO, NYISO Tariffs, NYISO Markets and Services Tariff, 23.3.1.4.6.8 (11.0.0).

[149] 18 CFR 35.41(b) (2015).

[150] 18 CFR 1c.2(a)(2) (2015).

[151] CAISO Comments at 6–7.

[152] PJM 2014/15 Offer Cap Order, 150 FERC ¶ 61,020 at P 39.

[153] *See* MISO 2014/15 Offer Cap Order, 150 FERC ¶ 61,083 at P 16; PJM 2014/15 Offer Cap Order, 150 FERC ¶ 61,020 at P 39; PJM 2015/16 Offer Cap Order, 153 FERC ¶ 61,289; MISO 2015/16 Offer Cap Order, 154 FERC ¶ 61,006.

RTO/ISO's offer cap. For example, NYISO states that offer caps that are materially different in neighboring RTOs/ISOs that rely on the same natural gas market could require out-of-market operator actions to avoid reliability concerns.[154] ISO–NE and NYISO also note that different offer caps in neighboring RTOs/ISOs could result in flows that depend on the level of the two offer caps as opposed to economics or reliability needs.[155] The Commission also has indicated in prior orders approving temporary waivers or tariff changes related to MISO and PJM's respective offer caps that the Commission would address seams issues related to the offer cap beyond the winter of 2014/15 in the price formation proceeding.[156] Therefore, this proposal would revise the market rules in all RTOs/ISOs in a similar manner to ensure that market prices accurately reflect the marginal cost of production.

71. Some commenters have expressed concern that different offer caps in neighboring markets could create seams issues. The Commission acknowledges that the instant proposal could result in neighboring markets having different effective offer caps in a given interval because the marginal cost of production in one RTO/ISO may differ from other neighboring markets due to different resources with different short-run marginal costs being on the margin. Nonetheless, the Commission believes these differences will not adversely affect seams because these differences would be driven by actual costs and not by offer caps artificially suppressing LMPs. Therefore, the associated differences in LMPs will encourage efficient interchange transactions. The Commission seeks comment on this preliminary finding and other seams issues related to this proposal.

5. Other Considerations

72. In several RTO/ISOs, factors affecting LMPs and other market outcomes depend on the offer cap. For example, CAISO's shortage pricing and penalty factors that apply when transmission constraints are relaxed are based on the $1,000/MWh offer cap.[157] Such relationships may have to be revised because they may require that the value of the offer cap be known prior to the market clearing process. Under this proposal, the ultimate value of the offer cap may not be known in advance in periods when marginal production costs exceed $1,000/MWh. Accordingly, given this proposal, RTOs/ISOs may wish to revise certain market features that relate to or are affected by the offer cap. RTOs/ISOs and their stakeholders may also wish to consider additional tariff revisions, such as changes to scarcity or shortage pricing, raising or removing caps on price-sensitive demand bids, and other means by which load can express its willingness to pay for electricity. Although they are not required to do so, the Commission would consider other market design changes, such as changes to scarcity or shortage pricing or other penalty prices, associated with adopting this proposal in the compliance filing.

6. Comments Sought on This Proposal

73. The Commission seeks comment on its proposal as described herein. Specifically, the Commission seeks comment on the following items: (1) Whether a hard cap on cost-based incremental energy offers used for purposes of calculating LMPs should be included in any final rule in this proceeding and, if so, whether the hard cap should equal $2,000/MWh or another value; (2) the ability to timely verify the costs within incremental energy offers above $1,000/MWh prior to the day-ahead or real-time market clearing process, including whether the verification of physical offer components is also necessary; (3) whether the Market Monitoring Unit or RTO/ISO may need additional information to ensure that all short-run marginal cost components that are difficult to quantify, such as certain opportunity costs, are accurately reflected in a resource's cost-based incremental energy offer and to the extent that RTOs/ISOs currently include an adder above cost in cost-based incremental energy offers, whether such an adder is appropriate for incremental energy offers above $1,000/MWh; (4) whether the Market Monitoring Unit or RTO/ISO may need additional information or new authority to require revisions or corrections to a cost-based incremental energy offer to ensure that a resource's cost-based incremental energy offer is an accurate reflection of that resource's short-run marginal cost; (5) whether the proposal should apply to imports and whether a cost verification process for import transactions is feasible; (6) whether excluding virtual transactions above $1,000/MWh could limit hedging opportunities, present opportunities for manipulation or gaming, create market inefficiencies, or have other undesirable consequences, and whether alternatives exist which would allow virtual increment offers and decrement bids to be submitted and cleared at prices above $1,000/MWh; and (7) the impact the proposal would have on seams. Comments must be submitted within sixty (60) days of publication of this NOPR in the **Federal Register.**

III. Compliance

74. The Commission proposes to require that each RTO/ISO submit a compliance filing no later than four months from the effective date of the final rule in this proceeding to demonstrate that it meets the proposed requirements set forth in the final rule. The Commission will accept RTO/ISO proposals that satisfy the three requirements described above and notes that proposals may vary regionally based on the existing RTO/ISO tariff provisions that are used to develop cost-based incremental energy offers and to implement market power mitigation provisions that are to be used as a basis for implementing this proposal. As noted previously, the Commission is also willing to consider proposed revisions to other market design features that may require revision in light of this proposal, such as changes to scarcity or shortage pricing or other market parameters.

75. To the extent that any RTO/ISO believes that it already complies with the reforms adopted in a final rule in this proceeding, the RTO/ISO would be required to demonstrate, in the compliance filing, how it complies.

IV. Information Collection Statement

76. The Paperwork Reduction Act (PRA)[158] requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability. OMB's regulations,[159] in turn, require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collection(s) of information unless the collection(s) of information display a valid OMB control number.

77. The reforms proposed in this NOPR would amend the Commission's regulations to improve the operation of organized wholesale electric power

[154] NYISO Comments at 4–5.

[155] ISO–NE Comments at 7; NYISO Comments at 5.

[156] *See* PJM 2014/15 Offer Cap Order, 150 FERC ¶ 61,020 at P 42; MISO 2014/15 Offer Cap Order, 150 FERC ¶ 61,083 at P 19.

[157] CAISO Comments at 8.

[158] 44 U.S.C. 3501–3520.

[159] 5 CFR 1320 (2015).

markets operated by RTOs/ISOs. The Commission proposes to require that each RTO/ISO cap a resource's incremental energy offer used for purposes of calculating LMPs in energy markets to the higher of $1,000/MWh or that resource's cost-based incremental energy offer, as verified by the Market Monitoring Unit or the RTO/ISO. The reforms proposed in this NOPR would require one-time filings of tariffs with the Commission and potential software upgrades to implement the reforms proposed in this NOPR. The Commission anticipates the reforms proposed in this NOPR, once implemented, would not significantly change currently existing burdens on an ongoing basis. With regard to those RTOs/ISOs that believe that they already comply with the reforms proposed in this NOPR, they could demonstrate their compliance in the compliance filing required four months after the effective date of the final rule in this proceeding. The Commission will submit the proposed reporting requirements to OMB for its review and approval under section 3507(d) of the Paperwork Reduction Act.[160]

78. While the Commission expects the adoption of the reforms proposed in this NOPR to provide significant benefits, the Commission understands implementation can be a complex endeavor. The Commission solicits comments on the accuracy of provided burden and cost estimates and any suggested methods for minimizing the respondents' burdens, including the use of automated information techniques. Specifically, the Commission seeks detailed comments on the potential cost and time necessary to implement aspects of the reforms proposed in this NOPR, including (1) software and business processes changes, including market power mitigation; (2) increased time spent validating cost-based incremental energy offers; and (3) processes for RTOs/ISOs to vet proposed changes amongst their stakeholders.

Burden Estimate and Information Collection Costs: The Commission believes that the burden estimates below are representative of the average burden on respondents, including necessary communications with stakeholders. The estimated burden and cost for the requirements contained in this NOPR follow.[161]

SOFTWARE OR HARDWARE UPGRADES MAY NOT BE REQUIRED

[FERC–516, as modified by NOPR in Docket RM16–5–000]

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden (hours) & cost per response	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) × (2) = (3)	(4)	(3) × (4) = (5)	(5) ÷ (1)
One-Time Tariff Filings (Year 1).	6	1	6	500 hrs.; $36,000 [163]	3,000 hrs.; $216,000	$36,000

The Commission notes that these cost estimates below do not include costs for software or hardware or for increased time spent validating cost-based incremental energy offers above $1,000/MWh.[162]

Cost to Comply: The Commission has projected the total cost of compliance, all within four months of a Final Rule plus initial implementation, to be $216,000. After Year 1, the reforms proposed in this NOPR, once implemented, would not significantly change existing burdens on an ongoing basis.

The Commission notes that these estimates do not include costs for software or hardware. Software or hardware upgrades may not be required.

Title: FERC–516, Electric Rate Schedules and Tariff Filings.

Action: Proposed revisions to an information collection.

OMB Control No. 1902–0096.

Respondents for this Rulemaking: RTOs/ISOs.

Frequency of Information: One-time during.

Necessity of Information: The Federal Energy Regulatory Commission proposes this rule to improve competitive wholesale electric markets in the RTO/ISO regions.

Internal Review: The Commission has reviewed the proposed changes and has determined that such changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has specific, objective support for the burden estimates associated with the information collection requirements.

79. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director], email: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873. Comments concerning the collection of information and the associated burden estimate(s), may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–0710, fax (202) 395–7285]. Due to security concerns, comments should be sent electronically to the following email address: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include FERC–516 and OMB Control No. 1902–0096.

[160] 44 U.S.C. 3507(d).

[161] The RTOs and ISOs (CAISO, ISO–NE., MISO, NYISO, PJM, and SPP) are required to comply with the reforms proposed in this NOPR.

[162] The Commission expects that the validation of cost-based incremental energy offers above $1,000/MWh would be an infrequent occurrence. To the extent that the Market Monitoring Unit or the RTO/ISO spends time validating these offers, the Commission estimates such time to be de minimis.

V. Regulatory Flexibility Act Certification

80. The Regulatory Flexibility Act of 1980 (RFA) [164] generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. The RFA does not mandate any particular outcome in a rulemaking. It only requires consideration of alternatives that are less burdensome to small entities and an agency explanation of why alternatives were rejected.

81. This rule would apply to six RTOs/ISOs (all of which are transmission organizations). The average estimated annual cost to each of the RTOs/ISOs is $36,000, all in Year 1. This one-time cost of filing and implementing these changes is not significant.[165] Additionally, the RTOs/ISOs are not small entities, as defined by the RFA.[166] This is because the relevant threshold between small and large entities is 500 employees and the Commission understands that each RTO/ISO has more than 500 employees. Furthermore, because of their pivotal roles in wholesale electric power markets in their regions, none of the RTOs/ISOs meet the last criterion of the two-part RFA definition a small entity: ''not dominant in its field of operation.'' As a result, the Commission certifies that the reforms proposed in this NOPR would not have a significant economic impact on a substantial number of small entities. The Commission does not expect other entities to incur compliance costs as a result of the reforms proposed in this NOPR, but seeks detailed comments on whether other entities, such as load-serving entities, would incur costs as a result of the reforms proposed in this NOPR.

VI. Environmental Analysis

82. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[167] The Commission concludes that neither an Environmental Assessment nor an Environmental Impact Statement is required for this NOPR under section 380.4(a)(15) of the Commission's regulations, which provides a categorical exemption for approval of actions under sections 205 and 206 of the FPA relating to the filing of schedules containing all rates and charges for the transmission or sale of electric energy subject to the Commission's jurisdiction, plus the classification, practices, contracts and regulations that affect rates, charges, classifications, and services.[168]

VII. Comment Procedures

83. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due April 4, 2016. Comments must refer to Docket No. RM16–5–000, and must include the commenter's name, the organization they represent, if applicable, and their address.

84. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

85. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

86. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VIII. Document Availability

87. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

88. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number of this document, excluding the last three digits, in the docket number field.

89. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Non-discriminatory open access transmission tariffs.

By direction of the Commission.

Issued: January 21, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend part 35, chapter I, title 18, *Code of Federal Regulations,* as follows:

[163] The estimated hourly cost (salary plus benefits) provided in this section are based on the salary figures for May 2014 posted by the Bureau of Labor Statistics for the Utilities sector (*available at http://www.bls.gov/oes/current/naics2_22.htm#13–0000*) and scaled to reflect benefits using the relative importance of employer costs in employee compensation from March 2015 (*available at http://www.bls.gov/news.release/ecec.nr0.htm*). The hourly estimates for salary plus benefits are:

- Legal (code 23–0000), $129.87
- Computer and mathematical (code 15–0000), $58.25
- Information systems manager (code 11–3021), $94.55
- IT security analyst (code 15–1122), $63.55
- Auditing and accounting (code 13–2011), $51.11
- Information and record clerk (code 43–4199), $37.50
- Electrical Engineer (code 17–2071), $66.45
- Economist (code 19–3011), $73.04
- Management (code 11–0000), $78.04

The average hourly cost (salary plus benefits), weighting all of these skill sets evenly, is $72.48. The Commission rounds it to $72 per hour.

[164] 5 U.S.C. 601–12.

[165] This estimate does not include costs for software or increased time spent validating cost-based incremental energy offers, for which the Commission requests comment. As stated above, the Commission expects that the validation of cost-based incremental energy offers above $1,000/MWh would be an infrequent occurrence. To the extent that the Market Monitoring Unit or the RTO/ISO spends time validating these offers, the Commission expects such time to be de minimis.

[166] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act, which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. The Small Business Administrations' regulations at 13 CFR 121.201 define the threshold for a small Electric Bulk Power Transmission and Control entity (NAICS code 221121) to be 500 employees.

[167] *Regulations Implementing the National Environmental Policy Act of 1989,* Order No. 486, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[168] 18 CFR 380.4(a)(15) (2015).

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Amend § 35.28 by adding paragraph (g)(9) to read as follows:

§ 35.28 Non-discriminatory open access transmission tariff.

* * * * *

(g) * * *

(9) *Incremental energy offer caps.* A resource's incremental energy offer used for purposes of calculating Locational Marginal Prices in energy markets must be capped at the higher of $1,000/MWh or that resource's cost-based incremental energy offer. The costs underlying a resource's cost-based incremental energy offer above $1,000/MWh must be verified before that offer can be used for purposes of calculating Locational Marginal Prices. If a resource submits an incremental energy offer above $1,000/MWh and the costs underlying that offer cannot be verified before the market clearing process begins, that resource's incremental energy offer in excess of $1,000/MWh may not be used to calculate Locational Marginal Prices. In such circumstances a resource would be eligible for a make-whole payment if that resource clears the energy market and the resource's costs are verified after-the-fact. All resources, regardless of type, are eligible to submit cost-based incremental energy offers in excess of $1,000/MWh.

The following appendix will not appear in the Code of Federal Regulations.

Appendix A: List of Short Names/Acronyms of Commenters

Short name/acronym	Commenter
APPA and NRECA	American Public Power Association and National Rural Electric Cooperative Association.
ANGA	America's Natural Gas Alliance.
Brookfield	Brookfield Renewable Energy Marketing LP.
California State Water Project	California Department of Water Resources State Water Project.
CAISO	California Independent System Operator Corporation.
Calpine	Calpine Corporation.
Direct Energy	Direct Energy Business Marketing, LLC, Direct Energy Business, LLC and affiliated companies.
EEI	Edison Electric Institute.
EPSA	Electric Power Supply Association.
ELCON	Electricity Consumers Resource Council.
Entergy Nuclear Power Marketing	Entergy Nuclear Power Marketing, LLC.
Exelon	Exelon Corporation.
GDF SUEZ	GDF SUEZ North America, Inc.
ISO–NE	ISO New England, Inc.
IRC	ISO/RTO Council.
MISO	Midcontinent Independent System Operator, Inc.
NYISO	New York Independent System Operator, Inc.
New York Transmission Owners	New York Transmission Owners (Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Power Supply of Long Island, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation).
NCPA	Northern California Power Agency.
OMS	Organization of MISO States.
PG&E	Pacific Gas and Electric Company.
PJM	PJM Interconnection, L.L.C.
PJM Power Providers	PJM Power Providers Group.
PJM Utilities Coalition	PJM Utilities Coalition (American Electric Power Service Corporation, the Dayton Power and Light Company, FirstEnergy Service Company, Buckeye Power, Inc., and East Kentucky Power Cooperative).
Potomac Economics	Potomac Economics, Ltd.
Powerex	Powerex Corp.
PSEG Companies	PSEG Companies (Public Service Electric and Gas Company, PSEG Power LLC and PSEG Energy Resources & Trade LLC).
SCE	Southern California Edison Company.
SPP	Southwest Power Pool, Inc.
TAPS	Transmission Access Policy Study Group.
Western Power Trading Forum	Western Power Trading Forum.
Wisconsin Electric	Wisconsin Electric Power Company.
Xcel	Xcel Energy Services Inc.

[FR Doc. 2016–01813 Filed 2–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–100861–15]

RIN 1545–BM56

Allocation of Creditable Foreign Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section in this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance relating to the allocation by a partnership of foreign income taxes. Those temporary regulations are necessary to improve the operation of an existing safe harbor rule that is used for determining whether allocations of creditable foreign tax expenditures are deemed to be in accordance with the partners' interests in the partnership. The text of those temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations.

DATES: Comments and requests for a public hearing must be received by May 4, 2016.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–100861–15), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–100861–15), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, or sent electronically, via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–100861–15).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Suzanne M. Walsh, (202) 317–4908; concerning submissions of comments, Oluwafunmilayo Taylor, (202) 317–5179 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Income Tax Regulations (26 CFR part 1) which provide guidance relating to the allocation by a partnership of foreign income taxes. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations. The regulations affect partnerships and their partners.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under **ADDRESSES**. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Suzanne M. Walsh of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

■ Par. 2. Section 1.704–1 is amended as follows:

■ 1. In paragraph (b)(0):

■ i. Add an entry for § 1.704–1(b)(1)(ii)(*b*)(*1*).

■ ii. Revise the entries for (b)(4)(viii)(*c*)(*1*) through (*4*) and (b)(4)(viii)(*d*)(*1*).

■ 2. Revise paragraphs (b)(1)(ii)(*b*)(*1*), (b)(1)(ii)(*b*)(*3*)(*B*), (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(c)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), (b)(4)(viii)(*d*)(*1*), and *Example 25* of paragraph (b)(5).

■ 3. Add *Examples 36* and *37* to paragraph (b)(5).

The revisions read as follows:

§ 1.704–1 Partner's distributive share.

* * * * *

(b) * * *

(0) [The text of the proposed amendments to § 1.704–1(b)(0) is the same as the text of § 1.704–1T(b)(0) published elsewhere in this issue of the **Federal Register**.]

(1) * * *

(ii) * * *

(*b*) *Rules relating to foreign tax expenditures.* (*1*) [The text of the proposed amendments to § 1.704–1(b)(1)(ii)(*b*)(*1*) is the same as the text of § 1.704–1T(b)(1)(ii)(*b*)(*1*) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(*3*) * * *

(*B*) [The text of the proposed amendments to § 1.704–1(b)(1)(ii)(*b*)(*3*)(*B*) is the same as the text of § 1.704–1T(b)(1)(ii)(*b*)(*3*)(*B*) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(4) * * *

(viii) * * *

(*a*) * * *

(*1*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*a*)(*1*) is the same as the text of § 1.704–1T(b)(4)(viii)(*a*)(*1*) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(*c*) *Income to which CFTEs relate.* (*1*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*c*)(*1*) is the same as the text of § 1.704–1T(b)(4)(viii)(*c*)(*1*) published elsewhere in this issue of the **Federal Register**.]

(*2*) * * *

(*ii*) [The text of the proposed amendments to § 1.704–

1(b)(4)(viii)(*c*)(*2*)(*ii*) is the same as the text of § 1.704–1T(b)(4)(viii)(*c*)(*2*)(*ii*) published elsewhere in this issue of the **Federal Register**.]

(*iii*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*c*)(*2*)(*iii*) is the same as the text of § 1.704–1T(b)(4)(viii)(*c*)(*2*)(*iii*) published elsewhere in this issue of the **Federal Register**.]

(*3*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*c*)(*3*) is the same as the text of § 1.704–1T(b)(4)(viii)(*c*)(*3*) published elsewhere in this issue of the **Federal Register**.]

(*4*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*c*)(*4*) is the same as the text of § 1.704–1T(b)(4)(viii)(*c*)(*4*) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(*d*) *Allocation and apportionment of CFTEs to CFTE categories.* (*1*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*d*)(*1*) is the same as the text of § 1.704–1T(b)(4)(viii)(*d*)(*1*) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(5) * * *

Example 25. [The text of the proposed amendments to § 1.704–1(b)(5) *Example 24* is the same as the text of § 1.704–1T(b)(5) *Example 25* published elsewhere in this issue of the **Federal Register**.]

* * * * *

Example 36. [The text of the proposed amendments to § 1.704–1(b)(5) *Example 36* is the same as the text of § 1.704–1T(b)(5) *Example 36* published elsewhere in this issue of the **Federal Register**.]

Example 37. [The text of the proposed amendments to § 1.704–1(b)(5) *Example 37* is the same as the text of § 1.704–1T(b)(5) *Example 37* published elsewhere in this issue of the **Federal Register**.]

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016–01948 Filed 2–3–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2015–1108]

RIN 1625–AA08

Special Local Regulation, Daytona Beach Grand Prix of the Seas; Atlantic Ocean, Daytona Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a special local regulation on the waters of the Atlantic Ocean east of Daytona Beach, Florida during the Daytona Beach Grand Prix of the Seas, a series of high-speed personal watercraft boat races. This action is necessary to provide for the safety of life on the navigable waters surrounding the event. This special local regulation will be enforced daily 8 a.m. to 5 p.m., from April 22 through April 24, 2016. This proposed rulemaking would prohibit persons and vessels from being in the regulated area unless authorized by the Captain of the Port (COTP) Jacksonville or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before March 7, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2015–1108 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Allan Storm, Sector Jacksonville, Waterways Management Division, U.S. Coast Guard; telephone (904) 564–7563, email *Allan.H.Storm@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On December 7, 2015, Powerboat P1–USA, LLC notified the Coast Guard that it will be conducting a series of high speed boat races in the Atlantic Ocean, offshore from Daytona Beach, FL from April 22 through 24, 2016. The COTP Jacksonville has determined that the potential hazards associated with the high speed boat races necessitate the establishment of a special local regulation.

The purpose of this rulemaking is to ensure the safety of life on the navigable waters of the United States by prohibiting all vessels and persons not participating in the event from entering the regulated area. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1233.

III. Discussion of Proposed Rule

The COTP proposes to establish a special local regulation for the Daytona Beach Grand Prix of the Seas, a series of high-speed personal watercraft boat races. The regulated area includes the waters of the Atlantic Ocean offshore from Daytona Beach, Florida and will be enforced daily 8 a.m. to 5 p.m., from April 22 through April 24, 2016. Approximately 90 high-speed personal watercraft are anticipated to participate in the races. The regulated area would encompass an approximated offshore area that is 1,350 yards wide that extends from 600 yards south of the Daytona Beach pier to 1,900 yards north of the pier. No vessel or person would be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly,

the NPRM has not been reviewed by the Office of Management and Budget.

The Coast Guard has determined that this NPRM is not a significant regulatory action for the following reasons: (1) the special local regulation would be enforced for a total of only 27 hours over the course of three days; (2) although persons and vessels would not be able to enter, transit through, anchor in, or remain within the regulated area without authorization from the COTP Jacksonville or a designated representative, they would be able to operate in the surrounding area during the enforcement period; (3) persons and vessels would still be able to enter, transit through, anchor in, or remain within the regulated if authorized by the COTP Jacksonville or a designated representative; and (4) the Coast Guard would provide advance notification of the special local regulation to the local maritime community via Broadcast Notice to Mariners or by on-scene designated representative.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation that would prohibit persons and vessels from transiting through a 2,500 yard by 1,350 yard regulated area during a three day racing event lasting nine hours daily. Normally such actions are categorically excluded from further review under paragraph 34(h) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary environmental analysis checklist and 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.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

2005, issue of the **Federal Register** (70 FR 15086).

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.35T07–1108 to read as follows:

§ 100.35T07–1108 Special Local Regulation, Daytona Beach Grand Prix of the Seas; Atlantic Ocean, Daytona Beach, FL.

(a) *Regulated Area.* The following regulated area is a special local regulation located offshore from Daytona Beach, FL. All waters of the Atlantic Ocean encompassed within the following points: Starting at Point 1 in position 29°14.580′ N., 081°00.820′ W., thence northeast to Point 2 in position 29°14.783′ N., 081°00.101′ W., thence southeast to Point 3 in position 29°13.646′ N., 081°59.549′ W., thence southwest to Point 4 in position 29°13.434′ N., 081°00.224′ W., thence northwest back to origin. These coordinates are based on North American Datum 1983.

(b) *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 (COTP) Jacksonville in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the COTP Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the COTP Jacksonville by telephone at 904–564–7511, or a designated representative via VHF–FM radio on channel 16 to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Jacksonville or designated representative.

(3) The Coast Guard will provide notice of the regulated area through Broadcast Notice to Mariners via VHF–FM channel 16 or by on-scene designated representatives.

(d) *Enforcement Period.* This section will be enforced daily 8 a.m. to 5 p.m. from April 22 through April 24, 2016.

Dated: January 25, 2016.

J.F. Dixon,

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

[FR Doc. 2016–02097 Filed 2–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED–2015–OESE–0130]

Negotiated Rulemaking Committee; Negotiator Nominations and Schedule of Committee Meetings

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Intent to establish a negotiated rulemaking committee.

SUMMARY: We announce our intention to establish a negotiated rulemaking committee prior to publishing proposed regulations to implement part A of title I, Improving Basic Programs Operated by Local Educational Agencies, of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). The negotiating committee will include representatives of constituencies that are significantly affected by the topics proposed for negotiations, including Federal, State, and local education administrators, tribal leadership, parents and students, including historically underrepresented students, teachers, principals, other school leaders (including charter school leaders), paraprofessionals, members of State and local boards of education, the civil rights community, including representatives of students with disabilities, English learners, and other historically underserved students, and the business community. We request nominations for individual negotiators who represent key stakeholder constituencies for the issues to be negotiated to serve on the committee, and we set a schedule for committee meetings.

DATES: We must receive your nominations for negotiators to serve on the committee on or before February 25, 2016. The dates, times, and locations of the committee meetings are set out in the *Schedule for Negotiations* section in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: Submit your nominations for negotiators to James Butler, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W246, Washington, DC 20202. Telephone (202) 260–9737 or by email: *OESE.ESSA.nominations@ed.gov.*

FOR FURTHER INFORMATION CONTACT: James Butler, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W246, Washington, DC 20202. Telephone (202) 260–9737 or by email: *OESE.ESSA.nominations@ed.gov.*

If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2015, the President signed into law the ESSA, amending the ESEA. Among other things, the ESSA reauthorizes, for a four-year period, programs under title I of the ESEA, which are designed to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.

On December 22, 2015, we published a request for information and notice of meetings (RFI) in the **Federal Register** (80 FR 79528), seeking advice and recommendations on regulatory issues under title I of the ESEA, and providing notice of regional meetings at which stakeholders were able to provide such advice and recommendations. Those meetings were held on January 11, 2016, in Washington, DC, and on January 19, 2016, in Los Angeles, California. The Department will post transcripts from the hearings on its Web site at *http://www2.ed.gov/policy/elsec/leg/essa/index.html* as soon as they are available.

In response to the RFI, the Department received written comments from more than 370 individuals and organizations. Those written comments may be viewed through the Federal eRulemaking Portal at *www.regulations.gov.* Instructions for finding comments are available on the site under ''How to Use

Regulations.gov'' in the Help section. Individuals can enter docket ID ED–2015–OESE–0130 in the search box to locate the appropriate docket.

Regulatory Issues: After considering the advice and recommendations provided at the regional meetings and through written comments, we have decided to establish a negotiating committee to:

(1) Prepare proposed regulations that would update existing assessment regulations to reflect changes to section 1111(b)(2) of the ESEA, including:

(i) Locally selected nationally recognized high school assessments, under section 1111(b)(2)(H);

(ii) The exception for advanced mathematics assessments in 8th grade, under section 1111(b)(2)(C);

(iii) Inclusion of students with disabilities in academic assessments, including alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities, subject to a cap of 1.0% of students assessed for a subject;

(iv) Inclusion of English learners in academic assessments and English language proficiency assessments; and

(v) Computer-adaptive assessments.

(2) Prepare proposed regulations related to the requirement under section 1118(b) of the ESEA that title I, part A funds be used to supplement, and not supplant, non-Federal funds, specifically:

(i) Regarding the methodology a local educational agency uses to allocate State and local funds to each title I school to ensure compliance with the supplement not supplant requirement; and

(ii) The timeline for compliance.

These topics are tentative. Topics may be added or removed as the process continues.

Selection of Negotiators: We intend to select negotiators for the committee who represent the interests that may be significantly affected by the topics proposed for negotiation. In so doing, we will comply with the requirement in section 1601(b)(3)(B) of the ESEA, that negotiators be selected from among individuals or groups that provided advice and recommendations in response to the RFI (*e.g.,* if a member of an organization provided a response to the RFI, then another member of that organization can be nominated and selected for the committee), including representation from all geographic regions of the United States, in such numbers as will provide an equitable balance between representatives of parents and students and representatives of educators and education officials. In addition, we will select negotiators who will contribute to the diversity and expertise of the negotiating committee. Our goal is to establish a committee that will allow significantly affected parties to be represented while keeping the committee small enough to ensure meaningful participation by all members.

We intend to select at least one negotiator for each constituency represented on the committee. For any constituency that is represented by only one negotiator, we will also select an alternate. In cases of constituencies for which an alternate is selected, the primary negotiator will participate for the purpose of determining consensus; the alternate negotiator will participate for the purpose of determining consensus only in the absence of the primary negotiator. All members, including any alternates, may speak during the negotiations.

Individuals who are not selected as members of the committee will be able to attend the committee meetings (which will be open to the public—see below).

Constituencies: The Department plans to seat as negotiators one or more individuals representing these constituencies:

- State administrators and State boards of education;
- Local administrators and local boards of education;
- Tribal leadership;
- Parents and students, including historically underserved students;
- Teachers;
- Principals;
- Other school leaders, including charter school leaders;
- Paraprofessionals;
- The civil rights community, including representatives of students with disabilities, English learners, and other historically underserved students;
- The business community; and
- Federal administrators.

The goal of the committee is to develop proposed regulations that reflect a final consensus of the committee. An individual selected as a negotiator will be expected to represent the interests of his or her constituency and participate in the negotiations in a manner consistent with the goal of developing proposed regulations on which the committee will reach consensus. If consensus is reached, the negotiator and, if applicable, his or her employer organization, is bound by the consensus and may not submit a negative comment through the public comment process on the resulting proposed regulations. The Department will not consider any such negative comments.

Nominations: Nominations should include:

- The name of the nominee and the constituency the nominee represents.
- Evidence of the nominee's expertise or experience in the topics proposed for negotiations.
- Evidence of support from individuals or groups within the constituency that the nominee will represent.
- The nominee's commitment that he or she is available to attend all negotiation sessions and will actively participate in good faith in the development of the proposed regulations.
- The nominee's contact information, including address, phone number, and email address.

Nominees will be notified of whether they have been selected as negotiators as soon as the Department's review process is completed.

Schedule for Negotiations: The committee will meet for two sessions on the following dates:

- Session 1: March 21–March 23, 2016
- Session 2: April 6–April 8, 2016

In addition, an optional third session may be scheduled for April 18–April 19, 2016, if the committee determines that a third session would enable the committee to complete its work of developing proposed regulations that reflect a final consensus of the committee. Sessions will run from 9 a.m. to 5 p.m.

The committee meetings will be held at the U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202.

The meetings are open to the public.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

The site of the meetings for the negotiated rulemaking process is accessible to individuals with disabilities. If you need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in alternative format), notify the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in advance of the scheduled meeting date. We will make every effort to meet any request we receive.

Electronic Access to This Document: The official version of this document is the document published in the **Federal**

Register. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 1, 2016.

John B. King, Jr.,

Acting Secretary of Education.

[FR Doc. 2016–02224 Filed 2–3–16; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[MB Docket No. 12–108; FCC 15–156]

Accessibility of User Interfaces, and Video Programming Guides and Menus

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on a proposal to adopt rules that would require manufacturers and MVPDs to ensure that consumers are able to readily access user display settings for closed captioning.

DATES: Comments are due on or before February 24, 2016; reply comments are due on or before March 7, 2016.

ADDRESSES: You may submit comments, identified by MB Docket No. 12–108, by any of the following methods:

- *Federal Communications Commission (FCC) Electronic Comment Filing System (ECFS) Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* U.S. Postal Service first-class, Express, and Priority mail must be addressed to the FCC Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- *Hand or Messenger Delivery:* All hand-delivered or messenger-delivered paper filings for the FCC Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530; or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the ''PROCEDURAL MATTERS'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Maria Mullarkey, *Maria.Mullarkey@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at (202) 418–2918 or send an email to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Further Notice of Proposed Rulemaking* (*Second Further NPRM*), FCC 15–156, adopted on November 18, 2015, and released on November 20, 2015. For background, see the summary of the *Second Report and Order* accompanying the *Second Further NPRM* published in this issue of the **Federal Register**. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) Web site at *http://fjallfoss.fcc.gov/edocs_public/* or via the FCC's Electronic Comment Filing System (ECFS) Web site at *http://fjallfoss.fcc.gov/ecfs2/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

I. Introduction

1. In this *Second Further Notice of Proposed Rulemaking* (''*Second Further NPRM*''), we seek comment on a proposal to adopt rules that would require manufacturers and MVPDs to ensure that consumers are able to readily access user display settings for closed captioning.

II. Second Further Notice of Proposed Rulemaking

2. In this *Second Further NPRM,* we seek comment on a proposal to adopt rules that would require manufacturers and MVPDs to ensure that consumers are able to readily access user display settings for closed captioning and we seek comment on the Commission's authority to adopt such rules under the Television Decoder Circuitry Act of 1990 (''TDCA'').[1] In the *Further Notice of Proposed Rulemaking* (''*Further NPRM*''), we inquired whether Sections 204 and 205 of the CVAA provide the Commission with authority to adopt such a requirement.[2] Upon further review of the issue, we continue to believe that there are important public interest considerations in favor of ensuring that consumers are able to readily access user display settings for closed captioning, and we seek comment on whether the TDCA provides authority to adopt regulations that would facilitate such access because it mandates that the Commission take steps to ensure that closed captioning service continues to be available to consumers.[3]

3. The TDCA requires generally that television receivers and other apparatus[4] contain circuitry to decode and display closed captioning[5] and directs that our ''rules shall provide

[1] Pub. L. 101–431, 104 Stat. 960 (1990) (codified at 47 U.S.C. 303(u), 330(b)).

[2] *Accessibility of User Interfaces, and Video Programming Guides and Menus; Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* MB Docket Nos. 12–108, 12–107, Report and Order and Further Notice of Proposed Rulemaking, 78 FR 77210, 78 FR 77074, para. 140 (2013) (''*Report and Order and Further NPRM*''). In response to the *Further NPRM,* we received comments on the issue of our authority under Sections 204 and 205, which we are continuing to evaluate.

[3] *See* S. Rep. 101–393, 1990 USCCAN 1438 (explaining that the TDCA ''charges the [FCC] with ensuring that closed-captioning services are available to the public as new technologies are developed'').

[4] *See* 47 U.S.C. 303(u)(1) (requiring that ''apparatus designed to receive or play back video programming transmitted simultaneously with sound'' contain circuitry to decode and display closed captioning).

[5] *See id.* 303(u)(1)(A).

performance and display standards for such built-in decoder circuitry or capability designed to display closed captioned video programming.'' [6] In 2000, the Commission adopted technical standards for the display of closed captions on digital television receivers ''to ensure that closed-captioning service continues to be available to consumers'' following the transition to digital service.[7] In particular, the Commission adopted with some modifications Section 9 of EIA–708, an industry standard addressing closed captioning for digital television, which supports user options that enable caption display to be customized for a particular viewer by allowing the viewer to change the appearance of the captions to suit his or her needs.[8] As we noted in the *Further NPRM,*[9] when the Commission adopted the technical standards, it explained that the ''capability to alter fonts, sizes, colors, backgrounds and more, can enable a greater number of persons who are deaf and hard of hearing to take advantage of closed captioning.'' [10] Notably, the Commission concluded that ''[o]nly by requiring decoders to respond to these various [display] features can we ensure that closed captioning will be accessible for the greatest number of persons who are deaf and hard of hearing, and thereby achieve Congress' vision that to the fullest extent made possible by technology, people who are deaf or hard of hearing have equal access to the television medium.'' [11]

4. We seek comment on whether the TDCA gives the Commission authority to adopt further implementing regulations to ensure that consumers are able to readily access user display settings for closed captioning. Specifically, the TDCA, as codified in Section 330(b) of the Act, provides that ''[a]s new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service continues to be available to consumers.'' [12] In enacting the TDCA, Congress stated that ''to the fullest extent made possible by technology,'' persons who are deaf and hard of hearing ''should have equal access to the television medium.'' [13] We believe that adopting rules requiring that consumers are able to readily access user display settings for closed captioning will ''ensure that closed-captioning service continues to be available to consumers'' and, in particular, that enabling viewers who are deaf and hard of hearing to set caption display features, such as colors, fonts, sizes, and backgrounds, will ensure that such individuals can benefit fully from digital television technologies.[14] We seek comment on this analysis.

5. Although the rules implemented in 2000 were intended to provide consumers with the benefits of customization for closed captioning, the record indicates that these features remain inaccessible to many viewers who are deaf and hard of hearing because they are difficult to locate and use. As discussed in the *Further NPRM,* Consumer/Academic Groups reference the ''long and frustrating history of the difficulties in accessing closed captioning features on apparatus and navigation devices,'' and describe the ''[m]ost infamously difficult'' example, in which a cable box must first be turned off in order to access the captioning mechanisms through a special menu feature.[15] Consumer/Academic Groups explain that ''it is critically important that the display settings are easily accessible and easily adjustable without difficulty everywhere,'' including restaurants and other public places.[16] We believe that public interest considerations weigh in favor of adopting requirements to ensure that consumers are able to readily access user display settings for closed captioning, and we believe that such requirements will fulfill our statutory mandate under Section 330(b) of the Act to ensure that closed captioning service continues to be available to consumers and effectuate Congress's intent that individuals who are deaf and hard of hearing have equal access to video programming to the fullest extent made possible by technology.[17] We seek comment on this proposal, on the costs and benefits of these requirements, and on the impact of the proposed rules on small entities.

6. Further, we seek comment on how we would implement a requirement that consumers be able to readily access user display settings for closed captioning. Consumer/Academic Groups contend that access to closed captioning display features should not be lower than the first level of a menu,[18] arguing that if users are unable to locate closed captioning display settings that are buried in multiple levels of a menu, ''then they are unlikely to be able to alter the font, sizes, and/or backgrounds to fit their particular needs'' and ''captions will remain at hard-to-read levels—such as with fonts that are too small or with poor contrast, frustrating each individual's ability to access programming in a way that best suits their needs.'' [19] Should we require that inclusion of closed captioning display settings must be no lower than the first level of a menu? Would this approach provide industry with flexibility to develop other innovative ways for users to access and locate closed captioning display settings? We seek comment on alternative ways to implement this requirement.

[6] *See id.* 330(b).

[7] *See id.* 303(u) (as amended by Section 203 of the CVAA), 330(b); *Closed Captioning Requirements for Digital Television Receivers; Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility,* ET Docket No. 99–254, MM Docket No. 95–176, Report and Order, 65 FR 58467 (2000) (''*DTV Closed Captioning Order*'').

[8] *DTV Closed Captioning Order,* para. 7.

[9] *Report and Order and Further NPRM,* para. 141.

[10] *DTV Closed Captioning Order,* para. 10. After pointing out that Congress noted that captioning will benefit ''older Americans who have some loss of hearing,'' *id.* at para. 11 (quoting TDCA, sec. 2(4)), the Commission found that the benefits of being able to alter closed captions extend to older Americans who may have some hearing loss along with a visual disability. *Id.*

[11] *Id.* at para. 13. *See also* Public Law 101–431, sec. 2(1).

[12] Public Law 101–431, sec. 4; 47 U.S.C. 330(b).

[13] Public Law 101–431, sec. 2(1).

[14] *See id.* at sec. 4; 47 U.S.C. 330(b).

[15] *See* Comments of the National Association of the Deaf *et al.,* MB Docket No. 12–108, at 8 (July 15, 2013). *See also* Letter from Andrew S. Phillips, Policy Counsel, NAD, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 12–108, at 3 (Sept. 11, 2013) (noting that ''[t]o this day, many people who are deaf or hard of hearing continue to have difficulties accessing closed captioning controls on MVPD-provided products,'' and that consumers must ''navigate complex menu settings in order to find the closed captioning control or configuration settings''); Comments of the National Association of the Deaf, Telecommunications for the Deaf and Hard of Hearing, Inc., Deaf and Hard of Hearing Consumer Advocacy Network, Association of Late-Deafened Adults, Inc., Hearing Loss Association of America, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Cerebral Palsy and Deaf Organization, and Telecommunication-RERC at 8–9, 11 (''Consumer/Academic Groups Comments'').

[16] Consumer/Academic Groups Comments at 9. Consumer/Academic Groups emphasize that ''[t]he CVAA applies to all devices that we access at home, in public establishments, schools, workplaces, and everywhere, not just those devices in our possession and familiar to us.'' *Id.*

[17] *See* 47 U.S.C. 330(b); H.R. Rep. No. 111–563, 111th Cong., 2d Sess. at 19 (2010); S. Rep. No. 111–386, 111th Cong., 2d Sess. at 1 (2010). *See also* Public Law 101–431, sec. 2(1).

[18] To provide an example of what it means to activate closed captioning in the ''first level of a menu,'' Consumer/Academic Groups in comments responding to the *NPRM* cited ''the web-based YouTube video player,'' explaining that ''[t]o access the captioning settings on the YouTube player, the user first clicks the 'CC' button at the bottom of the screen, then clicks 'Settings . . . ,' and then a box appears which allows users to adjust the closed captioning settings.'' Comments of the National Association of the Deaf *et al.,* MB Docket No. 12–108, at 11 (July 15, 2013).

[19] Consumer/Academic Groups Comments at 9.

7. We also seek comment on steps industry already is taking or planning to take to facilitate access to user display settings for closed captioning. We note that, in response to questions regarding the state of industry readiness in complying with the requirements adopted in the *Report and Order,* CEA queried its members and reported that ''TV manufacturers intend to make caption display settings accessible via mechanisms reasonably comparable to a button, key, or icon through several methods including a button on the remote or access through the first level of a menu,'' and that ''manufacturers are making efforts to streamline access to the ANSI/CEA–708 attributes.'' [20] We seek input on whether there is a need to adopt regulations given current plans of industry with regard to facilitating access to user display settings for closed captioning.

8. We believe that a requirement that consumers be able to readily access user display settings for closed captioning should apply to apparatus covered by Section 303(u)(1) of the Act (*i.e.,* apparatus designed to receive or play back video programming transmitted simultaneously with sound, if such apparatus is manufactured in the United States or imported for use in the United States and uses a picture screen of any size),[21] as interpreted consistently with our precedent in the *IP Closed Captioning Order.*[22] We seek comment on this analysis. We also seek comment on whether the exceptions relating to technical feasibility and achievability in Section 303(u) of the Act should apply in this context.[23] In addition, we seek comment on which entities should be responsible for compliance. Should both manufacturers and MVPDs be obligated to facilitate the ability of consumers to locate and control closed captioning display settings? For example, where closed captioning display settings are accessed through the television or set-top box, would the manufacturer of such device be solely responsible for ensuring that the display settings are readily accessible? Or would MVPDs also have responsibility with respect to ensuring their customers are able to readily access closed captioning display settings?

9. Finally, if the Commission adopts rules, what time frame would be appropriate for requiring covered entities to ensure that consumers are able to readily access user display settings for closed captioning? In particular, we seek comment on Consumer/Academic Groups' request that the compliance deadline for readily accessible closed captioning display settings be the same as the December 20, 2016 deadline for the closed captioning activation mechanism adopted pursuant to Sections 204 and 205 of the CVAA.[24] We ask commenters to justify any deadline they propose by explaining what must be done by that deadline to comply with the proposed requirement.

III. Procedural Matters

A. Initial Regulatory Flexibility Act

10. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''),[25] the Commission has prepared this present Initial Regulatory Flexibility Analysis (''IRFA'') concerning the possible economic impact on small entities by the policies and rules proposed in the *Second Further NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments as specified in the *Second Further NPRM.* The Commission will send a copy of the *Second Further NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA'').[26] In addition, the *Second Further NPRM* and this IRFA (or summaries thereof) will be published in the **Federal Register**.[27]

1. Need for, and Objectives of, the Proposed Rule Changes

11. In the *Second Further NPRM,* the Commission seeks comment on a proposal to adopt rules that would require manufacturers and multichannel video programming distributors (''MVPDs'') to ensure that consumers are able to readily access user display settings for closed captioning and seeks comment on the Commission's authority to adopt such rules under the Television Decoder Circuitry Act of 1990 (''TDCA''). The TDCA, as codified in Section 330(b) of the Act, provides that ''[a]s new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service continues to be available to consumers.'' In enacting the TDCA, Congress stated that ''to the fullest extent made possible by technology,'' persons who are deaf and hard of hearing ''should have equal access to the television medium.'' Although the rules implemented in 2000 were intended to provide consumers with the benefits of customization for closed captioning (*i.e.,* the ability to alter fonts, sizes, colors, backgrounds and more), the record indicates that these features remain inaccessible to many viewers who are deaf and hard of hearing because they are difficult to locate and use. The proposed rules requiring that consumers are able to readily access user display settings for closed captioning will ''ensure that closed-captioning service continues to be available to consumers'' and, in particular, that the benefits of being able to alter colors, fonts, and sizes offered by digital captioning technology fully accrue to individuals who are deaf or hard of hearing.

2. Legal Basis

12. The proposed action is authorized pursuant to the Television Decoder Circuitry Act of 1990, Public Law 101–431, 104 Stat. 960, and the authority contained in Sections 4(i), 4(j), 303(u), and 330(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(u), 330(b).

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

13. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules proposed in the *Second Further NPRM.* The RFA generally defines the term ''small entity'' as having the same

[20] Letter from Julie M. Kearney, Vice President, Regulatory Affairs, CEA, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 12–108, at 2 (Mar. 3, 2015).

[21] 47 U.S.C. 303(u)(1).

[22] *See Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* MB Docket No. 11–154, Report and Order, 77 FR 46632, paras. 93–96 (2012) (''*IP Closed Captioning Order*''). Under this interpretation, apparatus exempt from the requirement to be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming (*e.g.,* display-only video monitors, and apparatus primarily designed for purposes other than receiving or playing back video programming) would not be subject to the requirements proposed herein. *See id.* at paras. 106–08. *See also Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* MB Docket No. 11–154, Order on Reconsideration and Further Notice of Proposed Rulemaking, 78 FR 39691, 78 FR 39619, paras. 5–15 (2013).

[23] 47 U.S.C. 303(u), 303(u)(2); *IP Closed Captioning Order,* paras. 97–98, 104–05.

[24] *See* Consumer/Academic Groups Comments at 10–11.

[25] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[26] *See* 5 U.S.C. 603(a).

[27] *See id.*

meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Small entities that are directly affected by the rules proposed in the *Second Further NPRM* include manufacturers of apparatus covered by Section 303(u)(1) of the Act (*i.e.,* apparatus designed to receive or play back video programming transmitted simultaneously with sound, if such apparatus is manufactured in the United States or imported for use in the United States and uses a picture screen of any size) and MVPDs.

14. *Cable Television Distribution Services.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline businesses. This category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities.

15. *Cable Companies and Systems.* The Commission has also developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data shows that there were 1,141 cable companies at the end of June 2012. Of this total, all but 10 incumbent cable companies are small under this size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,945 cable systems nationwide. Of this total, 4,380 cable systems have less than 20,000 subscribers, and 565 systems have 20,000 subscribers or more, based on the same records. Thus, under this standard, we estimate that most cable systems are small.

16. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 56.4 million incumbent cable video subscribers in the United States today. Accordingly, an operator serving fewer than 564,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but 10 incumbent cable operators are small under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

17. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, Wired Telecommunications Carriers, which was developed for small wireline businesses. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small. However, the data we have available as a basis for estimating the number of such small entities were gathered under a superseded SBA small business size standard formerly titled ''Cable and Other Program Distribution.'' The definition of Cable and Other Program Distribution provided that a small entity is one with $12.5 million or less in annual receipts. Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and DISH Network. Each currently offer subscription services. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS service provider.

18. *Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs).* SMATV systems or PCOs are video distribution facilities that use closed transmission paths without using any public right-of-way. They acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. SMATV systems or PCOs are now included in the SBA's broad economic census category, Wired Telecommunications Carriers, which was developed for small wireline businesses. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small.

19. *Home Satellite Dish (HSD) Service.* HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers, and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD antennas are between four and eight feet in diameter

and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from program packagers that are licensed to facilitate subscribers' receipt of video programming. Because HSD provides subscription services, HSD falls within the SBA-recognized definition of Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities.

20. *Open Video Services.* The open video system (OVS) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (''BSPs'') are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

21. *Wireless cable systems—Broadband Radio Service and Educational Broadband Service.* Wireless cable systems use the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) to transmit video programming to subscribers. In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, we estimate that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the 10 winning bidders, two bidders that claimed small business status won four licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

22. In addition, the SBA's placement of Cable Television Distribution Services in the category of Wired Telecommunications Carriers is applicable to cable-based Educational Broadcasting Services. Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline businesses. This category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities. In addition to Census data, the Commission's internal records indicate that as of September 2012, there are 2,241 active EBS licenses. The Commission estimates that of these 2,241 licenses, the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.

23. *Incumbent Local Exchange Carriers (ILECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. ILECs are included in the SBA's economic census category, Wired Telecommunications Carriers. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small.

24. *Small Incumbent Local Exchange Carriers.* We have included small incumbent local exchange carriers in this present RFA analysis. A ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that,

for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

25. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. These entities are included in the SBA's economic census category, Wired Telecommunications Carriers. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small.

26. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for this category, which is: All such businesses having 750 or fewer employees. Census data for 2007 shows that there were 939 establishments that operated for part or all of the entire year. Of those, 912 operated with fewer than 500 employees, and 27 operated with 500 or more employees. Therefore, under this size standard, the majority of such establishments can be considered small.

27. *Audio and Video Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing electronic audio and video equipment for home entertainment, motor vehicles, and public address and musical instrument amplification. Examples of products made by these establishments are video cassette recorders, televisions, stereo equipment, speaker systems, household-type video cameras, jukeboxes, and amplifiers for musical instruments and public address systems.'' The SBA has developed a small business size standard for this category, which is: All such businesses having 750 or fewer employees. Census data for 2007 shows that there were 492 establishments in this category operated for part or all of the entire year. Of those, 488 operated with fewer than 500 employees, and four operated with 500 or more employees. Therefore, under this size standard, the majority of such establishments can be considered small.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

28. In the *Second Further NPRM,* the Commission seeks comment on a proposal to adopt rules that would require manufacturers and MVPDs to ensure that consumers are able to readily access user display settings for closed captioning and seeks comment on the Commission's authority to adopt such rules under the TDCA. In this section, we describe the reporting, recordkeeping, and other compliance requirements proposed in the *Second Further NPRM* and consider whether small entities are affected disproportionately by any such requirements.

29. *Reporting Requirements.* The *Second Further NPRM* does not propose to adopt reporting requirements.

30. *Recordkeeping Requirements.* If the rules proposed in the *Second Further NPRM* were adopted, certain recordkeeping requirements would be applicable to covered small entities. The *Second Further NPRM* asks whether we should apply the exceptions relating to technical feasibility and achievability in Section 303(u) of the Act consistent with our precedent in the *IP Closed Captioning Order.* These provisions would require covered entities to make a filing and, thus, to make and keep records of the filing.

31. *Other Compliance Requirements.* The *Second Further NPRM* proposes other compliance requirements that would be applicable to covered small entities. In particular, the *Second Further NPRM* seeks comment on whether the TDCA gives the Commission authority to adopt further implementing regulations to ensure that consumers are able to readily access user display settings for closed captioning. The *Second Further NPRM* seeks comment on how the Commission would implement a requirement that consumers be able to readily access user display settings for closed captioning and, in particular, whether to require that inclusion of closed captioning display settings must be no lower than the first level of a menu.

32. We do not have specific information quantifying the costs and administrative burdens associated with the rules proposed in the *Second Further NPRM* because it has not yet been determined how covered entities will implement a requirement that consumers be able to readily access user display settings for closed captioning. Thus, we cannot precisely estimate the impact of the rules proposed in the *Second Further NPRM* on small entities. We note that CEA has reported that some industry members are already planning to take steps to facilitate access to user display settings for closed captioning and thus, the burden for some covered entities may be minimal. Further, we explore whether entities subject to the proposed rules need not comply with the requirements if they are able to demonstrate to the Commission that compliance is not achievable. While the economic impact of the rules on small entities is not quantifiable at this time, the proposed rules, if adopted, could affect small companies to a greater extent than large companies. As a result, the Commission below considers alternatives that have the potential to minimize the economic effect of its proposed rules on small entities.

5. Steps Taken To Minimize Significant Impact on Small Entities and Significant Alternatives Considered

33. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

34. The rules proposed in the *Second Further NPRM,* if adopted, could have a significant economic impact on small entities. As discussed below, Section 303(u) of the Act contains provisions that allow the Commission to tailor its rules, as necessary, to small entities for whom compliance with such rules is

economically burdensome, and we inquire in the *Second Further NPRM* whether these exceptions should apply. Notably, we ask whether an entity (including a small entity) should avoid compliance with a requirement to ensure that users can readily access closed captioning display settings if it is able to demonstrate to the Commission that such compliance is not ''achievable'' (*i.e.,* cannot be accomplished with reasonable effort or expense) or is not ''technically feasible.'' These procedures will allow the Commission to address the impact of the rules on individual entities, including smaller entities, on a case-by-case basis, and to modify application of its rules to accommodate individual circumstances, thereby potentially reducing the costs of compliance for such entities. We note that two of the four statutory factors that the Commission must consider in assessing achievability are particularly relevant to small entities: (i) The nature and cost of the steps needed to meet the requirements, and (ii) the technical and economic impact on the entity's operations. Thus, a small entity may be able to avoid compliance in cases where it can demonstrate that compliance is not achievable.

35. Further, the Commission seeks comment on how alternative ways to implement a requirement that consumers be able to readily access user display settings for closed captioning, as well as on the costs and benefits of such a requirement and the impact of the proposed rules on small entities. These considerations will allow the Commission to address alternatives that can potentially minimize the burden and costs of compliance for covered entities, including smaller entities.

36. Based on these considerations, we believe that, in proposing additional rules in the *Second Further NPRM,* we have appropriately considered both the interests of individuals with disabilities and the interests of the entities who will be subject to the rules, including those that are smaller entities, consistent with Congress's intent that ''to the fullest extent made possible by technology,'' persons who are deaf and hard of hearing ''should have equal access to the television medium.''

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

37. None.

B. Paperwork Reduction Act

38. The *Second Further NPRM* may result in new or revised information collection requirements. If the Commission adopts any new or revised information collection requirement, the Commission will publish a notice in the **Federal Register** inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107 198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

C. Ex Parte Rules

39. We remind interested parties that this proceeding is treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.[28] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

D. Filing Requirements

40. Pursuant to Sections 1.415 and 1.419 of the Commission's rules,[29] interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All comments are to reference MB Docket No. 12–108 and may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS) or (2) by filing paper copies.[30]

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

41. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

42. *Availability of Documents.* Comments and reply comments will be

[28] 47 CFR 1.1200 *et seq.*

[29] *See* 47 CFR 1.415, 1419.

[30] *See Electronic Filing of Documents in Rulemaking Proceedings,* GC Docket No. 97–113, Report and Order, 63 FR 24121 (1998).

publically available online via ECFS.[31] These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW., Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m.

IV. Ordering Clauses

43. Accordingly, *it is ordered* that, pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751, and the authority found in Sections 4(i), 4(j), 303(r), 303(u), 303(aa), 303(bb), and 716(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 303(u), 303(aa), 303(bb), and 617(g), this *Second Further Notice of Proposed Rulemaking is adopted.*

44. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Second Further Notice of Proposed Rulemaking* in MB Docket No. 12–108, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subject in 47 CFR 79

Cable television operators, Communications equipment, Multichannel video programming distributors (MVPDs), Satellite television service providers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary. Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 79 as follows:

PART 79—ACCESSIBILITY OF VIDEO PROGRAMMING

■ 1. The authority for part 79 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 330, 544a, 613, and 617.

■ 2. Amend § 79.103 by adding paragraph (e) to read as follows:

§ 79.103 Closed caption decoder requirements for apparatus.

* * * * *

(e) *Access to closed captioning display settings.* Apparatus subject to this section must ensure that consumers are able to readily access user display settings for closed captioning, if technically feasible, except that apparatus that use a picture screen of less than 13 inches in size must comply with this requirement only if doing so is achievable as defined in this section.

[FR Doc. 2016–00930 Filed 2–3–16; 8:45 am]

BILLING CODE 6712–01–P

[31] Documents will generally be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BF18

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendments to the Reef Fish, Spiny Lobster, Queen Conch, and Corals and Reef Associated Plants and Invertebrates Fishery Management Plans of Puerto Rico and the U.S. Virgin Islands

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

ACTION: Notice of availability; request for comments.

SUMMARY: The Caribbean Fishery Management Council (Council) has submitted Amendment 7 to the Fishery Management Plan (FMP) for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (USVI) (Reef Fish FMP), Amendment 6 to the FMP for the Spiny Lobster Fishery of Puerto Rico and the USVI (Spiny Lobster FMP), Amendment 5 to the FMP for the Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the USVI (Coral FMP), and Amendment 4 to the FMP for the Queen Conch Resources of Puerto Rico and the USVI (Queen Conch FMP) for review, approval, and implementation by NMFS. In combination, these amendments represent the Application of Accountability Measures (AM) Amendment (AM Application Amendment). The AM Application Amendment would resolve an existing inconsistency between language in the four Council FMPs and the regulations implementing application of AMs in the U.S. Caribbean exclusive economic zone (EEZ). The purpose of the AM Application Amendment is to ensure the regulations governing AMs in the Caribbean EEZ are consistent with their authorizing FMPs.

DATES: Written comments must be received on or before April 4, 2016.

ADDRESSES: You may submit comments on the AM Application Amendment, identified by ''NOAA–NMFS–2015–0124'' by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0124,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to María del Mar López, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

Electronic copies of the AM Application Amendment, which includes an environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/caribbean/index.html.*

FOR FURTHER INFORMATION CONTACT: María del Mar López, telephone: 727–824–5305, or email: *Maria.Lopez@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The FMPs being revised by the AM Application Amendment were prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The final rule implementing Amendment 2 to the Queen Conch FMP and Amendment 5 to the Reef Fish FMP (2010 Caribbean ACL Amendment) established annual catch limits (ACLs) and AMs for species and species groups that at the time were classified as undergoing overfishing (*i.e.,* parrotfish, snapper, grouper, and queen conch) (76 FR 82404, December 30, 2011). The final rule implementing Amendment 3 to the Queen Conch FMP, Amendment 6 to the Reef Fish FMP, Amendment 5 to the Spiny Lobster FMP, and Amendment 3 to the Coral FMP, established ACLs and AMs for the remaining Council-managed species and species groups which were not undergoing overfishing at the time or for which the overfishing status was unknown (*e.g.,* grunts, squirrelfish, jacks) (76 FR 82414, December 30, 2011). As described at § 622.12(a) for reef fish, spiny lobster, and corals and § 622.491(b) for queen conch, the current AMs in the Caribbean EEZ require NMFS to shorten the length of the fishing season for a species/species group in the year following a determination that the applicable 3-year landings average exceeded the respective ACL. The extent to which fishing seasons are shortened equates to the number of days necessary to remove the overage in pounds and to therefore constrain landings to the ACL. Pursuant to the regulations at §§ 622.12(a) and 622.491(b), any such AM-based closures remain in effect only during the particular fishing year in which they are implemented. However, the AM closure language in the four authorizing FMPs states that any AM-based closure will remain in effect until modified by the Council, thereby carrying these AM-based closures over from year to year unless or until the closures are revised by subsequent Council action.

This inconsistent language between the FMPs and the implementing regulations may create confusion to fishers and the public about whether an AM-based closure for a specific species/species group will continue in subsequent years if an AM is triggered. The AM Application Amendment would correct the inconsistency between the authorizing FMPs and the regulatory language at §§ 622.12(a) and 622.491(b) by revising the text within the four FMPs describing how AMs are applied to be consistent with the language in the regulations. Specifically, the phrase in the four authorizing FMPs that states ''The needed changes will remain in effect until modified by the Council,'' which describes the duration of AMs, would be removed from the four FMPs. The result of this proposed change would be that under both the authorizing FMPs and AM-based closure regulatory language, an AM closure would only apply for the fishing year in which it was implemented. This approach is consistent with the intent of the Council and implementing regulations used by NMFS to apply AMs in the Caribbean EEZ. The current process used by NMFS and the Council to apply AMs in the Caribbean EEZ would not change as a result of this proposed amendment, thus this action would have no additional direct or indirect economic, social, or biological/ecological effects.

A proposed rule that would implement the measures outlined in the AM Application Amendment has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the AM Application Amendment and the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted the AM Application Amendment for Secretarial review, approval, and implementation. Comments received by April 4, 2016, will be considered by NMFS in its decision to approve, disapprove, or partially approve the AM Application Amendment. Comments received after that date will not be considered by NMFS in this decision. All relevant comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: January 29, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–02092 Filed 2–3–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 151217999–6045–01]

RIN 0648–BF66

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Dolphin and Wahoo Resources of the Atlantic; Commercial Dolphin Fishery of the Atlantic; Control Date

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

ACTION: Advanced notice of proposed rulemaking; consideration of a control date.

SUMMARY: This notice announces the establishment of a control date of June 30, 2015, that the South Atlantic Fishery Management Council (Council) may use if it decides to create restrictions limiting participation in the dolphin commercial sector of the dolphin and wahoo fishery in the Atlantic exclusive economic zone. Anyone entering the sector after the control date will not be assured of future access should a management regime that limits participation in the sector be prepared and implemented. This announcement is intended, in part, to promote awareness of the potential eligibility criteria for future access so as to discourage speculative entry into the Atlantic dolphin commercial sector while the Council and NMFS consider whether and how access to the sector should be controlled. NMFS invites comments on the establishment of this control date.

DATES: Written comments must be received by March 7, 2016.

ADDRESSES: You may submit comments identified by ''NOAA–NMFS–2016–0001'' by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0001,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Mary Janine Vara, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of

the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Mary Janine Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The dolphin and wahoo fishery in the Atlantic is managed under the fishery management plan (FMP) for the Dolphin and Wahoo Fishery off the Atlantic States. The FMP was prepared by the Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622.

The Council voted at the September 2015 meeting to establish a control date of June 30, 2015, for the Atlantic dolphin commercial sector of the dolphin and wahoo fishery. The control date enables the Council to inform current and potential participants that it is considering creating restrictions limiting participation in the Atlantic dolphin commercial sector.

This notice informs current and potential participants in the Atlantic dolphin commercial sector within the dolphin and wahoo fishery that after June 30, 2015, they may not be ensured participation under future management of the fishery. If the Council decides to prepare an amendment to the FMP to restrict participation in the Atlantic dolphin commercial sector in relation to this control date, an analysis of specific biological, economic, and social effects will be prepared at that time.

Publication of the control date in the **Federal Register** informs participants of the Council's considerations, and gives notice to anyone entering the Atlantic dolphin commercial sector after the control date that they would not be assured of future access to the sector should management changes be implemented that would restrict participation. Implementation of any such changes would require preparation of an amendment to the FMP and publication of a notice of availability and proposed rule in the **Federal Register** with public comment periods, and, if approved by the Secretary of Commerce, issuance of a final rule.

Fishermen are not guaranteed future participation in a fishery or sector regardless of their entry date or intensity of participation in the fishery or sector before or after the control date under consideration. The Council subsequently may choose a different control date or they may choose a management regime without using a control date. The Council also may choose to take no further action to control entry or access to the Atlantic dolphin commercial sector, in which case the control date may be rescinded.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the Atlantic dolphin commercial sector of the dolphin and wahoo fishery.

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

Dated: January 29, 2016.

Samuel D. Rauch III,

Deputy Assistant for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2016–02093 Filed 2–3–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 23
Thursday, February 4, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Gallatin County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Gallatin County Resource Advisory Committee (RAC) will meet in Bozeman, MT. 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://www.fs.usda.gov/detail/custergallatin/workingtogether/?cid=stelprdb5304491.*

DATES: The meeting will be held March 10 from 12:30–5:30 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Bozeman Public Library, Small Community Room, 626 E Main St., Bozeman, MT 59715.

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 Custer Gallatin National Forest Supervisors Office, 10 E Babcock, Bozeman, MT 59105. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Mariah Leuschen-Lonergan, Public Affairs Specialist and RAC Coordinator by phone at 406–587–6735 or via email at *mdleuschen@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:

1. Review and recommend 2016 project proposals to Designated Federal Official.

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 February 19 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 Attn: Mariah Leuschen, RAC Coordinator, 10 E Babcock, Bozeman, MT 59105 or by email to *mdleuschen@fs.fed.us* or via facsimile to 406–587–6758.

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: January 29, 2016.

Mary C. Erickson,

Custer Gallatin Forest Supervisor.

[FR Doc. 2016–02103 Filed 2–3–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection: Forest Service Law Enforcement & Investigations Ride-Along Program

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of the information collection, Forest Service Law Enforcement & Investigations Ride-Along Program.

DATES: Comments must be received in writing on or before April 4, 2016 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to the Director of Law Enforcement and Investigations, USDA Forest Service, 1400 Independence Avenue SW., Mail stop 1140, Washington, DC 20250–1140.

Comments also may be submitted via facsimile to 703–605–4690, or by email to Ken Pearson at *kenpearson@fs.fed.us.*

The public may inspect comments received at USDA Forest Service Washington Office, Yates Building, 201 14th Street SW., Washington, DC; during normal business hours. Visitors must call ahead to 703–605–4690 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Ken Pearson, Assistant Director for Law Enforcement & Liaison, 703–605–4690.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Forest Service Law Enforcement & Investigations Ride-Along Program.

OMB Number: 0596–0170.

Expiration Date of Approval: April 30, 2016.

Type of Request: Extension.

Abstract: This information collection is necessary for Forest Service Law Enforcement and Investigations (LEI) personnel to authorize a rider who applies to participate in the Ride-Along Program. The information collection also provides additional protection for LEI personnel who allow authorized riders to accompany them in boats, cars, trucks, or other vehicles. The purpose of this program is for citizens to learn about and observe Forest Service LEI tasks and activities. The program is intended to enhance Forest Service law enforcement community relationships,

improve the quality of Forest Service customer service, and provide LEI personnel a recruitment tool. A rider shall complete two forms in order to participate.

Form FS–5300–33 asks for the participant's name, address, social security number, driver's license number, work address, location of the Ride-Along, and the reason for the Ride-Along. Law enforcement officers use form FS–5300–33 to conduct a minimum background check before authorizing a person to ride along.

Form FS–5300–34 is signed by riders to exempt law enforcement officers and the Forest Service from damage, loss, or injury liability incurred during the rider's participation in the program. If the information is not collected, riders will be denied permission to ride along with Forest Service law enforcement personnel.

Estimate of Annual Burden

FS–5300–33: 4 minutes.

FS–5300–34: 4 minutes.

Total: 8 minutes.

Type of Respondents: Citizens who want to learn about and observe Forest Service Law Enforcement and Investigation (LEI) tasks and activities.

Estimated Annual Number of Respondents: 130.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 17 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the information collection submission for Office of Management and Budget approval.

Dated: January 15, 2016.

Mary Wagner,

Associate Chief, Forest Service.

[FR Doc. 2016–02144 Filed 2–3–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council (Council) will meet in Washington, DC. The Council is authorized under Section 9 of the Cooperative Forestry Assistance Act, as amended by Title XII, Section 1219 of Public Law 101–624 (the Act) (16 U.S.C. 2105g) and the Federal Advisory Committee Act (FACA) (5 U.S.C. App. II). Additional information concerning the Council, can be found by visiting the Council's Web site at: *http://www.fs.fed.us/ucf/nucfac.shtml.*

DATES: The meeting will be held on the following dates and times:

- Tuesday, March 15, 2016, from 8:30 a.m. to 5:00 p.m. EST
- Wednesday, March 16, 2016, from 8:30 a.m. to 12:00 p.m. EST

or until Council business is completed. All meetings are subject to cancellation. For an updated status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Forest Service Headquarters, Sidney Yates Building, Pinchote Conference Room, Second Floor, 201 14th Street SW., Washington, DC 20024. Written comments concerning this meeting should be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the USDA Forest Service, Sidney Yates Building, Room 3SC–01C, 201 14th Street SW., Washington, DC 20024. Please call ahead at 202–205–7829 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Nancy Stremple, Executive Staff, National Urban and Community Forestry Advisory Council, Sidney Yates Building, Room 3SC–01C, 201 14th Street SW., Washington, DC 20024, by telephone at 202–205–7829, or by email at *nstremple@fs.fed.us,* or by cell phone at 202–309–9873, or via facsimile at 202–690–5792. 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. Introduce new members;

2. Finalize the 2016 Work Plan;

3. Update status of the 2017 grant categories;

4. Listen to local constituents urban forestry concerns;

5. Present the 10-year action plan (2016–2026) to leadership;

6. Receive Forest Service budget and program updates; and

7. Initiate the 2016 Accomplishments/Recommendations report.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by February 3, 2016, to be scheduled on the agenda. Council discussion is limited to Forest Service staff and Council members, however anyone who would like to bring urban and community forestry matters to the attention of the Council may file written statements with the Council's staff before or after the meeting. Written comments and time requests for oral comments must be sent to Nancy Stemple, Executive Staff, National Urban and Community Forestry Advisory Council, Sidney Yates Building, Room 3SC–01C, 201 14th Street SW., Washington, DC 20024, or by email at *nstremple@fs.fed.us.*

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: January 21, 2016.

Steven W. Koehn,

Director, Cooperative Forestry.

[FR Doc. 2016–02143 Filed 2–3–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Madison Ranger District, Beaverhead-Deerlodge National Forest; Montana; South Gravelly Allotment Management Plan

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The nature of the South Gravelly Allotment Management Plan project proposes updating of four domestic livestock grazing management plans located on the southern end of the Gravelly Mountains, Beaverhead and Madison Counties, Montana.

DATES: Comments concerning the scope of the analysis must be received by March 7, 2016. The draft environmental impact statement is expected June of 2016 and the final environmental impact statement is expected January of 2017.

ADDRESSES: Send written comments to Dale Olson, District Ranger, Madison Ranger District, 5 Forest Service Road, Ennis, MT 59729. Comments may also be sent via email to *comments-northern-beaverhead-deerlodge@fs.fed.us* or via facsimile to 406–682–4233. For all forms of comment, make sure to include your name, physical address, phone number, and a subject title of South Gravelly AMP.

FOR FURTHER INFORMATION CONTACT: Dale Olson, District Ranger, Madison Ranger District, 5 Forest Service Road, Ennis, MT 59729. Phone: 406–682–4253.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

This action is being undertaken to review grazing practices and infrastructure on four domestic livestock grazing allotments (Eureka Basin, Pole Creek, Southwest Corner, Robb Creek) to ensure compliance with the applicable Beaverhead-Deerlodge Land and Resource Management Plan (Forest Plan) direction. This action is needed because there is new direction in the Forest Plan for livestock grazing, site specific suitability, and site specific Allowable Use Levels (AUL's) need to be validated. Additionally this action is needed to meet the Rescissions Act schedule for updating allotment plans.

Proposed Action

The authorizing official proposes to: Maintain current authorized livestock type and numbers, season of use and infrastructure on the allotments. Cattle grazing is authorized between July 1 and October 15 for a total of 9363 AUMs. Domestic livestock grazing would continue following current allowable use levels. Specifically, for upland forage no more than 55 percent use; for riparian areas no more than 30 percent streambank disturbance or maintain no less than four inches of greenline stubble height measured by stream reach. Reaching any one allowable use parameter requires movement of livestock from the area, pasture or the allotment. There would be no changes or additions in grazing management or infrastructure. Monitoring of compliance with AULs and long term vegetation monitoring would continue. Allotment management plans for the four allotments would be updated to incorporate the AULs and management prescriptions.

Possible Alternatives

No Grazing Alternative. Under this alternative domestic livestock grazing permits on the four allotments would be discontinued with a minimum of two years notice (36 CFR 222.4(a)(1)) to permittees. No new term grazing permits for domestic livestock grazing would be issued. All internal fences and water developments would be removed.

Responsible Official

The Madison District Ranger will be the responsible official.

Nature of Decision To Be Made

The decision to be made is whether to implement the proposed action, another alternative, or a combination of the alternatives.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. A scoping letter and maps will be mailed to interested publics, Tribes, and federal, state, and local governments.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action.

Dated: January 29, 2016.

Dale Olson,

Madison District Ranger.

[FR Doc. 2016–02107 Filed 2–3–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Assessment Report of Ecological, Economic and Social Conditions, Trends and Sustainability for the Custer Gallatin National Forest, Carbon, Carter, Gallatin, Madison, Meagher, Park, Powder River, Rosebud, Stillwater, Sweet Grass, Counties, Montana, and Harding County, South Dakota

AGENCY: Forest Service, USDA.

ACTION: Notice of initiating the assessment phase of the forest plan revision for the Custer Gallatin National Forest.

SUMMARY: The Custer Gallatin National Forest, located in southern Montana and northwest South Dakota, is initiating the first phase of the forest planning process pursuant to the 2012 National Forest System Land Management Planning rule (36 CFR part 219). This process will result in a revised forest land management plan (Forest Plan) which describes the strategic direction for management of forest resources on the Custer Gallatin National Forest for the next ten to fifteen years. The planning process encompasses three-stages: assessment, plan revision, and monitoring. The first stage of the planning process involves assessing ecological, social, and economic conditions of the planning area, which is documented in an assessment report.

The Forest is inviting the public to contribute in the development of the Assessment. The Forest will be hosting public forums near the end of February into early March 2016 with a second set of meetings forthcoming in June 2016. We will invite the public to share information relevant to the assessment including existing information, current trends, and local knowledge. Public engagement opportunities associated with the development of the Assessment will be announced on the Web site cited below.

DATES: From January 2016 through August 2016, the public is invited to participate in the development of the Assessment. The draft assessment report for the Custer Gallatin National Forest is

being initiated and is expected to be available in August 2016 on the Forest Web site at: *http://www.fs.usda.gov/land/custergallatin/landmanagement.*

Following completion of the assessment, the Forest will initiate procedures pursuant to the National Environmental Policy Act (NEPA) to prepare and evaluate a revised forest plan.

ADDRESSES: Written correspondence can be sent to Custer Gallatin National Forest, P.O. Box 130, Bozeman, MT 59771, or sent via email to *cgplanrevision@fs.fed.us.* All correspondence, including names and addresses when provided, are placed in the record and are available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Virginia Kelly, Forest Plan Revision Team Leader at 406–587–6704. 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 time), Monday through Friday.

More information on the planning process can also be found on the Custer Gallatin National Forest Planning Web site at *http://www.fs.usda.gov/land/custergallatin/landmanagement.*

SUPPLEMENTARY INFORMATION: The National Forest Management Act (NFMA) of 1976 requires that every National Forest System (NFS) unit develop a land management plan (LMP). On April 9, 2012, the Forest Service finalized its land management planning rule (2012 Planning Rule, 36 CFR part 291), which describes requirements for the planning process and the content of the land management plans. Forest plans describe the strategic direction for management of forest resources for ten to fifteen years, and are adaptive and amendable as conditions change over time. Pursuant to the 2012 Forest Planning Rule (36 CFR part 219), the planning process encompasses three-stages: assessment, plan revision, and monitoring. The first stage of the planning process involves assessing social, economic, and ecological conditions of the planning area, which is documented in an assessment report. This notice announces the start of the initial stage of the planning process, which is the development of the assessment report.

The second stage, formal plan revision, involves the development of our Forest Plan in conjunction with the preparation of an Environmental Impact Statement under the NEPA. Once the plan revision is completed, it will be subject to the objection procedures of 36 CFR part 219, subpart B, before it can be approved. The third stage of the planning process is the monitoring and evaluation of the revised plan, which is ongoing over the life of the revised plan.

The assessment rapidly evaluates existing information about relevant ecological, economic, cultural and social conditions, trends, and sustainability and their relationship to land management plans within the context of the broader landscape. This information builds a common understanding prior to entering formal plan revision. The development of the assessment will include public engagement.

With this notice, the Custer Gallatin National Forest invites other governments, non-governmental parties, and the public to contribute in assessment development. The intent of public engagement during development of the assessment is to identify as much relevant information as possible to inform the upcoming plan revision process. We encourage contributors to share material about existing conditions, trends, and perceptions of social, economic, and ecological systems relevant to the planning process. The assessment also supports the development of relationships with key stakeholders that will be used throughout the plan revision process

As public meetings, other opportunities for public engagement, and public review and comment opportunities are identified to assist with the development of the forest plan revision, public announcements will be made, notifications will be posted on the Forest's Web site at *http://www.fs.usda.gov/main/custergallatin/* and information will be sent out to the Forest's mailing list. If anyone is interested in being on the Forest's mailing list to receive these notifications, please contact Virginia Kelly at the address identified above, or by sending an email *cgplanrevision@fs.fed.us.*

Responsible Official

The responsible official for the revision of the land management plan for the Custer Gallatin National Forest is Mary Erickson, Forest Supervisor, Custer Gallatin National Forest.

Dated: January 29, 2016.

Mary Erickson,

Forest Supervisor.

[FR Doc. 2016–02104 Filed 2–3–16; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Office of the Secretary

Estimates of the Voting Age Population for 2015

AGENCY: Office of the Secretary, Commerce.

ACTION: General Notice Announcing Population Estimates.

SUMMARY: This notice announces the voting age population estimates as of July 1, 2015, for each state and the District of Columbia. We are providing this notice in accordance with the 1976 amendment to the Federal Election Campaign Act, Title 52, United States Code, Section 30116(e).

FOR FURTHER INFORMATION CONTACT: Karen Humes, Chief, Population Division, U.S. Census Bureau, Room HQ–5H174, Washington, DC 20233, at 301–763–2071.

SUPPLEMENTARY INFORMATION: Under the requirements of the 1976 amendment to the Federal Election Campaign Act, Title 52, United States Code, Section 30116(e), I hereby give notice that the estimates of the voting age population for July 1, 2015, for each state and the District of Columbia are as shown in the following table.

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE AND THE DISTRICT OF COLUMBIA: JULY 1, 2015

Area	Population 18 and over	Area	Population 18 and over
United States	247,773,709		
Alabama	3,755,483	Missouri	4,692,196
Alaska	552,166	Montana	806,529
Arizona	5,205,215	Nebraska	1,425,853
Arkansas	2,272,904	Nevada	2,221,681
California	30,023,902	New Hampshire	1,066,610
Colorado	4,199,509	New Jersey	6,959,192

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE AND THE DISTRICT OF COLUMBIA: JULY 1, 2015—Continued

Area	Population 18 and over	Area	Population 18 and over
Connecticut	2,826,827	New Mexico	1,588,201
Delaware	741,548	New York	15,584,974
District of Columbia	554,121	North Carolina	7,752,234
Florida	16,166,143	North Dakota	583,001
Georgia	7,710,688	Ohio	8,984,946
Hawaii	1,120,770	Oklahoma	2,950,017
Idaho	1,222,093	Oregon	3,166,121
Illinois	9,901,322	Pennsylvania	10,112,229
Indiana	5,040,224	Rhode Island	845,254
Iowa	2,395,103	South Carolina	3,804,558
Kansas	2,192,084	South Dakota	647,145
Kentucky	3,413,425	Tennessee	5,102,688
Louisiana	3,555,911	Texas	20,257,343
Maine	1,072,948	Utah	2,083,423
Maryland	4,658,175	Vermont	506,119
Massachusetts	5,407,335	Virginia	6,512,571
Michigan	7,715,272	Washington	5,558,509
Minnesota	4,205,207	West Virginia	1,464,532
Mississippi	2,265,485	Wisconsin	4,476,711
		Wyoming	447,212

Source: U.S. Census Bureau, Population Division, Vintage 2015 Population Estimates.

I have certified these estimates for the Federal Election Commission.

Dated: January 21, 2016.

Penny Pritzker,

Secretary, U.S. Department of Commerce.

[FR Doc. 2016–02019 Filed 2–3–16; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–957]

Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Final Results of Expedited First Sunset Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) finds that revocation of the countervailing duty (CVD) order on seamless carbon and alloy steel standard, line and pressure pipe (seamless pipe) from the People's Republic of China (PRC) would likely lead to the continuation or recurrence of a countervailable subsidy at the levels indicated in the Final Results of Review section of this notice.

DATES: *Effective date:* February 4, 2016.

FOR FURTHER INFORMATION CONTACT: Peter Zukowski, Office I, 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) 482–0189.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2015, the Department initiated the first sunset review of the *CVD Order*[1] on seamless pipe from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] TMK IPSCO, United States Steel Corporation (U.S. Steel) and Vallourec Star, L.P. (Vallourec) (collectively, the petitioners) filed timely notices of intent to participate on October 13, 2015, and October 15, 2015, in accordance with 19 CFR 351.218(d)(1).[3] Each of these companies claimed interested party status under section 771(9)(C) of the Act, as U.S. producers of the domestic like product.

The Department received an adequate substantive response collectively from the domestic industry within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] The Department did not receive a substantive response from the Government of the PRC or any respondent interested party to the proceeding. Because the Department received no response from the respondent interested parties, the Department conducted an expedited review of this CVD order, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(l)(ii)(B)(2) and (C)(2).

Scope of the Order

The scope of this order consists of certain seamless carbon and alloy steel (other than stainless steel) pipes and redraw hollows, less than or equal to 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (*e.g.,* hot-finished or cold-drawn), end finish (*e.g.,* plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish (*e.g.,* bare, lacquered or coated). Redraw hollows are any unfinished carbon or alloy steel (other than stainless steel) pipe or ''hollow profiles'' suitable for cold finishing operations, such as cold drawing, to meet the American Society for Testing and Materials (''ASTM'') or American Petroleum Institute (''API'') specifications referenced below, or comparable specifications. Specifically included within the scope are seamless carbon and alloy steel (other than

[1] *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 69050 (November 10, 2010) (*CVD Order*).

[2] *See Initiation of Five-Year ''Sunset'' Reviews,* 80 FR 59133 (October 1, 2015).

[3] *See* Letters to the Department, ''Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from China, First Sunset Review,'' dated October 13, 2015 (filed by TMK IPSCO and Vallourec) and ''Notice of Intent to Participate in First Five-Year Review of the Countervailing Duty Order on Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from the People's Republic of China,'' dated October 14, 2015 (filed by US Steel).

[4] *See* Letter to the Department, ''Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from China, First Sunset Review: Substantive Response to Notice of Initiation,'' dated November 2, 2015.

stainless steel) standard, line, and pressure pipes produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, ASTM A–1024, and the API 5L specifications, or comparable specifications, and meeting the physical parameters described above, regardless of application, with the exception of the exclusion discussed below.

Specifically excluded from the scope of the order are: (1) All pipes meeting aerospace, hydraulic, and bearing tubing specifications; (2) all pipes meeting the chemical requirements of ASTM A–335, whether finished or unfinished; and (3) unattached couplings. Also excluded from the scope of the order are all mechanical, boiler, condenser and heat exchange tubing, except when such products conform to the dimensional requirements, *i.e.,* outside diameter and wall thickness of ASTM A–53, ASTM A–106 or API 5L specifications.

The merchandise covered by the order is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers: 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum, which is dated concurrently with this notice. The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of a countervailable subsidy and the net countervailable subsidy likely to prevail if the *CVD Order* were revoked. Parties can find a complete discussion of all issues raised in this expedited sunset review and the corresponding recommendations in this public memorandum, which is on file electronically *via* the Enforcement and Compliance Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(b)(1) and (3) of the Act, we determine that revocation of the *CVD Order* on seamless pipe from the PRC would be likely to lead to continuation or recurrence of a net countervailable subsidy at the rates listed below:

Manufacturers/Producers/Exporters	Net countervailable subsidy (percent)
Tianjin Pipe (Group) Corp., Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuantong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co., Ltd., TPCO Charging Development Co., Ltd	13.66
Hengyang Steel Tube Group Int'l Trading, Inc., Hengyang Valin Steel Tube Co., Ltd., Hengyang Valin MPM Tube Co., Ltd., Xigang Seamless Steel Tube Co., Ltd., Wuxi Seamless Special Pipe Co., Ltd., Wuxi Resources Steel Making Co., Ltd., Jiangsu Xigang Group Co., Ltd., Hunan Valin Xiangtan Iron & Steel Co., Ltd., Wuxi Sifang Steel Tube Co., Ltd., Hunan Valin Steel Co., Ltd., Hunan Valin Iron & Steel Group Co., Ltd	56.67
All Others	35.17

Notification Regarding Administrative Protective Order

This notice 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 return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

The Department is issuing and publishing these final results and this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act.

Dated: January 28, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–02147 Filed 2–3–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843]

Certain Lined Paper Products From India: Final Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On October 7, 2015, the Department of Commerce (the Department) published the *Preliminary Results* of the administrative review of the antidumping duty order on certain lined paper products (CLPP) from India in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).[1] The period of review (POR) is September 1, 2013, through August 31, 2014. This review covers two

[1] *See Certain Lined Paper Products from India: Notice of Preliminary Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 60628 (October 7, 2015) (*Preliminary Results*), and accompanying Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, titled ''Certain Lined Paper from India: Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review; 2013–2014,'' dated September 30, 2015 (Preliminary Decision Memorandum). The Preliminary Decision Memorandum can be accessed directly at: *http://enforcement.trade.gov/frn/index.html.*

mandatory respondents, Kokuyo Riddhi Paper Products Private Limited [2] (Kokuyo Riddhi) and SAB International (SAB), and one respondent not individually examined, Navneet Publications (India) Ltd./Navneet Education Limited (Navneet).[3] We invited interested parties to comment on the *Preliminary Results.* We received no comments or hearing requests from any interested parties. Therefore, we have made no changes for the final results. The final weighted-average dumping margins for Kokuyo Riddhi, SAB and Navneet are listed below in the section titled ''Final Results of the Review.''

DATES: *Effective Date:* February 4, 2016.

FOR FURTHER INFORMATION CONTACT: Cindy Robinson or George McMahon, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3797 or (202) 482–1167, respectively.

Background

On October 7, 2015, the Department published the *Preliminary Results.* In accordance with 19 CFR 351.309(c)(1)(ii), we invited interested parties to comment on our *Preliminary Results.* We received no comments or requests for a hearing from any party. The Department conducted this administrative review in accordance with section 751(a)(2) of the Act.

Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8¾ inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or ''tear-out'' size), and are measured as they appear in the product (*i.e.,* stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- Unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as ''tablets,'' ''note pads,'' ''legal pads,'' and ''quadrille pads''), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as ''office planners,'' ''time books,'' and ''appointment books'');
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as ''fine business paper,'' ''parchment paper'', and ''letterhead''), whether or not containing a lined header or decorative lines;
- Stenographic pads (''steno pads''), Gregg ruled (''Gregg ruling'' consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book), measuring 6 inches by 9 inches.

Also excluded from the scope of this order are the following trademarked products:

- Fly ™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly ™ pen-top computer. The product must bear the valid trademark Fly ™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes ™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes ™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes ™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar®Advance ™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material

[2] The Department has determined that Kokuyo Riddhi Paper Products Private Limited (Kokuyo Riddhi) is the successor-in-interest to Riddhi Enterprises. *See Certain Lined Paper Products From India: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 80 FR 18373 (April 6, 2015) (*Final Results of CCR—Kokuyo Riddhi*), and the accompanying Issues and Decision Memorandum. Accordingly, we refer to Kokuyo Riddhi and Riddhi Enterprises as Kokuyo Riddhi in this review.

[3] The Department has determined that Navneet Education Limited (Navneet Education) is the successor-in-interest to Navneet Publications (India) Ltd. *See Certain Lined Paper Products From India: Final Results of Changed Circumstances Review,* 79 FR 35726 (June 24, 2014).

joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1'' wide elastic fabric band. This band is located 2⅜″ from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

• FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the HTSUS. The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope is dispositive.

Final Results of the Review

As noted above, the Department received no comments concerning the *Preliminary Results.* As there are no changes from, or comments upon, the *Preliminary Results,* the Department finds that there is no reason to modify its analysis and calculations. Accordingly, no decision memorandum accompanies this **Federal Register** notice. For further details of the issues addressed in this proceeding, see the *Preliminary Results* and the accompanying Preliminary Decision Memorandum.

The final weighted-average dumping margins for the POR are as follows:

Producer/Exporter	Weighted-average dumping margin (percent)
Kokuyo Riddhi Paper Products Private Limited (formerly known as Riddhi Enterprises)	11.77
Navneet Publications (India) Ltd./Navneet Education Limited [4]	11.77
SAB International	0.00

Assessment Rates

The Department shall determine and Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries in this review, in accordance with section 751(a)(2)(C) of the Act.[5] For any individually examined respondents whose weighted-average dumping margin is above *de minimis,* we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent), the Department will issue instructions directly to CBP to assess antidumping duties on appropriate entries.

In accordance with the Department's ''automatic assessment'' practice,[6] for entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this practice, *see* the *Automatic Assessment Clarification.* We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) The

[4] The margin for Navneet is the calculated weighted-average margin of Kokuyo Riddhi, the sole mandatory respondent receiving a margin that is above *de minimis* in these final results. For further discussion, *see* the Preliminary Decision Memorandum at the ''Margin for Company Not Selected for Individual Examination'' section.

[5] In these final results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[6] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Automatic Assessment Clarification*).

cash deposit rate for Kokuyo Riddhi, SAB and Navneet will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.91 percent, the all-others rate established in the original antidumping duty investigation.[7] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: January 28, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–02150 Filed 2–3–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–911]

Circular Welded Carbon Quality Steel Pipe From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the countervailing duty order on circular welded carbon quality steel pipe (CWP) from the People's Republic of China (PRC) for the period of review January 1, 2014, through December 31, 2014.

DATES: *Effective Date:* February 4, 2016.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or Toby Vandall, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1391 and (202) 482–1664, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2015, the Department published the *Notice of Opportunity* to request an administrative review of the countervailing duty order on CWP from the PRC for the period of review January 1, 2014, through December 31, 2014.[1] On July 24, 2015, Wheatland Tube Company (the petitioner) submitted a request for an administrative review of the countervailing duty order on CWP from the PRC for 19 companies.[2] No other party requested an administrative review. On September 2, 2015, the Department published the notice of initiation of an administrative review of the order for the period of review January 1, 2014, through December 31, 2014.[3] On December 1, 2015, the petitioner withdrew its request for review of all 19 companies.[4]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As noted above, the petitioner withdrew its request for an administrative review within 90 days of the publication date of the *Initiation Notice.* No other parties requested an administrative review of the order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of CWP from the PRC. Countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review.

Notifications

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of countervailing duties occurred and the subsequent assessment of doubled countervailing duties.

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in

[7] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006) (*CLPP Order*).

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 80 FR 37583 (July 1, 2015) (*Notice of Opportunity*).

[2] *See* letter from the petitioner, ''Circular Welded Carbon Quality Steel Pipe From The People's Republic Of China: Request For Administrative Review,'' (July 24, 2015).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 53106 (September 2, 2015) (*Initiation Notice*).

[4] *See* letter from the petitioner, ''Circular Welded Carbon Quality Steel Pipe From The People's Republic Of China: Withdrawal of Request For Administrative Review,'' (December 1, 2015).

accordance with 19 CFR 351.305(a)(3). 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 sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 1, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–02151 Filed 2–3–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Enforcement and Compliance, International Trade Administration Department of Commerce.

DATES: *Effective date:* February 4, 2016.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230, telephone: (202) 482–3692.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (the Department) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the periods July 1, 2015, through September 30, 2015.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies, as defined in section 702(h) of the Act, being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: January 28, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—Subsidy Programs on Cheese Subject to an In-Quota Rate of Duty

Country	Program(s)	Gross [1] subsidy ($/lb)	Net [2] subsidy ($/lb)
28 European Union Member States [3]	European Union Restitution Payments	0.00	0.00
Canada	Export Assistance on Certain Types of Cheese	0.45	0.45
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	0.00	0.00
Total		0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 28 member states of the European Union are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2016–02149 Filed 2–3–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE417

Marine Mammals; File No. 19225

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that James D. Darling, Whale Trust, P.O. Box 384, Tofino, BC V0R2Z0 Canada, has applied in due form for a permit to conduct research on humpback whales (*Megaptera novaeangliae*) and other cetacean and pinniped species.

DATES: Written, telefaxed, or email comments must be received on or before March 7, 2016.

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 (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 19225 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: Rosa L. González or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant proposes to address a variety of questions regarding social organization, behavior, and communication of humpback whales using passive acoustic monitoring, active playbacks, suction cup and dart tagging, biopsy sampling, underwater photography/videography, photo ID and photogrammetry during aerial and vessel surveys. Research would occur off Hawaii (primarily off west Maui), and Alaska. Incidental harassment is requested for the following non-target species: North Pacific right whales (*Eubalaena japonica*); false killer whales (*Pseudorca crassidens*); Dall's porpoises (*Phocoenoides dalli*); spinner (*Stenella longirostris*), pantropical spotted (*S. attenuata*), and bottlenose dolphins (*Turisiops truncatus*); killer whales (*Orcinus orca*); Hawaiian monk seals (*Neomonachus schauinslandi*); harbor seals (*Phoca vitulina*); and Steller sea lions (*Eumetopias jubatus*). The permit is requested for 5 years.

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 the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 29, 2016.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–02059 Filed 2–3–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice; public hearings and webinar.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold nine public hearings and one webinar to solicit public comments on Coastal Migratory Pelagics (CMP) Amendment 26—Changes in Allocations, Stock Boundaries and Sale Provisions for Gulf of Mexico and Atlantic Migratory Groups of King Mackerel; and a Framework Action to Modify Commercial Gear Requirements for Yellowtail Snapper (in Key West and Sarasota, FL only).

DATES: The public hearings will be held February 22–March 3, 2016. The meetings will begin at 6 p.m. and will conclude no later than 9 p.m. For specific dates and times, see **SUPPLEMENTARY INFORMATION**. Written public comments must be received on or before 5 p.m. EST on Friday, March 4, 2016.

ADDRESSES: The public documents can be obtained by contacting the Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; (813) 348–1630 or on their Web site at *www.gulfcouncil.org.*

Meeting addresses: The public hearings will be held in Destin, Sarasota and Key West, FL; Corpus Christi and Texas City, TX; Pascagoula, MS; Orange Beach, AL; Kenner, LA; and one webinar. For specific locations, see **SUPPLEMENTARY INFORMATION**.

Public comments: Comments may be submitted online through the Council's public portal by visiting *www.gulfcouncil.org* and clicking on ''CONTACT US''.

FOR FURTHER INFORMATION CONTACT: Douglas Gregory, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The agenda for the following nine hearings and one webinar are as follows: Council staff will brief the public on CMP Amendment 26—Changes in Allocations, Stock Boundaries and Sale Provisions for Gulf of Mexico and Atlantic Migratory Groups of King Mackerel; and a Framework Action to Modify Commercial Gear Requirements for Yellowtail Snapper (in Key West and Sarasota, FL only). Staff will then open the meeting for questions and public comments. The schedule is as follows:

Locations, Schedules, and Agendas

Monday, February 22, 2016; Amendment 26—Hilton Garden Inn, 6717 S. Padre Island Drive, Corpus Christi, TX 78412; telephone: (361) 991–8200; and *Amendment 26*—Hilton Garden Inn, 2703 Denny Avenue, Pascagoula, MS 39567; telephone: (228) 762–7182.

Tuesday, February 23, 2016; Amendment 26—Holiday Inn Express & Suites, 2440 Gulf Freeway, Texas City, TX 77591; telephone: (409) 986–6700; *Amendment 26*—Hilton Garden Inn, 23092 Perdido Beach Boulevard, Orange Beach, AL 36561; telephone: (251) 974–1600.

Wednesday, February 24, 2016; Amendment 26—Hilton New Orleans Airport, 901 Airline Drive, Kenner, LA 70062; telephone: (504) 469–5000; *Amendment 26*—Destin Community Center, 101 Stahlman Ave, Destin, FL 32541; telephone: (850) 654–5184.

Monday, February 29, 2016, Amendment 26—Harvey Government Center, 1200 Truman Avenue, Key West, FL 33040; telephone: (305) 292–4431.

Tuesday, March 1, 2016, Framework Action Yellowtail—Harvey Government Center, 1200 Truman Avenue, Key West, FL 33040; telephone: (305) 292–4431.

Wednesday, March 2, 2016, Amendment 26 and Framework Action—Holiday Inn Lakewood Ranch, 6231 Lake Osprey Drive, Sarasota, FL 34240; telephone: (941) 782–4400.

Thursday, March 3, 2016, Amendment 26—Webinar—6 p.m. EST at: *https://attendee.gotowebinar.com/register/6934876394687175681.* After registering, you will receive a confirmation email containing information about joining the webinar.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira (see **ADDRESSES**), at least 5 working days prior to the meeting date.

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

Dated: February 1, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–02110 Filed 2–3–16; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Compliance Bulletin—The FCRA's Requirement That Furnishers Establish and Implement Reasonable Written Policies and Procedures Regarding the Accuracy and Integrity of Information Furnished to All Consumer Reporting Agencies

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Compliance bulletin.

SUMMARY: This document highlights existing obligations under the Fair Credit Reporting Act (FCRA) for furnishers of consumer information to consumer reporting agencies (CRAs) to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information furnished to all CRAs. In recent reviews of the furnishing practices of financial institutions, the Consumer Financial Protection Bureau (CFPB or Bureau) found that some financial institutions are not compliant with their obligations with regard to furnishing to specialty CRAs, including the furnishing of deposit account information. An institution's relevant policies and procedures must encompass the institution's furnishing to all types of CRAs.

The CFPB will continue to monitor furnishers' compliance with these obligations to ensure they meet their accuracy and integrity obligations for any information that they furnish.

DATES: The Bureau released this Compliance Bulletin on its Web site on February 3, 2016.

FOR FURTHER INFORMATION CONTACT: Anthony Rodriguez, Attorney, 202–435–9726; or Laurie Sellick, Attorney, 202–435–7262, Office of Supervision Policy.

SUPPLEMENTARY INFORMATION:

I. Compliance Bulletin

The CFPB issues this bulletin to emphasize the obligation of furnishers [1] under Regulation V to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information relating to consumers that they furnish to CRAs. This obligation, which has been required under Regulation V since July 2010,[2] applies to furnishing to all CRAs, including furnishing to specialty CRAs, such as the furnishing of deposit account information to CRAs. Furnishers must have policies and procedures that meet this requirement with respect to *all* CRAs to which they furnish.

The supervisory experience of the Bureau suggests that some financial institutions are not compliant with their obligations under Regulation V with regard to furnishing to specialty CRAs. Furnishers' establishment and implementation of reasonable policies and procedures regarding the accuracy and integrity of information are essential components of a fair and accurate credit reporting system. Such policies and procedures protect against the furnishing of inaccurate information that could potentially cause adverse consequences for consumers when included in a credit report, such as being denied a loan at a more favorable interest rate or being unable to open a transaction account.

While furnisher obligations under Regulation V are the focus of this bulletin, the CFPB recognizes that both furnishers and CRAs have independent obligations under the FCRA related to the accuracy of information and to the investigation of consumer disputes. The CFPB expects both furnishers and CRAs to comply with their respective duties.

Furnishers must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information relating to consumers that they furnish to CRAs.[3] These policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities.[4] When creating these policies and procedures, furnishers must consider the factors listed in the ''Interagency Guidelines Concerning the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies'' and incorporate those guidelines that are appropriate.[5] Additionally, each furnisher must periodically review and update its policies and procedures to ensure their continued effectiveness.[6]

These policies and procedures must encompass the institution's furnishing to all types of CRAs. For example, if an institution furnishes both credit information to nationwide CRAs and deposit account information to nationwide specialty CRAs, that institution must consider the appropriate approach to each type of furnishing in its policies and procedures in order to comply with Regulation V.[7] The type, frequency, and nature of the information furnished to CRAs can vary significantly. There also may be significant differences in the reporting formats and codes used to furnish to these agencies. An institution's obligation to have ''reasonable written policies and procedures'' applies to all types of information relating to consumers furnished to each of the CRAs to which it furnishes.

The CFPB will continue to monitor furnishers' compliance with the Regulation V requirement to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of all furnished information. Furnishers must ensure that they have such policies and procedures in place with respect to all information furnished. If the CFPB determines that a furnisher has engaged in any acts or practices that violate Regulation V or other federal consumer financial laws and regulations, it will take appropriate supervisory and enforcement actions to address violations and seek all appropriate remedial measures, including redress to consumers.

II. Regulatory Requirements

This Compliance Bulletin summarizes existing requirements under the law and findings made in the course of exercising the Bureau's supervisory and enforcement authority, and is a non-binding general statement of policy articulating considerations relevant to the Bureau's exercise of its supervisory and enforcement authority. It is therefore exempt from notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a). The Bureau has determined that this Compliance Bulletin does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

Dated: January 27, 2016.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2016–01987 Filed 2–3–16; 8:45 am]

BILLING CODE 4810–25–P

[1] 12 CFR 1022.41(c).

[2] *See* 74 FR 31484 (July 1, 2009). Although promulgated in July 2009, the rule provided furnishers one year's notice of this obligation before the rule became effective on July 1, 2010.

[3] 15 U.S.C. 1681s–2(e); 12 CFR 1022.42(a).

[4] 12 CFR 1022.42(a).

[5] 12 CFR 1022.42(b). The guidelines are codified in Appendix E to Regulation V, 12 CFR part 1022.

[6] 12 CFR 1022.42(c).

[7] See 12 CFR part 1022, Appendix E, § I(a).

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday February 10, 2016, 10:00 a.m.–12:00 p.m.

PLACE: Room 837–C, Enter on the Fourth Floor, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public.

MATTER TO BE CONSIDERED: *Briefing Matter:* Fiscal Year 2016 Operating Plan.

A live webcast of the Meeting can be viewed at *www.cpsc.gov/live.*

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: February 2, 2016.

Todd A. Stevenson,

Secretariat.

[FR Doc. 2016–02227 Filed 2–2–16; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Intent To Grant a Partially Exclusive License; Optio Labs, Inc.

AGENCY: National Security Agency, DoD.

ACTION: Notice.

SUMMARY: The National Security Agency hereby gives notice of its intent to grant Optio Labs, Inc. a revocable, non-assignable, partially exclusive, license to practice the following Government-Owned invention as described and claimed in United States Patent Number (USPN),7,904,278 B2, Method and Systems for Program Execution Integrity Measurement; and USPN, 8,326,579, Method and Systems for Program Execution Integrity Measurement.

DATES: Anyone wishing to object to the grant of this license has until February 19, 2016 to file written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

ADDRESSES: Written objections are to be filed with the National Security Agency Technology Transfer Program, 9800 Savage Road, Suite 6843, Fort George G. Meade, MD 20755–6843.

FOR FURTHER INFORMATION CONTACT: Linda L. Burger, Director, Technology Transfer Program, 9800 Savage Road, Suite 6843, Fort George G. Meade, MD 20755–6843, telephone (443) 634–3518.

SUPPLEMENTARY INFORMATION: The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The patent rights in these inventions have been assigned to the United States Government as represented by the National Security Agency.

Dated: February 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–02105 Filed 2–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Board on Coastal Engineering Research Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Board on Coastal Engineering Research. This meeting is open to the public.

DATES: The Board on Coastal Engineering Research will meet from 8 a.m. to 5 p.m. on March 3, 2016, and reconvene from 8 a.m. to 12 p.m. on March 4, 2016.

ADDRESSES: All sessions will be held in the Governor's Hall, Governor Calvert House, Historic Inns of Annapolis, 58 State Circle, Annapolis, MD 21401. All sessions are open to the public. For more information about the Board, please visit *http://chl.erdc.usace.army.mil/cerb.*

FOR FURTHER INFORMATION CONTACT: Colonel Bryan S. Green, Designated Federal Officer (DFO), U.S. Army Engineer Research and Development Center, Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199, phone 601–634–2513, or *Bryan.S.Green@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The Board on Coastal Engineering Research provides broad policy guidance and reviews plans for the conduct of research and the development of research projects in consonance with the needs of the coastal engineering field and the objectives of the U.S. Army Chief of Engineers.

Purpose of the Meeting: The meeting is an Executive Session to review past action items, status reports, research and development (R&D) strategic directions, and coastal engineering research in the United States.

Agenda: On Thursday morning, March 3, 2016, action items to be discussed will be: (1) Continue Investment in ''Systems'' R&D; (2) Link R&D with Challenging Projects; (3) Share Data and Tools with Stakeholders; (4) Enhance Collaboration across the Coastal Community; (5) Update, Vision for Coastal Engineering R&D; and (6) Board Governance and Engagement Guidance. There will be an optional field trip Thursday afternoon, to tour the U.S. Naval Academy Engineering Department. Following the tour, the meeting reconvenes at the Historic Inns of Annapolis to discuss the Report on the Coastal Working Group Annual Meeting with the Focus on R&D Needs, an Update on Coastal Guidance Documents, a presentation and discussion on the Coastal R&D University Collaboration.

On Friday morning, March 4, 2016, the Board will reconvene to discuss NOAA/USACE Coastal Collaboration, Research from the Dune Management Challenges on Developed Coasts Meeting, and an Update and Discussion on the August 2016 Meeting in Puerto Rico.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, the meeting is open to the public. Because seating capacity is limited, advance registration is encouraged. Registration can be accomplished as set forth below.

Registration: Individuals who wish to attend the meeting of the Board are encouraged to register with the DFO by email, the preferred method of contact, no later than February 26, using the electronic mail contact information found in the **FOR FURTHER INFORMATION CONTACT** section. The communication should include the registrant's full name, title, affiliation or employer, email address, and daytime phone number. If applicable, include written comments or statements with the registration email.

Written Comments and Statements: Pursuant to 41 CFR 102–3.015(j) and 102–3.140 and section 10(a)(3) of the FACA, the public or interested organizations may submit written

comments or statements to the Board, in response to the stated agenda of the open meeting or in regard to the Board's mission in general. Written comments or statements should be submitted to Colonel Bryan S. Green, DFO, via electronic mail, the preferred mode of submission, is the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The DFO will review all submitted written comments or statements and provide them to members of the Board for their consideration. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the DFO at least five business days prior to the meeting to be considered by the Board. The DFO will review all timely submitted written comments or statements with the Board Chairperson and ensure the comments are provided to all members of the Board before the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting.

Verbal Comments: Pursuant to 41 CFR 102–3.140d, the Board is not obligated to allow a member of the public to speak or otherwise address the Board during the meeting. Members of the public will be permitted to make verbal comments during the Board meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least five business days in advance to the Board's DFO, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. The DFO will log each request, in the order received, and in consultation with the Board Chair, determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 30-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment, and whose comments have been deemed relevant under the process described above, will be allotted no more than five minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–01974 Filed 2–3–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Nanushuk Project; Located 7.5 Miles Northeast of Nuiqsut, Alaska

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Alaska District, U.S. Army Corps of Engineers (Corps) intends to prepare an Environmental Impact Statement (EIS) to identify and analyze the potential impacts associated with the development of the Alpine C and Nanushuk reservoirs, including construction and operation of the proposed project. The Corps will be evaluating a permit application for work under Section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act. The EIS will be used to support the permit decision in compliance with the National Environmental Policy Act (NEPA).

ADDRESSES: Please send written comments to Ms. Janet Post, U.S. Army Corps of Engineers, Regulatory Division CEPOA–RD, P.O. Box 6898, JBER, AK 99506–0898; by email: *janet.l.post@usace.army.mil,* or by Web site *www.NanushukEIS.com.*

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and the EIS can be answered by: Ms. Janet Post, Regulatory Division, by telephone: (907) 753–2831 or toll free from within Alaska: (800) 478–2712, by fax: (907) 753–5567, by email: *janet.l.post@usace.army.mil,* or by mail: U.S. Army Corps of Engineers, Regulatory Division CEPOA–RD, P.O. Box 6898, JBER, AK 99506–0898. To be added to the project mailing list and for additional information, please visit the following Web site: *www.NanushukEIS.com.*

SUPPLEMENTARY INFORMATION:

Proposed Action: The permit applicant, Repsol E&P USA, Inc. (Repsol), is proposing to develop the Alpine C and Nanushuk reservoirs, located approximately 52 miles west of Deadhorse, 7.5 miles northeast of Nuiqsut, and 1 mile southeast of the East Channel of the Colville River, in the State of Alaska. Up to 76 production and injection wells would be drilled from three drill sites (Drill Sites (DS) 1–3). Construction would include the Nanushuk Pad, comprised of DS1 and a central processing facility (CPF); two additional drill sites (DS2 and DS3); and an operations center pad. A tie-in pad would be constructed adjacent to the existing Kuparuk CPF2 facility. The operations center pad would include infrastructure to support operations and drilling, such as camps, office, warehouse, maintenance building, cold storage, potable water tanks, wastewater and water treatment plant, temporary waste storage area, communication structures, diesel-fired back-up power generators, and a helicopter landing pad. Tie-in pad infrastructure would include a pig launcher and receiver, a metering skid, pipe rack, laydown area, and a communications tower. One time screeding would be required at Oliktok Point Dock to support sealift module delivery.

The Project would include 11.1 miles of gravel infield roads, comprised of a 4.0-mile DS2 road and a 7.1 mile DS3 road, to provide all-season ground transport between the Nanushuk Pad and DS2 and DS3. And a 13.8-mile gravel access road to provide all-season ground transport between the Nanushuk Pad and the existing road network at Kuparuk DS2M.

The applicant would produce multiphase product from the three drill sites and transport it to the Nanushuk Pad via multiphase pipelines for processing. Water separated from the oil would be transported back to the drill sites via water injection pipelines to be reinjected back into the subsurface formation to help maintain pressure and enhance oil production. Separated gas would be used for power generation at the CPF, and the remainder would be transported back to the drill sites via gas lift pipelines for gas lift. Excess gas, if any, would be injected into a dedicated injection well at DS2. Sales-quality oil processed at the Nanushuk Pad would be transported to the tie-in pad at the Kuparuk CPF2 via the Nanushuk Pipeline.

Reasonable Alternatives: A reasonable range of alternatives will be identified and evaluated through scoping and the alternatives development process.

Scoping: The scoping period is anticipated to begin in February and end in March 2016.

(1) Public involvement: The Corps invites full public participation to promote open communication on the issues to be addressed in preparation of the EIS regarding the proposed action.

All Federal, State, Tribal, and local agencies, and other interested persons or organizations, are urged to participate in the NEPA scoping process. Scoping meetings will be conducted to inform interested parties of the proposed project, receive public input on the development of proposed alternatives to be reviewed in the EIS, and to identify significant issues to be analyzed.

(2) Scoping meetings: The Corps plans to hold scoping meetings in Barrow, Nuiqsut, Anchorage, and Fairbanks. Public notices will be placed in local newspapers and other public places, and will be communicated directly with the smaller communities, once dates are confirmed.

(3) Information about these meetings and meeting dates will be published locally, posted at the project Web site, and available by contacting the Corps as previously described. A description of the proposed project will be posted on the project Web site prior to these meetings to help the public focus their scoping comments.

(4) The Corps will serve as the lead Federal agency in the preparation of the EIS. Agencies that are being invited to act as Cooperating Agencies include the following:

a. U.S. Environmental Protection Agency
b. U.S. Fish and Wildlife Service
c. State of Alaska, Department of Natural Resources, Office of Project Management and Permitting
d. North Slope Borough
e. Native Village of Nuiqsut

(5) The EIS will analyze the potential social, economic, physical, and biological impacts to the affected areas. Numerous issues will be analyzed in depth in the EIS. These issues include, but are not limited to, the following: The construction and operation of the facilities and their effect upon the community of Nuiqsut; subsistence; cultural resources; air quality; socioeconomics; alternatives; secondary and cumulative impacts; threatened and endangered species including critical habitat; hydrology and wetlands; and fish and wildlife.

(6) Other Environmental Review and Consultation Requirements: Other environmental review and consultation requirements include Executive Order 13175 Consultation and Coordination with Indian Tribal Governments, Executive Order 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 106 of the National Historic Preservation Act of 1966, and Endangered Species Act Section 7 consultation.

(7) Land and Resource Ownership: Kuukpik Corporation owns the surface estate of lands at the drill sites and lands traversed by the infield roads and infield pipelines, and portions of the access road and Nanushuk Pipeline. The State of Alaska, through the Alaska Department of Natural Resources (ADNR), manages the majority of surface lands traversed by the Nanushuk Pipeline and access road. The Project will access subsurface mineral resources that are shared by the State of Alaska and the Arctic Slope Regional Corporation (ASRC).

Estimated Date Draft EIS Available to Public: It is anticipated that the Draft EIS will be available in spring 2017 for public review.

Dated: January 26, 2016.

Michael Salyer,

Chief, North Branch, Regulatory Division, Department of the Army, Corps of Engineers.

[FR Doc. 2016–01973 Filed 2–3–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

[OE Docket No. PP–371]

Notice of Public Hearings for the Draft Northern Pass Transmission Line Project Environmental Impact Statement (DOE/EIS–0463)

AGENCY: U.S. Department of Energy.

ACTION: Notice of public hearings.

SUMMARY: The U.S. Department of Energy (DOE) announces public hearings to receive comments on the Draft EIS. The Draft EIS evaluates the potential environmental impacts of DOE's proposed Federal action of issuing a Presidential permit to Northern Pass LLC (the Applicant) to construct, operate, maintain, and connect a new electric transmission line across the U.S./Canada border in northern New Hampshire.

The U.S. Forest Service—White Mountain National Forest (USFS), the U.S. Army Corps of Engineers—New England District (USACE), the U.S. Environmental Protection Agency—Region 1 (EPA), and the New Hampshire Office of Energy and Planning (NHOEP) are cooperating agencies in the preparation of the EIS.

The New Hampshire Site Evaluation Committee (SEC) was established by the New Hampshire legislature for the review, approval, monitoring and enforcement of compliance in the planning, siting, construction and operation of energy facilities in the State of New Hampshire.

On October 19, 2015, Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively Applicant), filed an Application for a Certificate of Site and Facility (Application) seeking the issuance of a Certificate of Site and Facility approving the siting, construction, and operation of a 192-mile transmission line and associated facilities with a capacity rating of up to 1,090 MW from the Canadian border in Pittsburg in Coos County to Deerfield in Rockingham County (Project). New Hampshire law, R.S.A. Section 162–H:10(I–c), requires that within 90 days after acceptance of an application for a certificate, that the New Hampshire Site Evaluation Committee shall hold at least one public hearing in each county where the proposed facility will be located.

DATES: The public review period to receive comments on the Draft EIS closes on April 4, 2016, see the Public Participation section for more information about submitting comments.

DOE and the cooperating agencies and the New Hampshire SEC will conduct joint public hearings to receive oral and written comments concerning the project on March 7 and March 10, 2016. DOE and the cooperating agencies will conduct public hearings to receive oral and written comments on the Draft EIS at the following locations commencing at the times identified:

Colebrook: Monday March 7, 2016, 5:00 p.m., Colebrook Elementary School, Gymnasium, Colebrook, NH

Waterville Valley: Wednesday March 9, 2016, 5:00 p.m., Waterville Valley Conference and Event Center, Waterville Room, Waterville Valley, NH 03215

Concord: Thursday March 10, 2016, 5:00 p.m., Grappone Conference Center, Granite Ballroom, 70 Constitution Avenue, Concord, NH 03301

Whitefield: Friday March 11, 2016, 5:00 p.m., Mountain View Grand Resort and Spa, Presidential Room, 101 Mountain View Road, Whitefield, NH 03598

ADDRESSES: Requests to pre-register to provide oral comments at a public hearing should be addressed to the Northern Pass EIS Team at this email address: *info@northernpasseis.us.*

Comments on the Draft EIS can be submitted verbally during public hearings or in writing to Mr. Brian Mills at: Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue SW.,

Washington, DC 20585; via email to *draftEIScomments@northernpasseis.us;* by facsimile to (202) 586–8008; or through the project Web site at *http://www.northernpasseis.us/.*

FOR FURTHER INFORMATION CONTACT: Mr. Brian Mills at the addresses above, or at 202–586–8267.

SUPPLEMENTARY INFORMATION:

Public Participation

Comments: DOE invites interested Members of Congress, state and local governments, other Federal agencies, American Indian tribal governments, organizations, and members of the public to provide comments on the Draft EIS.

The public comment period on the Draft EIS started on July 31, 2015, with the publication in the **Federal Register** by the U.S. Environmental Protection Agency of its Notice of Availability of the Draft EIS.

The public review period to receive comments on the Draft EIS closes on April 4, 2016. Please mark envelopes and electronic mail subject lines as ''NP Draft EIS Comments.'' Written comments should be submitted by April 4, 2016. Written and oral comments will be given equal weight and all comments received or postmarked by that date will be considered by DOE in preparing the Final EIS. Comments submitted (*e.g.,* postmarked) after that date will be considered to the extent practicable.

Public Hearings: When requesting to pre-register to provide oral comments at a public hearing (see the **DATES** section for times and locations), please include your full name and email address, and specify the location you request to speak at. Please state in the subject line, ''NP Draft EIS Public Hearing Speaker Request.'' Please submit your request by, February 25, 2016; requests received by that date will be given priority in the speaking order. However, requests to speak may also be made at the hearing. The speaking order will be as follows: (1) Elected Officials; (2) Pre-registered speakers (order determined on a first-come, first-served basis); (3) Speakers registering at the meeting. Pre-registered speakers who have requested to speak at a specific time will be accommodated as possible.

Availability of the Draft EIS

The documents are available online at *http://www.northernpasseis.us/.* Copies of the Draft EIS are also available at a number of public libraries and town halls (a list of locations is found here: *http://media.northernpasseis.us/media/DraftEIS_Hard_Copy_Locations.pdf*).

Printed copies of the documents may be obtained by contacting Mr. Mills at the above address.

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

Meghan Conklin,

Deputy Assistant Secretary, National Electricity Delivery, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2016–02111 Filed 2–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP14–517–000; CP14–518–000; PF13–14–000]

Golden Pass Products, LLC; Golden Pass Pipeline, LLC; Revised Notice of Schedule for Environmental Review of the Golden Pass Liquefied Natural Gas Export Project

This notice identifies the Federal Energy Regulatory Commission (Commission or FERC) staff's revised schedule for the completion of the final environmental impact statement (EIS) for Golden Pass Products, LLC and Golden Pass Pipeline, LLC's Golden Pass Liquefied Natural Gas Export Project. The previous notice of schedule, issued on June 26, 2015, identified March 4, 2016 as the issuance date.

Schedule for Environmental Review

Issuance of Notice of Availability of the final EIS July 29, 2016

90-day Federal Authorization Decision Deadline October 27, 2016

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Additional Information

In order to receive notification of the issuance of the final EIS and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: January 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02075 Filed 2–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–95–288]

San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchanges; Notice of Compliance Filing

Take notice that on January 29, 2016, MPS Merchant Services, Inc. submitted its Compliance Filing to Order on Rehearing of Opinion No. 536.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 9, 2016.

[1] *San Diego Gas & Elec. Co.* v. *Sellers of Energy & Ancillary Servs.,* 153 FERC ¶ 61,144 (2015) (''Order on Rehearing''), *denying rehearing of San Diego Gas & Elec. Co.* v. *Sellers of Energy & Ancillary Servs.,* Opinion No. 536, 149 FERC ¶ 61,116 (2014) (''Opinion No. 536'').

Dated: January 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02072 Filed 2–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–517–000]

Gulf South Pipeline Company, LP; Notice of Availability of the Environmental Assessment for the Proposed Coastal Bend Header Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Coastal Bend Header Project, proposed by Gulf South Pipeline Company, LP (Gulf South) in the above-referenced docket. Gulf South requests authorization to construct and operate certain natural gas pipeline facilities in various counties in Texas to expand the capacity of its pipeline system to 1.42 billion cubic feet per day to provide firm transportation service to the Freeport LNG Development, L.P. (Freeport LNG) terminal located on Quintana Island near Freeport, Texas.

The EA assesses the potential environmental effects of the construction and operation of the Coastal Bend Header Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Project includes the following facilities in Texas:

- Install approximately 66-miles of new 36-inch-diameter pipeline lateral from Wharton County, Texas to the existing Freeport Liquefied Natural Gas Stratton Ridge meter site in Brazoria County;
- construct one new gas-fired 83,597 horsepower (hp) Wilson Compressor Station in Wharton County;
- construct one new electric motor-driven 26,400-hp Brazos Compressor Station in Fort Bend County;
- construct one new electric motor-driven 10,700-hp North Houston Compressor Station in Harris County;
- install piping modifications at the existing Goodrich Compressor Station in Polk County to allow for bi-directional flow; and
- install additional gas-fired 15,748-hp compressor unit and modifications at the former Magasco Compressor Station in Sabine County to allow for bi-directional flow.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before February 29, 2016.

For your convenience, there are three methods you can use to file your comments with the Commission. In all instances, please reference the project docket number (CP15–517–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at 202–502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature located on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP15–517). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: January 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02076 Filed 2–3–16; 8:45 am]

BILLING CODE 6717–01–P

[1] See the previous discussion on the methods for filing comments.

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 meetings related to the transmission planning activities of the New York Independent System Operator, Inc.

The New York Independent System Operator, Inc. Business Issues Committee Meeting

February 10, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via Web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=bic.*

The New York Independent System Operator, Inc. Operating Committee Meeting

February 12, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via Web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=oc.*

The New York Independent System Operator, Inc. Management Committee Meeting

February 24, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via Web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=mc.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

New York Independent System Operator, Inc., Docket No. ER13–102.

New York Independent System Operator, Inc., Docket No. ER15–2059.

New York Independent System Operator, Inc., Docket No. ER16–120.

New York Transco, LLC, Docket No. ER15–572.

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or *James.Eason@ferc.gov.*

Dated: January 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02077 Filed 2–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–161–015; ER12–2068–011; ER15–1471–006; ER12–645–017; ER10–2460–011; ER10–2461–011; ER12–2159–007; ER12–682–012; ER10–2463–011; ER15–1672–005; ER11–2201–015; ER10–2464–009; ER10–1821–012; ER13–1139–014; ER13–1585–008; ER12–2205–008; ER10–2465–007; ER11–2657–008; ER14–25–012; ER13–17–009; ER14–2630–007; ER12–919–006; ER12–1311–011; ER10–2466–012; ER11–4029–011.

Applicants: Bishop Hill Energy LLC, Blue Sky East, LLC, Blue Sky West, LLC, California Ridge Wind Energy LLC, Canandaigua Power Partners, LLC, Canandaigua Power Partners II, LLC, Canadian Hills Wind, LLC, Erie Wind, LLC, Evergreen Wind Power, LLC, Evergreen Wind Power II, LLC, Evergreen Wind Power III, LLC, First Wind Energy Marketing, LLC, Goshen Phase II LLC, Imperial Valley Solar 1, LLC, Longfellow Wind, LLC, Meadow Creek Project Company LLC, Milford Wind Corridor Phase I, LLC, Milford Wind Corridor Phase II, LLC, Prairie Breeze Wind Energy LLC, Niagara Wind Power, LLC, Regulus Solar, LLC Rockland Wind Farm LLC, Stetson Holdings, LLC, Stetson Wind II, LLC, Vermont Wind, LLC.

Description: Notice of Non-Material Change in Status of Bishop Hill Energy, LLC, et al.

Filed Date: 1/28/16.

Accession Number: 20160128–5361.

Comments Due: 5 p.m. ET 2/18/16.

Docket Numbers: ER12–569–011; ER15–1925–004; ER15–2676–003; ER13–712–012; ER10–1849–010; ER11–2037–010; ER12–2227–010; ER10–1887–010; ER10–1920–012; ER10–1928–012; ER10–1952–010; ER10–1961–010; ER12–1228–012; ER14–2707–007; ER12–895–010; ER10–2720–012; ER11–4428–012; ER12–1880–011; ER15–58–005; ER14–2710–007; ER15–30–005; ER14–2708–008; ER14–2709–007; ER13–2474–006; ER11–4462–016; ER10–1971–025.

Applicants: Blackwell Wind, LLC, Breckinridge Wind Project, LLC, Cedar Bluff Wind, LLC, Cimarron Wind Energy, LLC, Elk City Wind, LLC, Elk City II Wind, LLC, Ensign Wind, LLC FPL Energy Cowboy Wind, LLC, FPL Energy Oklahoma Wind, LLC, FPL Energy Sooner Wind, LLC, Gray County Wind Energy, LLC, High Majestic Wind Energy Center, LLC, High Majestic Wind II, LLC, Mammoth Plains Wind Project, LLC, Minco Wind Interconnection Services, LLC, Minco Wind, LLC, Minco Wind II, LLC, Minco Wind III, LLC, Palo Duro Wind Interconnection Services, LLC, Palo Duro Wind Energy, LLC, Seiling Wind Interconnection Services, LLC, Seiling Wind, LLC, Seiling Wind II, LLC, Steele Flats Wind Project, LLC, NEPM II, LLC, NextEra Energy Power Marketing, LLC.

Description: Notification of Non-material Change in Status of the NextEra Companies.

Filed Date: 1/28/16.

Accession Number: 20160128–5362.

Comments Due: 5 p.m. ET 2/18/16.

Docket Numbers: ER16–197–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2016–01–29_MISO TOs Att O ADIT Compliance Filing to be effective 1/1/2016.

Filed Date: 1/29/16.

Accession Number: 20160129–5271.

Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–826–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL and LCEC Amended and Restated Resource Recovery Facility Intercon Agreement to be effective 3/29/2016.

Filed Date: 1/29/16.

Accession Number: 20160129–5238.

Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–827–000.

Applicants: PJM Interconnection, L.L.C., American Transmission Systems, Incorporated, Metropolitan Edison Company, Pennsylvania Electric Company.

Description: § 205(d) Rate Filing: American Transmission Systems, Inc.et al. Filing of New and Revised Service A to be effective 3/29/2016.

Filed Date: 1/29/16.

Accession Number: 20160129–5272.

Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–828–000.

Applicants: CID Solar, LLC.

Description: Compliance filing: Compliance Filing—Change Category 2

Seller in SW Region to be effective 3/29/2016.

Filed Date: 1/29/16.

Accession Number: 20160129–5307.

Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–829–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Bylaws Section 8.4 Revisions Regarding Monthly Assessments to be effective 3/1/2016.

Filed Date: 1/29/16.

Accession Number: 20160129–5353.

Comments Due: 5 p.m. ET 2/19/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02074 Filed 2–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14683–000]

Mr. Adam R. Rousselle, II; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On June 17, 2015, Mr. Adam R. Rousselle, II, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Blue Marsh Dam Water Power Project (project) to be located on Tulpehocken Creek, in Lower Heidelberg Township and Bern Township in Berks County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The project would consist of the following: (1) A proposed 6-foot-diameter penstock; (2) a proposed powerhouse containing two generating units having a total installed capacity of 2,500 kilowatts; (3) a tailrace returning flow to Tulpehocken Creek; (4) a proposed 0.9-mile-long, 12.47-kilovolt transmission line interconnecting with the Pennsylvania Power Company system; and (5) appurtenant facilities. The proposed project would have an average annual generation of about 9,943,000 kilowatt-hours, which would be sold to a local utility.

Applicant Contact: Mr. Adam R. Rousselle, II, 104 Autumn Trace Drive, New Hope, PA 18938; phone: (215) 485–1708.

FERC Contact: Tim Looney; phone: (202) 502–6096.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice.[1] Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14683–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14683) in the docket number field to access the document. For assistance, contact FERC Online Support.

[1] The Commission is issuing a second notice for this project because some municipalities may not have been notified by the first notice issued on September 9, 2015.

Dated: January 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02078 Filed 2–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–65–000.

Applicants: UIL Holdings Corporation.

Description: Application for Authority under Section 203 for internal corporate reorganization of UIL Holdings Corporation.

Filed Date: 1/28/16.

Accession Number: 20160128–5346.

Comments Due: 5 p.m. ET 2/18/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3232–004; ER14–2871–007; ER16–182–002; ER10–3244–009; ER10–3251–007; ER14–2382–007; ER15–621–006; ER15–622–006; ER15–463–006; ER16–72–002; ER15–110–006; ER13–1586–008; ER10–1992–014.

Applicants: Wheelabrator Shasta Energy Company Inc., Cameron Ridge, LLC, Cameron Ridge II, LLC, Coso Geothermal Power Holdings, LLC, Oak Creek Wind Power, LLC,ON Wind Energy LLC, Pacific Crest Power, LLC, Ridgetop Energy, LLC, San Gorgonio Westwinds II, LLC, San Gorgonio Westwinds II—Windustries, LLC, Terra-Gen Energy Services, LLC, TGP Energy Management, LLC, Victory Garden Phase IV, LLC.

Description: Supplement to December 31, 2015 Triennial Market Power Analysis of the ECP MBR Sellers.

Filed Date: 1/27/16.

Accession Number: 20160127–5595.

Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER10–2633–023; ER10–2570–023; ER10–2717–023; ER10–3140–022; ER13–55–013.

Applicants: Birchwood Power Partners, L.P., Shady Hills Power Company, L.L.C., EFS Parlin Holdings, LLC, Inland Empire Energy Center, LLC, Homer City Generation, L.P.

Description: Notice of Non-Material Change in Status of the GE Companies.

Filed Date: 1/28/16.
Accession Number: 20160128–5333.
Comments Due: 5 p.m. ET 2/18/16.
Docket Numbers: ER12–1308–007.
Applicants: Palouse Wind, LLC.
Description: Notice of Change in Status of Palouse Wind, LLC.
Filed Date: 1/28/16.
Accession Number: 20160128–5337.
Comments Due: 5 p.m. ET 2/18/16.
Docket Numbers: ER14–1656–008.
Applicants: CSOLAR IV West, LLC.
Description: Notification of Change in Status of CSOLAR IV West, LLC.
Filed Date: 1/28/16.
Accession Number: 20160128–5351.
Comments Due: 5 p.m. ET 2/18/16.
Docket Numbers: ER14–2140–005; ER14–2141–005; ER15–632–003; ER15–634–003; ER14–2466–004; ER14–2465–004; ER14–2939–002; ER15–1952–002; ER15–2728–003.
Applicants: Mulberry Farm, LLC, Selmer Farm, LLC, CID Solar, LLC, Cottonwood Solar, LLC, RE Camelot LLC, RE Columbia Two LLC, Imperial Valley Solar Company (IVSC) 2, LLC, Pavant Solar LLC, Maricopa West Solar PV, LLC.
Description: Notice of Non-Material Change in Status of the Dominion Companies.
Filed Date: 1/28/16.
Accession Number: 20160128–5359.
Comments Due: 5 p.m. ET 2/18/16.
Docket Numbers: ER15–485–001.
Applicants: New York Independent System Operator, Inc.
Description: Compliance filing: Compliance establish effective date—Transmission Shortage Costs to be effective 2/11/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5150.
Comments Due: 5 p.m. ET 2/18/16.
Docket Numbers: ER16–804–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: GIA and Distribution Service Agmt for San Gabriel Cogeneration Project to be effective 3/29/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5249.
Comments Due: 5 p.m. ET 2/18/16.
Docket Numbers: ER16–805–000.
Applicants: Thunder Spirit Wind, LLC.
Description: Tariff Cancellation: Cancellation of MBR Tariff to be effective 1/29/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5250.
Comments Due: 5 p.m. ET 2/18/16.
Docket Numbers: ER16–806–000.
Applicants: Nassau Energy, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 3/27/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5253.
Comments Due: 5 p.m. ET 2/18/16.
Docket Numbers: ER16–807–000.
Applicants: Peetz Logan Interconnect, LLC.
Description: Tariff Cancellation: Notice of Cancellation of Peetz Logan Interconnect, LLC OATT to be effective 3/29/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5259.
Comments Due: 5 p.m. ET 2/18/16.
Docket Numbers: ER16–808–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: GIA and Distribution Service Agmt Wind Stream Operations, LLC to be effective 1/24/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5027.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–809–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Quarterly Filing of City and County of San Francisco's WDT SA 275 for Q4 2015 to be effective 4/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5028.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–810–000.
Applicants: MidAmerican Energy Company.
Description: § 205(d) Rate Filing: First Revised Interconnection Agreement—Waverly to be effective 1/29/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5051.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–811–000.
Applicants: Consumers Energy Company.
Description: Notice of Cancellation Service Agreement No. 8 of Consumers Energy Company.
Filed Date: 1/28/16.
Accession Number: 20160128–5358.
Comments Due: 5 p.m. ET 2/18/16.
Docket Numbers: ER16–812–000.
Applicants: Public Service Company of New Mexico.
Description: Tariff Cancellation: Notice of Cancellation of Transmission Service Agreement to be effective 12/15/2015.
Filed Date: 1/29/16.
Accession Number: 20160129–5085.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–813–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amended ISA No. 4012, Queue No. W1–003/Z1–100/AA1–025 et al to be effective 4/28/2015.
Filed Date: 1/29/16.
Accession Number: 20160129–5094.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–814–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Revisions to OATT and OA RE Removing 10% Adder for Offers Greater than $2,000 to be effective 3/29/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5145.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–815–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2016–01–29 Ramp True-up Filing to be effective 4/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5156.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–816–000.
Applicants: NSTAR Electric Company.
Description: Notice of Termination of Service Agreement No. 68 under Schedule 21–NSTAR of the ISO New England OATT filed by NSTAR Electric Company.
Filed Date: 1/29/16.
Accession Number: 20160129–5190.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–817–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: 4th Quarter 2015 Update to OA/RAA Member Lists to be effective 12/31/2015.
Filed Date: 1/29/16.
Accession Number: 20160129–5193.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–818–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: Negawatt Membership Termination Filing to be effective 1/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5197.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–819–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: Revisons to Attachment K Related to Timing of Regional System Plan Report to be effective 3/29/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5210.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–820–000.
Applicants: New England Power Pool Participants Committee, ISO New England Inc.

Description: § 205(d) Rate Filing: NAPP Membership Termination Filing to be effective 1/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5212.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–821–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: AMEA NITSA Rollover Filing to be effective 1/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5213.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–822–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: SMEPA NITSA and NOA Amendment Filing to be effective 1/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5217.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–823–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: SEPA Network Agreement Revision No. 4 Filing to be effective 1/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5219.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–824–000.
Applicants: Duke Energy Progress, LLC.
Description: § 205(d) Rate Filing: Amendment to NCEMC NITSA SA No. 134 to be effective 1/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5221.
Comments Due: 5 p.m. ET 2/19/16.
Docket Numbers: ER16–825–000.
Applicants: Duke Energy Indiana, LLC.
Description: § 205(d) Rate Filing: Name Change Filing to be effective 4/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5223.
Comments Due: 5 p.m. ET 2/19/16.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES16–22–000.
Applicants: International Transmission Company.
Description: Application pursuant to Section 204 of the Federal Power Act of International Transmission Company for authorization to issue debt securities.
Filed Date: 1/28/16.
Accession Number: 20160128–5350.
Comments Due: 5 p.m. ET 2/18/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02073 Filed 2–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI16–1–000]

Mark Henson; Notice of Declaration of Intention and Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.
b. *Docket No:* DI16–1–000.
c. *Date Filed:* December 18, 2015, and supplemented on January 11, 2016 and January 27, 2016.
d. *Applicant:* Mark Henson.
e. *Name of Project:* Henson Micro Hydroelectric Project.
f. *Location:* The proposed Henson Micro Hydroelectric Project would be located on the West Branch of Onondaga Creek, near the town of Onondaga, in Onondaga County, New York.
g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b) (2012).
h. *Applicant Contact:* Mark Henson, 4061 Cedarvale Road, Syracuse, NY 13215; telephone: (315) 378–3173; email: *mh690y@att.com.*
i. *FERC Contact:* Any questions on this notice should be addressed to Jennifer Polardino, (202) 502–6437, or email: *Jennifer.Polardino@ferc.gov.*
j. Deadline for filing comments, protests, and motions to intervene is: 30 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number DI16–1–000.

k. *Description of Project:* The proposed Henson Micro Hydroelectric Project would consist of: (1) An existing 14-foot-high reinforced concrete dam that was rebuilt in 2002 and a small impoundment behind the dam; (2) a 20-inch-diameter, 85-foot-long penstock with a bell mouth intake, extending from the dam to the powerhouse; (3) a new 8-foot-wide by 8-foot-long powerhouse containing one generating unit having a total capacity of 10 kilowatts rated at 16 feet of net head located downstream from the dam; (4) a new 14-foot-long tailrace connecting the powerhouse with the West Branch of Onondaga Creek; (5) trash racks; (6) a new buried 500-foot-long, 220/240-volt AC transmission line; and (7) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/*

esubscription.asp to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above and in the Commission's Public Reference Room located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents: All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: January 29, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02071 Filed 2–3–16; 8:45 am]

BILLING CODE 6717–01–P

EXPORT-IMPORT BANK

[Public Notice 2015–6017]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: New Submission for OMB review and comments request.

Form Title: EIB 15–04 Exporter's Certificate for Co-Financed Loan, Guarantee & MT Insurance Programs.

SUMMARY: The Export-Import Bank of the United States (EXIM Bank), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

EXIM Bank's borrowers, financial institution policy holders and guaranteed lenders provide this form to U.S. exporters, who certify to the eligibility of their exports for EXIM Bank support. For direct loans and loan guarantees, the completed form is required to be submitted at time of disbursement and held by either the guaranteed lender or EXIM Bank. For MT insurance, the completed forms are held by the financial institution, only to be submitted to EXIM Bank in the event of a claim filing.

EXIM Bank uses the referenced form to obtain information from exporters regarding the export transaction and content sourcing. These details are necessary to determine the value and legitimacy of EXIM Bank financing support and claims submitted. It also provides the financial institutions a check on the export transaction's eligibility at the time it is fulfilling a financing request.

The information collection tool can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/eib15-04.pdf.*

DATES: Comments must be received on or before April 4, 2016 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Michele Kuester, Export-Import Bank, 811 Vermont Ave NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 15–04 Exporter's Certificate for Co-Financed Loan, Guarantee & MT Insurance Programs.

OMB Number: 3048–00XX.

Type of Review: Regular.

Need and Use: The information collected will allow EXIM Bank to determine compliance and content for co-financed transaction requests submitted to the Export-Import Bank under its insurance, guarantee, and direct loan programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 30.

Estimated Time per Respondent: 30 minutes.

Annual Burden Hours: 15 hours.

Frequency of Reporting of Use: As required.

Government Expenses:

Reviewing time per year: 0.5 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: (time*wages) $21.25.

Benefits and Overhead: 20%.

Total Government Cost: $25.5.

Bonita Jones-McNeil,

Agency Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–01988 Filed 2–3–16; 8:45 am]

BILLING CODE 6690–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on February 11, 2016, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and

telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- January 14, 2016

B. New Business

- Spring 2016 Abstract of the Unified Agenda of Federal Regulatory and Deregulatory Actions and Spring 2016 Regulatory Projects Plan

Closed Session*

- Office of Secondary Market Oversight Quarterly Report

*Session Closed—Exempt pursuant to 5 U.S.C. Section 552b(c)(8) and (9).

Dated: February 2, 2016.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2016–02295 Filed 2–2–16; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATION COMMISSION

Schedule Change to Sunshine Act Meeting

January 28, 2016.

Please note that the time for the Federal Communications Commission Open Meeting is rescheduled from 10:30 a.m. to 1:00 p.m.

The Federal Communications Commission will consider the Agenda items listed on the Commission's Notice of January 21 at the Open Meeting on Thursday, January 28, 2016, scheduled to commence at 1:00 p.m. in room TW–C305, at 445 12th Street SW., Washington, DC.

The prompt and orderly conduct of the Commission's business requires this change and no earlier announcement was practicable.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2016–02215 Filed 2–2–16; 11:15 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1086]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before March 7, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1086.

Title: Section 74.787 Digital Licensing; § 74.790, Permissible Service of Digital TV Translator and LPTV Stations; § 74.794, Digital Emissions, and § 74.796, Modification of Digital Transmission Systems and Analog Transmission Systems for Digital Operation; § 74.798, LPTV Digital Transition Consumer Education Information, Protection of Analog LPTV.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; not for profit institutions; State, local or Tribal government.

Number of Respondents/Responses: 8,445 respondents; 27,386 responses.

Estimated Hours per Response: 0.50–4 hours.

Frequency of Response: Recordkeeping requirement; One-time reporting requirement; Third party disclosure requirement.

Total Annual Burden: 56,386 hours.

Total Annual Cost: $69,033,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in section 301 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Assessment: No impact(s).

Needs and Uses: December 18, 2015, the Commission released a Third Report and Order and Fourth Notice of Proposed Rulemaking, In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, MB

Docket No. 03–185, FCC 15–175. This document contains final rules and policies for a digital-to-digital replacement digital replacement translator to permit full power television stations to continue to provide service to viewers that may have otherwise lost service as a result of the station being ''repacked'' in the Commission's incentive auction process.

47 CFR 74.787(a)(5)(v) states that an application for an digital to digital replacement translator may be filed by a full power television station that can demonstrate that a portion of its digital service area will not be served by its full, post-incentive auction digital facilities. The service area of the replacement translator shall be limited to only a demonstrated loss area.

However, an applicant for a replacement digital television translator may propose a *de minimis* expansion of its full power pre-transition analog service area upon demonstrating that it is necessary to replace its post-incentive auction digital loss area.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–02014 Filed 2–3–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of; 10292 The Peoples Bank; Winder, Georgia

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for The Peoples Bank, Winder, Georgia (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of The Peoples Bank on September 17, 2010. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: February 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–02136 Filed 2–3–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10033 Suburban Federal Savings Bank; Crofton, Maryland

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10033 Suburban Federal Savings Bank, Crofton, Maryland (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Suburban Federal Savings Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective February 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: February 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–02134 Filed 2–3–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10264 Community Security Bank; New Prague, MN

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10264 Community Security Bank, New Prague, MN (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Community Security Bank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective February 1, 2016 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: February 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–02138 Filed 2–3–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10360 Cortez Community Bank; Brooksville, Florida

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10360 Cortez Community Bank, Brooksville, Florida (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Cortez Community Bank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective February 1, 2016 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: February 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–02137 Filed 2–3–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10203 State Bank of Aurora; Aurora, Minnesota

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10203 State Bank of Aurora, Aurora, Minnesota (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of State Bank of Aurora (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective February 1, 2016 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: February 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–02135 Filed 2–3–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreement are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 010099–061.

Title: International Council of Containership Operators.

Parties: A.P. Moller-Maersk A/S; China Shipping Container Lines Co., Ltd.; CMA. CGM, S.A.; COSCO Container Lines Co. Ltd; Crowley Maritime Corporation; Evergreen Marine Corporation (Taiwan), Ltd.; Hamburg-Süd KG; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mediterranean Shipping Co. S.A.; Mitsui O.S.K. Lines, Ltd.; Neptune Orient Lines, Ltd.; Nippon Yusen Kaisha; Orient Overseas Container Line, Ltd.; Pacific International Lines (Pte) Ltd.; United Arab Shipping Company (S.A.G.); Wan Hai Lines Ltd.; Yang Ming Transport Marine Corp.; and Zim Integrated Shipping Services Ltd.

Filing Party: John Longstreth, Esq.; K & L Gates LLP; 1601 K Street NW.; Washington, DC 20006–1600.

Synopsis: The amendment deletes parties Compania Chilena de Navegacion Interoceanica S.A. and Compania Sud American de Vapores S.A.

Agreement No.: 012108–005.

Title: The World Liner Data Agreement.

Parties: ANL Container Line Pty Ltd.; A.P. Moller-Maersk A/S; CMA CGM S.A.; Evergreen Line Joint Service Agreement; Hamburg-Sud; Hapag-Lloyd AG; Hanjin Shipping Company, Ltd; Hyundai Merchant Marine Co., Ltd.; Independent Container Line Ltd.; Mediterranean Shipping Company S.A.; Orient Overseas Container Line Ltd.; United Arab Shipping Company S.A.G.; and ZIM Integrated Shipping Services Limited.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1200 Nineteenth Street NW.; Washington, DC 20036.

Synopsis: The amendment deletes parties Compania Chilena de Navegacion Interoceanica S.A.; Compania Sud American De Vapores S.A.; and Turkon Konteyner Tasimacilik ve Denizcilik A.S.

Agreement No.: 012387.

Title: CMA CGM/UASC USEC–ISC–Middle East Slot Charter Agreement.

Parties: CMA CGM S.A. and United Arab Shipping Co. (SAG).

Filing Party: Joshua P. Stein; Cozen O'Connor; 1200 Nineteenth Street NW.; Washington, DC 20036.

Synopsis: The agreement authorizes CMA to charter space to UASC in the trade between the U.S. East Coast on the one hand, and India, Pakistan, Egypt, and Saudi Arabia, on the other hand.

Agreement No.: 201166–003.

Title: Marine Terminal Lease and Operating Agreement Between Broward County and Florida International Terminal, LLC.

Parties: Broward County and Florida International Terminal, LLC.

Filing Party: Candace J. Running; Broward County Board of County Commissioners; Office of the County Attorney; 1850 Eller Drive, Suite 502; Fort Lauderdale, FL 33316.

Synopsis: The agreement provides for the lease and operation of terminal facilities at Port Everglades in Broward County, Florida.

By Order of the Federal Maritime Commission.

Dated: January 29, 2016.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2016–02044 Filed 2–3–16; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

[BAC 6735–01]

Sunshine Act Notice

February 1, 2016.

TIME AND DATE: 10:00 a.m., Thursday, February 11, 2016.

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. *Premier Elkhorn Coal Company,* Docket No. KENT 2011–827, and *Secretary of Labor* v. *Trivette Trucking,* Docket No. KENT 2011–1223. (Issues include whether the Judge erred in vacating a citation alleging that a truck driver had failed to maintain control of his truck and in excluding certain evidence from the record.)

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 L. Stewart,

Deputy General Counsel.

[FR Doc. 2016–02214 Filed 2–2–16; 11:15 am]

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 February 17, 2016.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Irrevocable Trust Agreement of Robert Vogel effective February 11, 1994, Elko New Market, Minnesota, Laura Vogel, trustee of the Trust, Elko New Market, Minnesota;* to acquire voting shares of Market Bancorporation, Elko New Market, Minnesota, and join the Vogel Family Group that controls shares of Market Bancorporation, Elko New Market, Minnesota, and thereby indirectly controls New Market Bank, Elko New Market, Minnesota.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Bastrop Bancshares, Inc. Employee Stock Ownership Plan, Bastrop, Texas (''ESOP''), and Amanda Lorraine Wickliffe, Bastrop, Texas; John Daniel Mican, Bastrop, Texas; Dianna Fiebrich Kana, Bastrop, Texas; Tammy Lynn Goertz, Rosanky, Texas; and Robert Edward Berryhill, Smithville, Texas;* individually and as co-trustees of ESOP, acting as a group in concert, to retain and acquire additional shares of Bastrop Bancshares, Inc., Bastrop, Texas, and indirectly First National Bank of Bastrop, Bastrop, Texas.

Board of Governors of the Federal Reserve System, January 29, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–02086 Filed 2–3–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 29, 2016.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Parkway Acquisition Corp,* Floyd, Virginia, to become a bank holding company through the acquisition of 100 percent of the voting securities of Grayson Bankshares, Inc., Independence, Virginia, and indirectly acquire The Grayson National Bank, Independence, Virginia; and 100 percent of the voting securities of Cardinal Bankshares Corporation, Floyd, Virginia, and thereby indirectly acquire Bank of Floyd, Floyd, Virginia.

B. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Commercial Bancgroup, Inc.,* Harrogate, Tennessee; to acquire National Bank of Tennessee, Newport, Tennessee Bank. In addition, Commercial Bank, Harrogate, Tennessee, to merge with Bank.

2. *WCSB Holding Company, Inc.*, to become a bank holding company by acquiring 100 percent of the outstanding shares of Wilcox County State Bank, both of Abbeville, Georgia.

Board of Governors of the Federal Reserve System, January 29, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–02088 Filed 2–3–16; 8:45 am]

BILLING CODE 6210–01–P

GOVERNMENT ACCOUNTABILITY OFFICE

Request for Health Information Technology Policy Committee Nominations

AGENCY: Government Accountability Office (GAO).

ACTION: Request for letters of nomination and resumes.

SUMMARY: The American Recovery and Reinvestment Act of 2009 (ARRA) established the Health Information Technology Policy Committee (HIT Policy Committee) and gave the Comptroller General responsibility for appointing 13 of its 20 members. As a result of terms ending in April 2016, GAO is accepting nominations of individuals for three openings on the committee in the following categories of representation or expertise required in ARRA: Advocate for patients or consumers, representative of a health plan or third party payer, and representative of purchasers or employers. For appointments to the HIT Policy Committee to be made in April 2016 in these categories, I am announcing the following: Letters of nomination and resumes should be submitted by March 2, 2016 to ensure adequate opportunity for review and consideration of nominees. Acknowledgement of submissions will be provided within one week of submission. Please contact Mary Giffin at (202) 512–3710 if you do not receive an acknowledgment.

ADDRESSES: Email: *HITCommittee@gao.gov*; Mail: U.S. GAO, Attn: HITPC Appointments, 441 G Street NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: GAO Office of Public Affairs, (202) 512–4800. 42 U.S.C. § 300jj–12.

Gene L. Dodaro,

Comptroller General of the United States.

[FR Doc. 2016–02009 Filed 2–3–16; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following meeting of the aforementioned committee.

DATES: 8:00 a.m.–6:00 p.m., EST, February 24, 2016

ADDRESSES: CDC, Tom Harkin Global Communications Center, 1600 Clifton Road NE., Building 19, Kent ''Oz'' Nelson Auditorium, Atlanta, Georgia 30329.

Status: Open to the public, limited only by the space available. Time will be available for public comment. The public is welcome to submit written comments in advance of the meeting. Comments should be submitted in writing by email to the contact person listed below by February 15, 2016. All requests must contain the name, address, and organizational affiliation of the speaker, as well as the topic being addressed. Written comments should not exceed one single-spaced typed page in length and delivered in 3 minutes or less. Please note that the public comment period may end before the time indicated, following the last call for comments. Members of the public who wish to provide public comments should plan to attend the public comment session at the start time listed. Written comments received in advance of the meeting will be included in the official record of the meeting.

The meeting will be webcast live via the World Wide Web; for instructions and more information on ACIP please visit the ACIP Web site: *http://www.cdc.gov/vaccines/acip/index.html*.

Purpose: The committee is charged with advising the Director, CDC, on the appropriate use of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines. Further, under provisions of the Affordable Care Act, at section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been adopted by the Director of the Centers for Disease Control and Prevention and appear on the CDC immunization schedules must be covered by applicable health plans.

Matters for Discussion: The agenda will include discussions on: Meningococcal vaccines; human papillomavirus vaccines; influenza; hexavalent vaccine (DTaP–IPV-Hib-HepB); cholera vaccine; Japanese encephalitis vaccine; and vaccine supply. A recommendation vote is scheduled for influenza. A Vaccines for Children (VFC) vote is scheduled for hexavalent vaccine (diphtheria and tetanus toxoids and acellular pertussis adsorbed (DTaP)—inactivated polio vaccine (IVP)—Haemophilus influenzae type b (Hib)—hepatitis B (HepB).

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Stephanie Thomas, National Center for Immunization and Respiratory Diseases, CDC, 1600 Clifton Road NE., MS–A27, Atlanta, Georgia 30329, telephone 404–639–8836; Email *ACIP@CDC.GOV*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–02080 Filed 2–3–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Funding Opportunity Announcement (FOA) PAR 15–303, Occupational Safety and Health Education and Research Centers (ERC).

DATES: 6:00 p.m.–8:00 p.m., February 22, 2016 (Closed)

7:00 a.m.–6:00 p.m., February 23, 2016 (Closed)

7:00 a.m.–6:00 p.m., February 24, 2016 (Closed)

ADDRESSES: Hilton Alexandria Old Town, 1767 King Street, Alexandria, Virginia 22314, Telephone: (703) 837–0440.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Occupational Safety and Health Education and Research Centers (ERC),'' PAR 15–303.

FOR FURTHER INFORMATION CONTACT: George Bockosh, M.S., Scientific Review Officer, CDC, NIOSH, 2400 Century Center Parkway NE., 4th Floor, Mailstop E–74, Atlanta, Georgia 30345, Telephone: (412) 386–6465, *GGB0@CDC.GOV* and Donald Blackman, Ph.D., Scientific Review Officer, CDC, NIOSH, 2400 Century Center Parkway NE., 4th Floor, Room 4204, Mailstop E–74, Atlanta, Georgia 30345, Telephone: (404) 498–6185, *DYB7@CDC.GOV*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–02079 Filed 2–3–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee on Procedures Review (SPR), Advisory Board on Radiation and Worker Health, National Institute for Occupational Safety and Health Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting for the aforementioned subcommittee:

DATES: 11:00 a.m.–4:30 p.m., EST, February 24, 2016.

ADDRESSES: Audio Conference Call via FTS Conferencing.

Status: Open to the public, but without a public comment period. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcome to listen to the meeting by joining the teleconference at the USA

toll-free, dial-in number at 1–866–659–0537 and the pass code is 9933701.

Background: The Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board) was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort.

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. National Institute for Occupational Safety and Health (NIOSH) implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2017.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. SPR was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction. SPR is responsible for overseeing, tracking, and participating in the reviews of all procedures used in the dose reconstruction process by the NIOSH Division of Compensation Analysis and Support (DCAS) and its dose reconstruction contractor (Oak Ridge Associated Universities—ORAU).

Matters for Discussion: The agenda for the Subcommittee meeting includes discussion of procedures in the following ORAU and DCAS technical documents: OCAS Technical Information Bulletin (TIB) 0014 (''Rocky Flats Internal Dosimetry Coworker Extension''), ORAU OTIB 0013 (''Individual Dose Adjustment Procedures for Y–12 Dose Reconstructions''), ORAU OTIB 0029 (''Internal Dose Reconstructions for Y–12''), ORAU OTIB 0039 (''Internal Dose Reconstructions for Hanford''), ORAU OTIB 0050 (''The Use of Rocky Flats Neutron Dose Reconstruction Project Data in Dose Reconstructions''), ORAU OTIB 0060 (''Internal Dose Reconstructions''), Program Evaluation Report (PER) 003 (''The Effects of Adding Ingestion Intakes to Bethlehem Steel Cases''), PER 004 (''Application of Photofluorography at the Pinellas Plant''), PER 005 (''Misinterpreted Application of External Dose Factor for Hanford Dose Reconstructions''), PER 029 (''Hanford TBD Revision''), PER 042 (''Linde Ceramic Plant TBD Revision''), PER 045 (''Aliquippa Forge TBD Revision''), ORAU PROC 0042 (''Incomplete Monitoring at Y–12''), ORAU RPRT 0044 (''Analysis of Bioassay Data with Significant Fraction of Less-Than Results''); and a continuation of the comment-resolution process for other dose reconstruction procedures under review by the Subcommittee.

The agenda is subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Theodore Katz, Designated Federal Officer, NIOSH, CDC, 1600 Clifton Road NE., Mailstop E–20, Atlanta, Georgia 30333, Telephone (513) 533–6800, Toll Free 1(800) CDC–INFO, Email *ocas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–02081 Filed 2–3–16; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Request for Nominations of Candidates To Serve on the Interagency Committee on Smoking and Health, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS)

The CDC is soliciting nominations for possible membership on the Interagency Committee on Smoking and Health (ICSH), Office on Smoking and Health (OSH).

The ICSH consists of five members appointed by the Secretary from physicians and scientists who represent private entities involved in informing the public about the health effects of smoking. The members are selected by the Secretary, HHS. The committee provides advice and guidance to the Secretary, HHS, and the Director, CDC regarding (a) coordination of all research and education programs and other activities within the Department and with other Federal, State, local and private agencies and (b) establishment and maintenance of liaison with appropriate private entities, Federal agencies, and State and local public health agencies with respect to smoking and health activities.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishment of the committee's objectives. More information is available on the ICSH, OSH Web site: *http://www.cdc.gov/tobacco/ICSH/index.htm.*

Nominees will be selected based on expertise in the field of tobacco control and multi-disciplinary expertise in public health. Additionally, desirable qualifications include: (1) Knowledge of emerging tobacco control policies and experience in analyzing, evaluating, and interpreting Federal, State and/or local health or regulatory policy; or (2) knowledge of emerging tobacco products and the evolving environment of tobacco control and expertise in developing or contributing to the development of policies and/or programs; or (3) familiarity of rapid and emerging surveillance systems that will allow for the timely evaluation of tobacco product regulation and/or the impact of tobacco control interventions.

Federal employees will not be considered for membership.

Members may be invited to serve for terms of up to four years. The U.S. Department of Health and Human

Services policy stipulates that committee membership shall be balanced in terms of professional training and background, points of view represented, and the committee's function. In addition to a broad range of expertise, consideration is given to a broad representation of geographic areas within the U.S., with diverse representation of both genders, ethnic and racial minorities, and persons with disabilities. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government.

Candidates should submit the following items:

- Current *curriculum vitae,* including complete contact information (name, affiliation, mailing address, telephone number, email address).
- A letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services.
- A statement indicating the nominee's willingness to potentially serve as a member of the Committee.

Nominations should be submitted electronically or in writing, and must be postmarked by February 19, 2016 and sent to: Ms. Monica Swann, NCCDPHP, CDC, 395 E. Street SW., Room 9167, MS P06, Washington, DC 20024. (Email address: *zqe0@cdc.gov*). Telephone and facsimile submissions cannot be accepted.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–02082 Filed 2–3–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9094–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—October Through December 2015

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This quarterly notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from July through September 2015, relating to the Medicare and Medicaid programs and other programs administered by CMS.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning each of the addenda published in this notice.

Addenda	Contact	Phone Number
I CMS Manual Instructions	Ismael Torres	(410) 786-1864
II Regulation Documents Published in the **Federal Register**	Terri Plumb	(410) 786-4481
III CMS Rulings	Tiffany Lafferty	(410)786-7548
IV Medicare National Coverage Determinations	Wanda Belle	(410) 786-7491
V FDA-Approved Category B IDEs	John Manlove	(410) 786-6877
VI Collections of Information	Mitch Bryman	(410) 786-5258
VII Medicare –Approved Carotid Stent Facilities	Lori Ashby	(410) 786-6322
VIII American College of Cardiology-National Cardiovascular Data Registry Sites	Marie Casey, BSN, MPH	(410) 786-7861
IX Medicare's Active Coverage-Related Guidance Documents	JoAnna Baldwin	(410) 786-7205
X One-time Notices Regarding National Coverage Provisions	JoAnna Baldwin	(410) 786-7205
XI National Oncologic Positron Emission Tomography Registry Sites	Stuart Caplan, RN, MAS	(410) 786-8564
XII Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities	Marie Casey, BSN, MPH	(410) 786-7861
XIII Medicare-Approved Lung Volume Reduction Surgery Facilities	Marie Casey, BSN, MPH	(410) 786-7861
XIV Medicare-Approved Bariatric Surgery Facilities	Sarah Fulton, MHS	(410) 786-2749
XV Fluorodeoxyglucose Positron Emission Tomography for Dementia Trials	Stuart Caplan, RN, MAS	(410) 786-8564
All Other Information	Annette Brewer	(410) 786-6580

I. Background

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs and coordination and oversight of private health insurance. Administration and oversight of these programs involves the following: (1) Furnishing information to Medicare and Medicaid beneficiaries, health care providers, and the public; and (2) maintaining effective communications with CMS regional offices, state governments, state Medicaid agencies, state survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, National Association of Insurance Commissioners (NAIC), health insurers, and other stakeholders. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act) and Public Health Service Act. We also issue various manuals, memoranda, and statements necessary to administer and oversee the programs efficiently.

Section 1871(c) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**.

II. Format for the Quarterly Issuance Notices

This quarterly notice provides only the specific updates that have occurred in the 3-month period along with a hyperlink to the full listing that is available on the CMS Web site or the appropriate data registries that are used as our resources. This is the most current up-to-date information and will be available earlier than we publish our quarterly notice. We believe the Web site list provides more timely access for beneficiaries, providers, and suppliers. We also believe the Web site offers a more convenient tool for the public to find the full list of qualified providers for these specific services and offers more flexibility and ''real time'' accessibility. In addition, many of the Web sites have listservs; that is, the public can subscribe and receive immediate notification of any updates to the Web site. These listservs avoid the need to check the Web site, as notification of updates is automatic and sent to the subscriber as they occur. If assessing a Web site proves to be difficult, the contact person listed can provide information.

III. How To Use the Notice

This notice is organized into 15 addenda so that a reader may access the subjects published during the quarter covered by the notice to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals should view the manuals at *http://www.cms.gov/manuals.*

Dated January 28, 2016.

Kathleen Cantwell,

Director, Office of Strategic Operations and Regulatory Affairs.

BILLING CODE 4120–01–P

Publication Dates for the Previous Four Quarterly Notices

We publish this notice at the end of each quarter reflecting information released by CMS during the previous quarter. The publication dates of the previous four Quarterly Listing of Program Issuances notices are: February 2, 2015 (80 FR 5537), April 24, 2015 (80 FR 23013) August 3, 2015 (80 FR 45980) and November 13, 2015 (80 FR 70218). For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period along with a hyperlink to the website to access this information and a contact person for questions or additional information.

Addendum I: Medicare and Medicaid Manual Instructions (October through December 2015)

The CMS Manual System is used by CMS program components, partners, providers, contractors, Medicare Advantage organizations, and State Survey Agencies to administer CMS programs. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, guidelines, models, and directives. In 2003, we transformed the CMS Program Manuals into a web user-friendly presentation and renamed it the CMS Online Manual System.

How to Obtain Manuals

The Internet-only Manuals (IOMs) are a replica of the Agency's official record copy. Paper-based manuals are CMS manuals that were officially released in hardcopy. The majority of these manuals were transferred into the Internet-only manual (IOM) or retired. Pub 15-1, Pub 15-2 and Pub 45 are exceptions to this rule and are still active paper-based manuals. The remaining paper-based manuals are for reference purposes only. If you notice policy contained in the paper-based manuals that was not transferred to the IOM, send a message via the CMS Feedback tool.

Those wishing to subscribe to old versions of CMS manuals should contact the National Technical Information Service, Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312 Telephone (703-605-6050). You can download copies of the listed material free of charge at: http://cms.gov/manuals.

How to Review Transmittals or Program Memoranda

Those wishing to review transmittals and program memoranda can access this information at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL. This information is available at http://www.gpo.gov/libraries/

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. CMS publication and transmittal numbers are shown in the listing entitled Medicare and Medicaid Manual Instructions. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the manual for Quarterly Update for the Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program (CBP) - January 2016 (CMS-Pub. 100-04)Transmittal No. 3377.

Addendum I lists a unique CMS transmittal number for each instruction in our manuals or program memoranda and its subject number. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manual. For the purposes of this quarterly notice, we list only the specific updates to the list of manual instructions that have occurred in the 3-month period. This information is available on our website at www.cms.gov/Manuals.

Transmittal Number	Manual/Subject/Publication Number
	Medicare General Information (CMS-Pub. 100-01)
93	Internet Only Manual (IOM) Publication 100-01 - General Information, Eligibility, and Entitlement, Chapter 7 - Contract Administrative Requirements, Section 40 – Shared System Maintainer Responsibilities for Systems Releases
94	Internet Only Manual Updates to Pub. 100-01, 100-02 and 100-04 to Correct Errors and Omissions (2015)
95	Internet Only Manual (IOM) Publication 100-01 - General Information, Eligibility, and Entitlement, Chapter 7 - Contract Administrative Requirements, Section 40 – Shared System Maintainer Responsibilities for Next Generation Desktop (NGD) Requirements Standardized Terminology for Claims Processing Systems Standard Terminology Chart Release Software Implementing Validated Workarounds for Shared System Claims Processing by All Medicare DME MACs Shared System Testing Requirements for Shared System Maintainers, Single

	Testing Contractor (STC)/Beta Testers, and Part A/Part B (A/B) Durable Medical Equipment (DME) Medicare Administrative Contractors (MACs) Shared System Testing Requirements for Shared System Maintainers, Single Testing Contractor (STC), and DME MACs Definitions Test Case Specification Standard Shared System Maintainer and Part A/Part B (A/B)/Durable Medical Equipment (DME) Medicare Administrative Contractor (MAC) and the Single Testing Contractor (STC) Responsibilities for Systems Releases Systems Releases
Medicare Benefit Policy (CMS-Pub. 100-02)	
211	Internet Only Manual Updates to Pub. 100-01, 100-02 and 100-04 to Correct Errors and Omissions (2015) Three-Day Prior Hospitalization
212	Update to the List of Compendia as Authoritative Sources for Use in the Determination of a "Medically-Accepted Indication" of Drugs and Biologicals Used Off-label in an Anti-Cancer Chemotherapeutic Regimen Update to the List of Compendia as Authoritative Sources for Use in the Determination of a "Medically-Accepted Indication" of Drugs and Biologicals Used Off-label in an Anti-Cancer Chemotherapeutic Regimen
213	Implementation of Changes in the End-Stage Renal Disease (ESRD) Prospective Payment System (PPS) for Calendar Year (CY) 2016
Medicare National Coverage Determination (CMS-Pub. 100-03)	
185	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
186	National Coverage Determination (NCD) for Single Chamber and Dual Chamber Permanent Cardiac Pacemakers - This CR rescinds and fully replaces CR 8525 Single Chamber and Dual Chamber Permanent Cardiac Pacemakers
187	National Coverage Determination (NCD) for Single Chamber and Dual Chamber Permanent Cardiac Pacemakers Single Chamber and Dual Chamber Permanent Cardiac Pacemakers
Medicare Claims Processing (CMS-Pub. 100-04)	
3363	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction Uniform Use of CARCs and RARCs Rule
3364	Quarterly Update to the Medicare Physician Fee Schedule Database (MPFSDB) - October CY 2015 Update
3365	2016 Healthcare Common Procedure Coding System (HCPCS) Annual Update Reminder
3366	Changes to the Laboratory National Coverage Determination (NCD) Edit Software for January 2016
3367	Applying Therapy Caps to Maryland Hospitals Part B Outpatient Rehabilitation and Comprehensive Outpatient Rehabilitation Facility (CORF) Services - General Determining Payment Amounts – Institutional Claims Exceptions to Therapy Caps – General Exceptions Process Use of the KX Modifier for Therapy Cap Exceptions Therapy Cap Manual Review Threshold Identifying the Certifying Physician
	MSN Messages Regarding the Therapy Cap Application of Financial Limitations
3368	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3369	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3370	2016 Annual Update for the Health Professional Shortage Area (HPSA) Bonus Payments
3371	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3372	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3373	Fiscal Year (FY) 2016 Inpatient Prospective Payment System (IPPS) and Long Term Care Hospital (LTCH) PPS Changes Provider-Specific File IPPS Transfers Between Hospitals Addendum A/Provider Specific File Prospective Payment Changes for Fiscal Year (FY) 2004 and Beyond
3374	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3375	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3376	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3377	Quarterly Update for the Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program (CBP) - January 2016
3378	Additional G-Codes Differentiating RNs and LPNs in the Home Health and Hospice Settings
3379	Internet Only Manual Updates to Pub. 100-01, 100-02 and 100-04 to Correct Errors and Omissions (2015) Decision Logic Used by the Pricer on Claims Outpatient Surgery and Related Procedures – INCLUSION Dialysis and Dialysis Related Services to a Beneficiary With ESRD Screening and Preventive Services Other Excluded Services Beyond the Scope of a SNF Part A Benefit
3380	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3381	Instructions for Retrieving the 2016 Pricing and HCPCS Data Files through CMS' Mainframe Telecommunications Systems
3382	Instructions for Retrieving the 2016 Pricing and HCPCS Data Files through CMS' Mainframe Telecommunications Systems
3383	Home Health Prospective Payment System (HH PPS) Rate Update for Calendar Year (CY) 2016
3384	National Coverage Determination (NCD) for Single Chamber and Dual Chamber Permanent Cardiac Pacemakers - This CR rescinds and fully replaces CR 8525.
3385	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction

3386	Medicare Internet Only Manual (IOM) Publication 100-04 Chapter 27 Contractor Instructions for CWF
3387	Billing of the Transportation Fee by Portable X-ray Suppliers Transportation Component (HCPCS Codes R0070 - R0076)
3388	Manual Updates to Clarify IRF Claims Processing Verification Process Used To Determine If The Inpatient Rehabilitation Facility Met The Classification Criteria
3389	Outpatient Mental Health Treatment Limitation Split Claims Fix Splitting Claims for Processing
3390	Off-Cycle Update to the Inpatient Prospective Payment System (IPPS) Fiscal Year (FY) 2016 Pricer
3391	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3392	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3393	Reporting of Type of Bill (TOB) 014x for Billing Screening of Hepatitis Claim Adjustment Reason Codes (CARCs), Remittance Advice Remark Codes (RARCs), Group Codes, and Medicare Summary Notice (MSN) Messages Institutional Billing Requirements C Virus (HCV) in Adults
3394	Implementation Instructions to Operationally Process the Claims of a Subclause (II) Long Term Care Hospital (LTCH) in a Manner that is Generally Consistent with the Claims Processing of Non-Prospective Payment System (PPS) Hospitals
3395	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3396	Changes to the Laboratory National Coverage Determination (NCD) Edit Software for January 2016
3397	Calendar Year (CY) 2016 Participation Enrollment and Medicare Participating Physicians and Suppliers Directory (MEDPARD) Procedures
3398	Processing Hospice Denials When Face-to-Face Encounter is Not Received Timely
3399	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3400	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3401	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3402	Payment Reduction for Computed Tomography (CT) Diagnostic Imaging Services Services That Do Not Meet the National Electrical Manufacturers Association (NEMA) Standard XR-29-2013
3403	New Influenza Virus Vaccine Code CWF Crossover Edits for A/B MAC (B) Claims Healthcare Common Procedure Coding System (HCPCS) and Diagnosis Codes CWF Edits on AB MAC (A) Claims CWF Edits on AB MAC (B) Claims
	Table of Preventive and Screening Services
3404	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3405	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3406	New Waived Tests
3407	Quarterly Update to the Medicare Physician Fee Schedule Database (MPFSDB) - October CY 2015 Update Quarterly Update to the Correct Coding Initiative (CCI) Edits
3408	Version 22.1, Effective April 1, 2016
3409	Instructions for Downloading the Medicare ZIP Code File for April 2016
3410	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3411	Implement Operating Rules - Phase III ERA EFT: CORE 360 Uniform Use of Claim Adjustment Reason Codes (CARC) and Remittance Advice Remark Codes (RARC) Rule - Update from CAQH CORE
3412	Common Edits and Enhancements Modules (CEM) Code Set Update
3413	Claim Status Category and Claim Status Codes Update
3414	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3415	Payment for Grandfathered Tribal Federally Qualified Health Centers (FQHCs) that were Provider-Based Clinics on or Before April 7, 2000 Payer Only Codes Utilized by Medicare
3416	CY 2016 Update for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule Gap-Filling DMEPOS Fees Intermediary Format for Durable Medical Equipment, Prosthetic, Orthotic, Supply Fee Schedule
3417	Therapy Cap Values for Calendar Year (CY) 2016
3418	Remittance Advice Remark and Claims Adjustment Reason Code and Medicare Remit Easy Print and PC Print Update
3419	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3420	Calendar Year (CY) 2016 Annual Update for Clinical Laboratory Fee Schedule and Laboratory Services Subject to Reasonable Charge Payment
3421	National Coverage Determination (NCD) for Single Chamber and Dual Chamber Permanent Cardiac Pacemakers
3422	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3423	Summary of Policies in the Calendar Year (CY) 2016 Medicare Physician Fee Schedule (MPFS) Final Rule and Telehealth Originating Site Facility Fee Payment Amount
3424	Quarterly Update for the Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program (CBP)-April 2016
3425	January 2016 Update of the Hospital Outpatient Prospective Payment System (OPPS) Comprehensive APCs Packaging Use of Modifiers for Discontinued Services

	Use of HCPCS Modifier – CT Transitional Pass-Through Payments for Designated Devices Billing for Devices Eligible for Transitional Pass-Through Payments and Items Classified in "New Technology" APCs Categories for Use in Coding Devices Eligible for Transitional Pass Through Payments Under the Hospital OPPS Devices Eligible for Transitional Pass-Through Payments General Coding and Billing Instructions and Explanations Services Eligible for New Technology APC Assignment and Payments Edits for Claims on Which Specified Procedures are to be Reported Device Codes and For Which Specific Devices are to be Reported With Procedure Codes Inpatient-only Services Billing for Corneal Tissue Billing Instructions for IMRT Planning Separately Billable ESRD Laboratory Tests Furnished by Hospital-Based Facilities Billing and Payment for Observation Services Furnished Between January 1, 2008 and December 31, 2015 Billing and Payment for Direct Referral for Observation Care Furnished Beginning January 1, 2008 Billing and Payment for Observation Services Furnished Beginning January 1, 2016 Method of Payment for Clinical Laboratory Tests - Place of Service Variation Billing for Multi-Source Photon (Cobalt 60-Based) Stereotactic Radiosurgery (SRS) Planning and Delivery
3426	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3427	January 2016 Integrated Outpatient Code Editor (I/OCE) Specifications Version 17.0
3428	Advance Care Planning (ACP) as an Optional Element of an Annual Wellness Visit (AWV) 140.8 Advance Care Planning (ACP) as an Optional Element of an Annual Wellness Visit (AWV)
3429	New Influenza Virus Vaccine Code
Medicare Secondary Payer (CMS-Pub. 100-05)	
115	Electronic Correspondence Referral System (ECRS) Web Updates to Claims Processing Medicare Secondary Payer (MSP) Policy and Procedures Regarding Ongoing Responsibility for Medicals (ORM)
116	Instructions on Using the Claim Adjustment Segment (CAS) for Medicare Secondary Payer (MSP) Part A CMS-1450 Paper Claims, Direct Data Entry (DDE), and 837 Institutional Claims Transactions
Medicare Financial Management (CMS-Pub. 100-06)	
255	Notice of New Interest Rate for Medicare Overpayments and Underpayments - 1st Qtr Notfication for FY 2016
256	Medicare Financial Management Manual, Chapter 7, Internal Controls
Medicare State Operations Manual (CMS-Pub. 100-07)	
147	Revisions to State Operation Manual (SOM), Appendix C-Survey Procedures and Interpretive Guidelines for Laboratories and Laboratory Services
148	Revisions and Deletion to the State Operations Manual (SOM) Chapter 9 Exhibits
149	State Operations Manual (SOM) for All Types of Providers and Suppliers Subject to Certification
150	Revisions to State Operations Manual (SOM), Chapter 2, Clarification of Requirements for Off-Premises Activities and Approval of Extension Locations for Providers of Outpatient Physical Therapy and Speech-Language Pathology Services
151	Revisions to State Operations Manual (SOM), Appendix A -Survey Protocol, Regulations and Interpretive Guidelines for Hospitals
Medicare Program Integrity (CMS-Pub. 100-08)	
615	Signature Requirements, Amendments, Corrections and Delayed Entries in Medical Documentation
616	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
617	Update to Chapter 3 of Pub. 100-08
618	Written Orders Prior to Delivery (WOPD) Items and Services Having Special DME Review Considerations Refills of DMEPOS Items Provided on a Recurring Basis Detailed Written Orders Written Orders Prior to Delivery Face-to-Face Encounter Requirements Face-to-Face Encounter Conducted by the Physician Face-to-Face Encounter Conducted by a Nurse Practitioner, Physician Assistant or Clinical Nurse Specialist Date and Timing Requirements Requirements of New Orders Billing for Refills of DMEPOS Items Provided on a Recurring Basis Verbal and Preliminary Written Orders
619	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
620	Pub. 100-08 Chapter 3 Updates: Section 3.2.3.2 Timeframes for Submission and Section 3.2.3.8 - No response to Additional No Response or Insufficient Response to Additional Documentation Requests Timeframes for Submission Verifying Potential Errors and Taking Corrective Actions Documentation Requests
621	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
622	Program Integrity Manual Chapter 12 Revision The Comprehensive Error Rate Testing Program Annual Improper Payment Reduction Strategy (IPRS)
623	Written Orders Prior to Delivery (WOPD) Items and Services Having Special DME Review Considerations Verbal and Preliminary Written Orders Detailed Written Orders Written Orders Prior to Delivery Face-to-Face Encounter Conducted by the Physician Refills of DMEPOS Items Provided on a Recurring Basis

	Face-to-Face Encounter Requirements Date and Timing Requirements Requirements of New Orders Billing for Refills of DMEPOS Items Provided on a Recurring Basis Face-to-Face Encounter Conducted by a Nurse Practitioner, Physician Assistant or Clinical Nurse Specialist
624	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
625	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
626	Update to Surety Bond Collection Requirements Claims against Surety Bonds Model Letters for Claims against Surety Bonds
627	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
628	Update to CMS Publication 100-08, Chapter 3, Section 3.2.3.2 (Time Frames for Submission)
629	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
630	Medicare Program Integrity Data Analysis—Update
Medicare Contractor Beneficiary and Provider Communications (CMS-Pub. 100-09)	
	None
Medicare Quality Improvement Organization (CMS- Pub. 100-10)	
	None
Medicare End Stage Renal Disease Network Organizations (CMS Pub 100-14)	
	None
Medicaid Program Integrity Disease Network Organizations (CMS Pub 100-15)	
	None
Medicare Managed Care (CMS-Pub. 100-16)	
	None
Medicare Business Partners Systems Security (CMS-Pub. 100-17)	
	None
Demonstrations (CMS-Pub. 100-19)	
121	Medicare Care Choices Model (MCCM) - Per Beneficiary per Month Payment (PBPM) - Implementation
122	Termination of the Rural Community Hospital Demonstration, Mandated by Section 410A of the Medicare Modernization Act and Extended by Sections 3123 and 10313 of the Affordable Care Act
123	Implementing Payment Changes for FCHIP (Frontier Community Health Integration Project), Mandated by Section 123 of MIPPA 2008 and as Amended by Section 3126 of the ACA of 2010 (This CR Rescinds and Replaces CR 8683
124	Affordable Care Act Bundled Payments for Care Improvement Initiative – Recurring File Updates Models 2 and 4 January 2016 Updates
125	Medicare Care Choices Model (MCCM) - Per Beneficiary per Month Payment (PBPM) – Implementation
126	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
127	Oncology Care Model (OCM) Monthly Enhanced Oncology Services (MEOS) Payment Implementation
128	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
129	Oncology Care Model (OCM) Monthly Enhanced Oncology Services (MEOS) Payment Implementation
130	Demonstration: Payment Update for 2016
131	Implementing Payment Changes for FCHIP (Frontier Community Health Integration Project), Mandated by Section 123 of MIPPA 2008 and as Amended by Section 3126 of the ACA of 2010 (This CR Rescinds and Replaces CR 8683)
132	Oncology Care Model (OCM) Monthly Enhanced Oncology Services (MEOS) Payment Implementation
133	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
134	Medicare Care Choices Model (MCCM) - Per Beneficiary per Month Payment (PBPM) – Implementation
135	Affordable Care Act Bundled Payments for Care Improvement Initiative - Recurring File Updates Models 2 and 4 April 2016 Updates
One Time Notification (CMS-Pub. 100-20)	
1546	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
1547	ICD-10 Conversion/Coding Infrastructure Revisions to National Coverage Determinations (NCDs)--3rd Maintenance CR
1548	Analysis Only: To Obtain the Level of Effort (LOE) from Medicare Administrative Contractors (MACs) to Implement Multifactor Authentication (MFA) as an Option for Non-Organization Users and to also Obtain the Level of Effort (LOE) from Medicare Administrative Contractors (MACs) to Implement Multifactor Authentication (MFA) as a Requirement for Non-Organization Users
1549	Shared System Enhancement 2014 - Removal of Railroad Board (RRB) obsolete reports identified by Multi-Carrier System (MCS) Shared System Maintainer (SSM)
1550	System Specific Enhancement 2014: Process Health Maintenance Organization (HMO) edits in a single module in Common Working File (CWF)
1551	System Specific Enhancements 2014: Move PAP smear Risk Indicator (PAPRI) and Technical (TECH)/Professional (PROF) Dates to Screening Auxiliary file
1552	Medicare Remit Easy Print (MREP) Upgrade
1553	New State Code for CT, MA, NJ, PR, GA, NC, SC, TN, AR, OK, CO, CA, OR, LA, NM, TX and WA
1554	System Specific Enhancements 2014: Retaining Most Recent Update for Auxiliary (Aux) File Data in Common Working File (CWF)
1555	Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality of Instruction
1556	Shared System Enhancement 2015: Eliminate Remaining Uses of AREAFILE and CUSTCHRG Virtual Storage Access Method Files
1557	System Specific Enhancement 2015: Archive Competitive Bidding Demonstration Logic in ViPS Medicare System (VMS)

1558	Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality of Instruction
1559	Shared System Enhancement 2015: Modify Purged Claim History to Improve Efficiency
1560	Instruction to Apply the Part A Deductible on a Medicare Secondary Payer (MSP) Inpatient Same Day Transfer Claim
1561	Part B Detail Line Expansion - Trailer 08 Update
1562	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
1563	Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality of Instruction
1564	Health Insurance Portability and Accountability Act (HIPAA) EDI Front End Updates for April 2016
1565	System Specific Enhancement 2015: Fiscal Intermediary Standard System (FISS) Extend Hard Segregation of Security
1566	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
1567	System Specific Enhancements 2014: Retaining most recent update for Auxiliary (Aux) file data in Common Working File (CWF) Analysis Only
1568	Implementation of Procedures for Undeliverable Medicare Summary Notices (uMSNs)
1569	Shared System Enhancement 2015: Combined Common Edits/Enhancements Module (CCEM) Claim Tracking and Logging.
1570	Reporting Principal and Interest Amounts When Refunding Previously Recouped Money on the Remittance Advice (RA)
1571	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
1572	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
1573	Shared System Enhancement 2014 - Removal of Obsolete Reports and On-Request Jobs from the ViPS Medicare System (VMS) – Implementation
1574	Shared System Enhancement 2015: Technical Improvements to the Redesigned Medicare Summary Notice (MSN) process.
1575	Shared System Enhancement 2015: Identify Inactive Medicare Demonstration Projects (Analysis Only)
1576	Chronic Care Management (CCM) services for Rural Health Clinics (RHCs) and Federal Qualified Health Centers (FQHCs)
1577	System Specific Enhancement 2015: Remove Direct Claim Updates within the Daily Batch Cycle Analysis and Design CR
1578	Issued to a specific, audience not to Internet/ Intranet due to a Sensitivity of Instruction
1579	None
1580	ICD-10 Conversion/Coding Infrastructure Revisions to National Coverage Determinations (NCDs)--3rd Maintenance CR
1581	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
1582	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
1583	Settlement Effectuation Instructions for the Department of Health and Human Services' (DHHS) Office of Medicare Hearings and Appeals (OMHA) Settlement Conference Facilitation (SCF) Pilot
1584	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
1585	Modifications to the National Coordination of Benefits Agreement (COBA) Crossover Process
1586	Eliminate Two Case-mix Payment Adjustments (Monoclonal Gammopathy and Bacterial Pneumonia) Available Under the End State Renal Disease (ESRD) Prospective Payment System (PPS) in Accordance With Section 632 of the American Taxpayer Relief Act (ATRA)
1587	Instruction to Apply the Part A Deductible on a Medicare Secondary Payer (MSP) Inpatient Same Day Transfer Claim
1588	Settlement Effectuation Instructions for the Department of Health and Human Services' (DHHS) Office of Medicare Hearings and Appeals (OMHA) Settlement Conference Facilitation (SCF) Pilot
Medicare Quality Reporting Incentive Programs (CMS- Pub. 100-22)	
49	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
50	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
51	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
52	Fiscal Year 2017 and After Payments to Hospice Agencies That Do Not Submit Required Quality Data - This CR Rescinds and Fully Replaces CR9091
Information Security Acceptable Risk Safeguards (CMS-Pub. 100-25)	
	None

Addendum II: Regulation Documents Published in the Federal Register (October through December 2015)

Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. To purchase individual copies or subscribe to the **Federal Register,** contact GPO at www.gpo.gov/fdsys. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is available as an online database through GPO Access. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) through the present date and can be accessed at http://www.gpoaccess.gov/fr/index.html. The following website http://www.archives.gov/federal-register/ provides information on how to access electronic editions, printed editions, and reference copies.

This information is available on our website at:

http://www.cms.gov/quarterlyproviderupdates/downloads/Regs-3Q15QPU.pdf

For questions or additional information, contact Terri Plumb (410-786-4481).

Addendum III: CMS Rulings (October through December 2015)

CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters.

The rulings can be accessed at http://www.cms.gov/Regulations-and-Guidance/Guidance/Rulings. For questions or additional information, contact Tiffany Lafferty (410-786-7548).

Addendum IV: Medicare National Coverage Determinations (October through December 2015)

Addendum IV includes completed national coverage determinations (NCDs), or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCD Manual (NCDM) in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. An NCD is a determination by the Secretary for whether or not a particular item or service is covered nationally under the Medicare Program (title XVIII of the Act), but does not include a determination of the code, if any, that is assigned to a particular covered item or service, or payment determination for a particular covered item or service. The entries below include information concerning completed decisions, as well as sections on program and decision memoranda, which also announce decisions or, in some cases, explain why it was not appropriate to issue an NCD. Information on completed decisions as well as pending decisions has also been posted on the CMS website. For the purposes of this quarterly notice, there were no additions in the 3-month period. This information is available at: www.cms.gov/medicare-coverage-database/. For questions or additional information, contact Wanda Belle (410-786-7491).

Addendum V: FDA-Approved Category B Investigational Device Exemptions (IDEs) (October through December 2015)

Addendum V includes listings of the FDA-approved investigational device exemption (IDE) numbers that the FDA assigns. The listings are organized according to the categories to which the devices are assigned (that is, Category A or Category B), and identified by the IDE number. For the purposes of this quarterly notice, we list only the specific updates to the Category B IDEs as of the ending date of the period covered by this notice and a contact person for questions or additional information. For questions or additional information, contact John Manlove (410-786-6877).

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c) devices fall into one of three classes. To assist CMS under this categorization process, the FDA assigns one of two categories to each FDA-approved investigational device exemption (IDE). Category A refers to experimental IDEs, and Category B refers to non-experimental IDEs. To obtain more information about the classes or categories, please refer to the notice published in the April 21, 1997 **Federal Register** (62 FR 19328).

IDE	Device	Start Date
G150121	SurVeil Drug Coated Balloon Catheter	10/02/15
G150191	Restylane; Restylane - L; Perlane; Restylane Lyft; Restylane Silk	10/02/15
G150192	Prostate Embolization for Massive Benign Prostatic Hypertrophy (BPH) Using Embosphere Microsperes	10/02/15
G150194	SYNERGYTM Everolimus-Eluting Platinum Chromium Coronary Stent System	10/02/15
G150198	Multichannel Vestibular Implant	10/09/15
G150201	VOCARE Bladder System	10/09/15
G150208	EPIFLO (Spinal Fusion)	10/16/15
G150209	EPIFLO (Colo-Rectal Surgery)	10/16/15
G150210	Corvia Medical InterAtrial Shunt Device (IASD) System II	10/22/15
G150035	JenaValve Pericardial THV System	10/22/15
G130173	CELSTAT	10/29/15
G150211	MET Exon 14 Deletion Test	10/29/15
G150214	HAC Coil Transcranial Magnetic Stimulation (DTMS) Device	10/29/15
G150218	Halo Craniofacial Nerve Stimulator; Earpiece Wearable Antenna	11/06/15
G150220	Edwards SAPIEN 3 Transcatheter Heart Valve [sizes 20mm, 23mm, 26mm, 29mm], Edwards Commander Delivery System, Edwards Balloon Catheter, Crimper	11/06/15
G150222	Penumbra Apollo System	11/12/15
G150223	High Resolution Microendoscope (HRME). Portable Screening System (PS2.1/PS3)	11/12/15
G150224	Thorflex Hybrid	11/13/15
G150225	Venous External Support (VEST) Device	11/13/15
G150226	BreathID MCS System ^{13}C-Methacetin Breath Test (MBT)	11/13/15
G150207	Low surgical risk transcatheter aortic valve replacement (TAVR)	11/19/15
G150228	Panpac Vaginal Pessary [distributed in the US under the	11/19/15

IDE	Device	Start Date
	company name Bioteque America Inc.	
G150227	Precision Spinal Cord Stimulator	11/20/15
G150232	Vessix Renal Denervation System	11/20/15
G150212	Espiner Tissue Retrieval System	11/24/15
G150230	Prosigna Breast Cancer Gene Signature Assay for use on nCounter Dx Analysis System	11/24/15
G150233	Roche cobas ADCY9 Genotype Test; Roche cobas 4800 system Sample Preparation Kit [240 tests, 960 tests]; Roche cobas 4800 System Lysis Kit 1 [240 tests, 960 tests]; Roche	11/24/15
G150235	FGFR-CTA Clinical Trial Assay (FGFR-CTA)	11/25/15
G150234	Intergrated Diagnostics Driven Diuretic and Chronic Medication Management for Heart Failure (INTERVENE-HF)	12/02/15
G150139	CarboClear Pedicle Screw System	12/02/15
G150101	ROX COUPLER	12/04/15
G150236	Halo Migraine System (HMS), Halo Stimulator, Earpiece Wearable Antenna	12/04/15
G150237	Vercise DBS System; MagPro R30 Magnetic Stimulator, MCF-B65 coil	12/04/15
G150185	WallFlex Pancreatic RX Fully Covered Soft Stent System	12/10/15
G140249	ROADSAVER Carotid Artery Stent System and NANOPARASOL Embolic Protection Device	12/11/15
G150238	Safety and efficacy of remote programming of Nucleus cochlear implants	12/11/15
G150200	WATCHMAN FLX Left Atrial Appendage Closure (LAAC) Device	12/14/15
G150246	Brainsway Deep Transcranial Magnetic Stimulation (TMS) Machine	12/16/15
G150243	The Spanner Temporary Prostatic Stent	12/16/15
G150144	RECOR PARADISE RENAL DENERVATION SYSTEM (PARADISE SYSTEM)	12/17/15
G150252	The Edwards SAPIEN 3 Transcatheter Heart Valve	12/17/15
G150248	Venovo Venous Stent System	12/18/15
G150251	Valiant Evo Thoratic Stent Graft System	12/18/15
G150253	Restylane Silk	12/18/15
G150216	dEEG-guided rTMS for treatment of epileptic seizures	12/18/15
G150260	Self-Centering Guide Catheter	12/21/15
G150264	Dexcom G5 Mobile Continuous Glucose Monitoring System	12/22/15
G150181	ImageReady MR Conditional Defibrillation System	12/22/15
G150196	Neocis Guidance System (NGS)	12/22/15
G150164	Cordis Precise Pro Rx Nitinol Stent System	12/23/15
G150254	PINPOINT Endoscopic Fluorescence Imaging System (PINPOINT)	12/23/15
G150255	Visualase Thermal Therapy System (VTTS), Visualase Cooled Laser Applicator System (VCLAS), Visualase Software, PHOTEX 15 W DIODE LASER SERIES 980, 810, 940, Peristaltic Pump	12/23/15
G150262	OL-1000	12/25/15
G150128	MED SYSTEM MODEL MED-WS1, MED-MB1	12/27/15
G150265	InPress Technologies Post Partum Hemorrhage Device	12/30/15

Addendum VI: Approval Numbers for Collections of Information (October through December 2015)

All approval numbers are available to the public at Reginfo.gov. Under the review process, approved information collection requests are assigned OMB control numbers. A single control number may apply to several related information collections. This information is available at www.reginfo.gov/public/do/PRAMain. For questions or additional information, contact Mitch Bryman (410-786-5258).

Addendum VII: Medicare-Approved Carotid Stent Facilities, (October through December 2015)

Addendum VII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high risk patients. On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients. For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. This information is available at: http://www.cms.gov/MedicareApprovedFacilitie/CASF/list.asp#TopOfPage For questions or additional information, contact Lori Ashby (410-786-6322).

Facility	Provider Number	Effective Date	State
The following facilities are new listings for this quarter.			
Valley View Hospital Association 1906 Blake Avenue Glenwood Springs, CO 81601	060075	10/09/2015	CO
St. Rita's Medical Center 730 West Market Street Lima, OH 45801	1811939887	11/09/2015	OH
White Plains Hospital 41 East Post Road White Plains, NY 10601	330304	11/09/2015	NY

Addendum VIII:
American College of Cardiology's National Cardiovascular Data Registry Sites (October through December 2015)

Addendum VIII includes a list of the American College of Cardiology's National Cardiovascular Data Registry Sites. We cover implantable cardioverter defibrillators (ICDs) for certain clinical indications, as long as information about the procedures is reported to a central registry. Detailed descriptions of the covered indications are available in the NCD. In January 2005, CMS established the ICD Abstraction Tool through the Quality Network Exchange (QNet) as a temporary data collection mechanism. On October 27, 2005, CMS announced that the American College of Cardiology's National Cardiovascular Data Registry (ACC-NCDR) ICD Registry satisfies the data reporting requirements in the NCD. Hospitals needed to transition to the ACC-NCDR ICD Registry by April 2006.

Effective January 27, 2005, to obtain reimbursement, Medicare NCD policy requires that providers implanting ICDs for primary prevention clinical indications (that is, patients without a history of cardiac arrest or spontaneous arrhythmia) report data on each primary prevention ICD procedure. Details of the clinical indications that are covered by Medicare and their respective data reporting requirements are available in the Medicare NCD Manual, which is on the CMS website at http://www.cms.hhs.gov/Manuals/IOM/itemdetail.asp?filterType=none&filterByDID=99&sortByDID=1&sortOrder=ascending&itemID=CMS014961

A provider can use either of two mechanisms to satisfy the data reporting requirement. Patients may be enrolled either in an Investigational Device Exemption trial studying ICDs as identified by the FDA or in the ACC-NCDR ICD registry. Therefore, for a beneficiary to receive a Medicare-covered ICD implantation for primary prevention, the beneficiary must receive the scan in a facility that participates in the ACC-NCDR ICD registry. The entire list of facilities that participate in the ACC-NCDR ICD registry can be found at www.ncdr.com/webncdr/common

For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. This information is available by accessing our website and clicking on the link for the American College of Cardiology's National Cardiovascular Data Registry at: www.ncdr.com/webncdr/common. For questions or additional information, contact Marie Casey, BSN, MPH (410-786-7861).

Facility	City	State
The following facilities are new listings for this quarter.		
The Mount Sinai Hospital of Queens	Long Island	NY
Patients' Hospital of Redding	Redding	CA
Johnston Memorial Hospital	Abingdon	VA
Saint Joseph East	Lexington	KY
Brownwood Hospital, LP	Brownwood	TX
Lucile S Packard Children's Hospital at Stanford U	Palo Alto	CA

Addendum IX: Active CMS Coverage-Related Guidance Documents (October through December 2015)

CMS issued a guidance document on November 20, 2014 titled "Guidance for the Public, Industry, and CMS Staff: Coverage with Evidence Development Document". Although CMS has several policy vehicles relating to evidence development activities including the investigational device exemption (IDE), the clinical trial policy, national coverage determinations and local coverage determinations, this guidance document is principally intended to help the public understand CMS's implementation of coverage with evidence development (CED) through the national coverage determination process. The document is available at http://www.cms.gov/medicare-coverage-database/details/medicare-coverage-document-details.aspx?MCDId=27. There are no additional Active CMS Coverage-Related Guidance Documents for the 3-month period. For questions or additional information, contact JoAnna Baldwin (410-786-7205).

Addendum X:
List of Special One-Time Notices Regarding National Coverage Provisions (October through December 2015)

There were no special one-time notices regarding national coverage provisions published in the 3-month period. This information is available at www.cms.hhs.gov/coverage. For questions or additional information, contact JoAnna Baldwin (410-786 7205).

Addendum XI: National Oncologic PET Registry (NOPR) (October through December 2015)

Addendum XI includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.

In January 2005, we issued our decision memorandum on **positron emission tomography** (PET) scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the registry. There were no additions, deletions, or editorial changes to the listing of National Oncologic Positron Emission Tomography Registry (NOPR) in the 3-month period. This information is available at http://www.cms.gov/MedicareApprovedFacilitie/NOPR/list.asp#TopOfPage. For questions or additional information, contact Stuart Caplan, RN, MAS (410-786-8564).

Addendum XII: Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities (October through December 2015)

Addendum XII includes a listing of Medicare-approved facilities that receive coverage for ventricular assist devices (VADs) used as destination therapy. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy. On October 1, 2003, we issued our decision memorandum on VADs for the clinical indication of destination therapy. We determined that VADs used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy.

For the purposes of this quarterly notice, we are providing only the specific updates that have occurred to the list of Medicare-approved facilities that meet our standards in the 3-month period. This information is available at http://www.cms.gov/MedicareApprovedFacilitie/VAD/list.asp#TopOfPage. For questions or additional information, contact Marie Casey, BSN, MPH (410-786-7861).

Facility	Provider Number	Date Approved	State
The following facilities are new listings for this quarter.			
Advocate Christ Medical Center 4440 W. 95th Street Oak Lawn, IL 60505	140208	9/28/2015	IL
Hackensack University Medical Center 30 Prospect Avenue Hackensack, NJ 07601	31001	10/20/2015	NJ
University of California, Davis Medical Center (UCDMC) 2315 Stockton Blvd Sacramento, CA 95817	050599	11/25/2015	CA

Addendum XIII: Lung Volume Reduction Surgery (LVRS) (October through December 2015)

Addendum XIII includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial were also eligible to receive coverage. The following three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS):

- National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs);
- Credentialed by the Joint Commission (formerly, the Joint Commision on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS; and
- Medicare approved for lung transplants.

Only the first two types are in the list. There were no updates to the listing of facilities for lung volume reduction surgery published in the 3-month period. This information is available at www.cms.gov/MedicareApprovedFacilitie/LVRS/list.asp#TopOfPage. For questions or additional information, contact Marie Casey, BSN, MPH (410-786-7861).

Addendum XIV: Medicare-Approved Bariatric Surgery Facilities (October through December 2015)

Addendum XIV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional

society statements on competency. All facilities must meet our standards in order to receive coverage for bariatric surgery procedures. On February 21, 2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity and have been previously unsuccessful with medical treatment for obesity. This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

There were no additions, deletions, or editorial changes to Medicare-approved facilities that meet CMS's minimum facility standards for bariatric surgery that have been certified by ACS and/or ASMBS in the 3-month period. This information is available at www.cms.gov/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage. For questions or additional information, contact Sarah Fulton, MPH (410-786-2749).

Addendum XV: FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials (October through December 2015)

There were no FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials published in the 3-month period.

This information is available on our website at www.cms.gov/MedicareApprovedFacilitie/PETDT/list.asp#TopOfPage. For questions or additional information, contact Stuart Caplan, RN, MAS (410-786-8564).

[FR Doc. 2016–02108 Filed 2–3–16; 8:45 am]
BILLING CODE 4120–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990–New–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before April 4, 2016.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–0990–New–60D for reference.

Information Collection Request Title: Million Hearts Social Network Analysis: Network Survey—

Abstract: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is requesting approval on a new information collection request from the Office of Management and Budget (OMB) for purposes of conducting a study about the Million Hearts Initiative and its subsequent public-private partner network.

Million Hearts focuses on aligning the efforts of federal agencies, states, regions, health systems, communities and individuals towards this common goal, ensuring the coordination of public health, clinical care, and policy approaches to this complex problem. Previous research has shown that collaborative efforts among organizations with a variety of programming, resources and skill sets result in higher levels of community impact. Integrated efforts to address public health issues by involving multiple stakeholders are predicted to result in better health outcomes than programs that do not use a collaborative approach.

ASPE is requesting comment on the burden for this study that is examining the Million Hearts public-private partnership network. The goal of developing this activity is to examine the network to identify facilitators and barriers to effective communication and collaboration in addressing large and complex public health problems like cardiovascular disease. This project wants to take the lessons learned from this unique and massive collaboration and apply them to other efforts to improve the health and well-being of Americans.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Private Sector, State, and Local Partners	100	1	0.5	50
Totals	100	1	0.5	50

OS specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2016–02119 Filed 2–3–16; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Availability: 2015 EditionTest Tools and Test Procedures Approved by the National Coordinator for the ONC Health IT Certification Program

AGENCY: Office of the National Coordinator for Health Information Technology (ONC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice announces the availability of test tools and test procedures approved by the National Coordinator for Health Information Technology for the testing of Health IT Modules to the 2015 Edition health IT certification criteria under the ONC Health IT Certification Program. The approved test tools and test procedures are identified on the ONC Web site at: *https://www.healthit.gov/policy-researchers-implementers/2015-edition-test-method.*

FOR FURTHER INFORMATION CONTACT: Alicia Morton, Director, ONC Health IT Certification Program, Office of the National Coordinator for Health Information Technology, 202–690–7151.

SUPPLEMENTARY INFORMATION: On January 7, 2011, the Department of Health and Human Services issued a final rule establishing a permanent certification program for the purposes of testing and certifying health information technology (''Establishment of the Permanent Certification Program for Health Information Technology,'' (76 FR 1262) (''Permanent Certification Program final rule''). The permanent certification program was renamed the ONC HIT Certification Program in a final rule published on September 4, 2012 (77 FR 54163) (''2014 Edition final rule''), and subsequently renamed the ONC Health IT Certification Program in a final rule published on October 16, 2015 (80 FR 62601) (''2015 Edition final rule''). In the preamble of the Permanent Certification Program final rule, we stated that when the National

Coordinator for Health Information Technology (National Coordinator) had approved test tools and test procedures for certification criteria adopted by the Secretary, that ONC would publish a notice of availability in the **Federal Register** and identify the approved test tools and test procedures on the ONC Web site.

In the 2015 Edition final rule, the Secretary adopted a new edition of certification criteria (''2015 Edition''). The National Coordinator has approved test tools and test procedures for testing Health IT Modules to the 2015 Edition under the ONC Health IT Certification Program. These approved test tools and test procedures are identified on the ONC Web site at: *https://www.healthit.gov/policy-researchers-implementers/2015-edition-test-method.*

Authority: 42 U.S.C. 300jj–11.

Dated: January 29, 2016.

Karen B. DeSalvo,

National Coordinator for Health Information Technology.

[FR Doc. 2016–02057 Filed 2–3–16; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health IT Standards Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces dates for meetings of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). These meeting will be open to the public.

Name of Committee: Health IT Standards Committee.

General Function of the Committee: To provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the Health IT Policy Committee.

2016 Meeting Dates and Times

- January 20, 2016, from 9:30 a.m. to 3:00 p.m./Eastern Time
- February 24, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- March 9, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- April 19, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- May 4, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- June 8, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- July 13, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- August 10, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- September 14, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- October 6, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- November 2, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- December 7, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time

For meeting locations, Web conference information, and the most up-to-date information, please visit the calendar on the ONC Web site, *http://www.healthit.gov/FACAS/calendar.*

Contact Person: Michelle Consolazio, email: *michelle.consolazio@hhs.gov.* Please email Michelle Consolazio for the most current information about meetings. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear reports from its workgroups/task forces and updates from ONC and other federal agencies. ONC intends to make background material available to the public no later than 24 hours prior to the meeting start time. Material will be posted on ONC's Web site after the meeting, at *http://www.healthit.gov/facas/health-it-standards-committee.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Written submissions may be made to the contact person prior to the meeting date. Oral comments from the public will be scheduled prior to the lunch break and at the conclusion of each meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing wireless access or access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Michelle Consolazio at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: January 8, 2016.

Michelle Consolazio,

FACA Program Director, Office of Policy, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2016–02117 Filed 2–3–16; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting Standards Subcommittee

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards Meeting.

Time and Date:

February 16, 2016 9:00 a.m.–5:00 p.m. EST.

Place: U.S. Department of Health and Human Services, Hubert H. Humphrey Building, Room 705–A, 200 Independence Avenue SW., Washington, DC 20024, (202) 690–7100.

Status: Open.

Purpose: At this meeting the Subcommittee will gather industry input regarding (1) the proposed Phase IV Operating Rules for selected HIPAA Transactions (enrollment/disenrollment, premium payment, health care claims and prior authorization); and (2) the proposed Claim Attachment standards and code sets. These two areas of consideration will be used when making recommendations for adoption to the Secretary of HHS.

Contact Person for More Information: Substantive program information may be obtained from Rebecca Hines, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Hyattsville, Maryland 20782, telephone (301) 458–4715. Information pertaining to meeting content may be obtained from Terri Deutsch, Centers for Medicare and Medicaid Services, Office of E-Health Standards and Services, 7500 Security Boulevard, Baltimore, Maryland 21244, telephone (410) 786–9462. Summaries of meetings and a roster of

committee members are available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/,* where further information including an agenda will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: January 28, 2016.

James Scanlon,

Deputy Assistant Secretary for Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 2016–02115 Filed 2–3–16; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Physician-Focused Payment Model Technical Advisory Committee; Update

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Health and Human Services Department announces an update to the meeting address of the Physician-Focused Payment Model Technical Advisory Committee (hereafter referred to as ''the Committee'') on Monday, February 1, 2016.

DATES: The meeting will be held on Monday, February 1, 2016, from 1:00 p.m. to 5:00 p.m. Eastern Standard Time (EST) and is open to the public.

ADDRESSES: The meeting will be held in Room 505A of the Hubert Humphrey Federal Building, 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Scott R. Smith, Ph.D., Designated Federal Officer, at the Office of Health Policy, Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, 200 Independence Ave. SW., Washington, DC 20201, (202) 690–6870.

SUPPLEMENTARY INFORMATION:

Update: The meeting location has changed. The new meeting location is Room 505A of the Hubert Humphrey Federal Building, 200 Independence Ave. SW., Washington, DC 20201.

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I. Purpose

The Physician-Focused Payment Model Technical Advisory Committee (''the Committee'') is authorized by the Medicare Access and CHIP Reauthorization Act of 2015, 42 U.S.C 1395ee. This Committee is governed by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C App.), which sets forth standards for the formation and use of advisory committees. In accordance with its statutory mandate, the Committee is to review physician-focused payment model proposals and prepare recommendations regarding whether such models meet criteria that will be established through rulemaking by the Secretary of the Department of Health and Human Services (DHHS) (the Secretary). The Committee is composed of 11 members appointed by the Comptroller General with staggering terms of 1, 2, and 3 years as specified in the authorizing legislation.

II. Agenda

The Committee will receive information about MACRA implementation and about payment models currently being tested by the Center for Medicare & Medicaid Innovation within the Centers for Medicare & Medicaid Services (CMS).

III. Meeting Attendance

The first meeting (February 1, 2016) is open to the public; however, attendance is limited to space available. Priority will be given to those who pre-register and attendance may be limited based on the number of registrants and the space available.

Persons wishing to attend this meeting, which is located on federal property, must register by following the instructions in the ''Meeting Registration'' section of this notice. A confirmation email will be sent to the registrants shortly after completing the registration process.

IV. Security and Building Guidelines

The following are the security and building guidelines:

Persons attending the meeting, including presenters, must be pre-registered and on the attendance list by the prescribed date.

Individuals who are not pre-registered in advance may not be permitted to enter the building and may be unable to attend the meeting.

Attendees must present a government-issued photo identification to the Federal Protective Service or Guard Service personnel before entering the building. Without a current, valid photo ID, persons may not be permitted entry to the building.

All persons entering the building must pass through a metal detector.

All items brought into the Humphrey Building including personal items, for example, laptops and cell phones are subject to physical inspection.

The public may enter the building 30 to 45 minutes before the meeting convenes.

V. Special Accommodations

Individuals requiring special accommodations must include the request for these services during registration.

VI. Copies of the Charter

The Secretary's Charter for the Physician-Focused Payment Model Technical Advisory Committee is available on the ASPE Web site at *https://aspe.hhs.gov/medicare-access-and-chip-reauthorization-act-2015.*

VII. Meeting Registration

The public may attend the meeting in-person or listen via audio teleconference. Space is limited and registration is *required.* Registration may be completed online at *www.regonline.com/PTACommitteeMeetingRegistration.* All the following information must be submitted when registering:

Name.
Company name.
Postal address.
Email address.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Scott R. Smith, no later than January 22, 2016 at the contact information listed below.

Dated: January 28th, 2016.

Arnold Epstein,

Deputy Assistant Secretary for the Office of Health Policy.

[FR Doc. 2016–02047 Filed 2–3–16; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health IT Policy Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces dates for meetings of a public advisory committee of the Office of the National Coordinator for Health Information Technology

(ONC). These meeting will be open to the public.

Name of Committee: Health IT Policy Committee.

General Function of the Committee: To provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

2016 Meeting Dates and Times

- January 20, 2016, from 9:30 a.m. to 3:00 p.m./Eastern Time
- February 23, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- March 10, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- April 19, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- May 5, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- June 7, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- July 12, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- August 9, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- September 13, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- October 6, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- November 3, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time
- December 6, 2016 from 9:30 a.m. to 3:00 p.m./Eastern Time

For meeting locations, web conference information, and the most up-to-date information, please visit the calendar on the ONC Web site, *http://www.healthit.gov/FACAS/calendar.*

Contact Person: Michelle Consolazio, email: *michelle.consolazio@hhs.gov.* Please email Michelle Consolazio for the most current information about meetings. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear reports from its workgroups/task forces and updates from ONC and other federal agencies. ONC intends to make background material available to the public no later than 24 hours prior to the meeting start time. Material will be posted on ONC's Web site after the meeting, at *http://www.healthit.gov/FACAS/health-it-policy-committee.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Written submissions may be made to the contact person prior to the meeting date. Oral comments from the public will be scheduled prior to the lunch break and at the conclusion of each meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing wireless access or access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Michelle Consolazio at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: January 27, 2016.

Michelle Consolazio,

FACA Program Director, Office of Policy, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2016–02118 Filed 2–3–16; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Full Committee Meeting.

Time and Date

February 17, 2016 8:30 a.m.–5:40 p.m. EST.

February 18, 2016 8:10 a.m.–12:00 p.m. EST.

Place: U.S. Department of Health and Human Services, Hubert H. Humphrey Building, Room 705–A, 200 Independence Avenue, SW., Washington, DC 20024, (202) 690–7100.

Status: Open.

Purpose

At this meeting the Committee will hear presentations and hold discussions on several health data policy topics. The Committee will receive updates from the Department, including from the Office of the National Coordinator that will focus on the Interoperability Roadmap, and the Centers for Medicare and Medicaid Services. The Committee will discuss and take action on a recommendation letter stemming from the June 16–17, 2015 inaugural hearing of the Review Committee and approve the report ''Advancing Community-Level Core Measurement: A Progress Report and Workshop Summary.'' The Committee will further review its strategic plan for 2016 and all Subcommittees will report on their workplans and next steps. In addition, the Committee will be briefed on and discuss the recent implementation of ICD–10 as well as an overview of current challenges and opportunities regarding use of All Payer Claims Databases. After the plenary session adjourns, the Work Group on HHS Data Access and Use will continue strategic discussions on building a framework for guiding principles for data access and use. The times shown above are for the full Committee meeting. Subcommittee-specific topics will be addressed as part of the Full Committee schedule.

Contact Person for More Information: Substantive program information may be obtained from Rebecca Hines, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Hyattsville, Maryland 20782, telephone (301) 458–4715. Summaries of meetings and a roster of committee members are available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/,* where further information including an agenda will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: January 28, 2016.

James Scanlon,

Deputy Assistant Secretary for Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 2016–02116 Filed 2–3–16; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: February 26, 2016.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3C100, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Brenda L. Fredericksen, Ph.D., Assistant Professor, Scientific Review Program, Division of Extramural Activities, Room # 3G22A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5052, *brenda.fredericksen@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 29, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02051 Filed 2–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

The National Heart, Lung, and Blood Institute (NHLBI) Strategic Visioning: Draft Strategic Research Priorities; Request for Comments

SUMMARY: The National Heart, Lung, and Blood Institute (NHLBI) is soliciting comments from the public on its Draft Strategic Research Priorities, which will help inform Institute-solicited research activities over the next decade. The draft document is available through the NHLBI Strategic Visioning Web site (*https://www.nhlbi.nih.gov/about/documents/strategic-visioning/public-comment-period*).

DATES: To ensure consideration, written comments must be received by March 7, 2016.

ADDRESSES: The Draft Strategic Research Priorities can be viewed here: (*https://www.nhlbi.nih.gov/about/documents/strategic-visioning/public-comment-period*). Please email comments to *NHLBI_Vision@mail.nih.gov.* Email comments are preferred, but comments may also be submitted by regular mail to: NHLBI Office of the Director, Attn: Strategic Visioning Team, National Heart, Lung, and Blood Institute, Building 31, Room 5A48, 31 Center Drive MSC 2486, Bethesda, MD 20892.

FOR FURTHER INFORMATION CONTACT: Dana Camak, Executive Assistant, Office of Science Policy, Engagement, Education, and Communications at the National Heart, Lung, and Blood Institute, NIH, 31 Center Dr., Building 31, Room 4A10, Bethesda, MD 20892–2480. Telephone: 301–496–4236. Email: *NHLBI_Vision@mail.nih.gov.* Additional information may be obtained at *https://www.nhlbi.nih.gov/about/documents/strategic-visioning/public-comment-period.*

SUPPLEMENTARY INFORMATION:

Background

For more than 60 years, the NHLBI has supported research to reduce the burden of heart, lung, blood, and sleep disorders and diseases. For example, long-term research investments in cardiovascular basic, clinical and population sciences have contributed to a 78% decrease in death rates due to coronary heart disease, a greater understanding of the complexity of chronic lung disease, and to an increase in life expectancy for persons with sickle cell disease from 14 years to 40–60 years. However, heart, lung, and blood diseases remain leading causes of death for American men and women, and we face ongoing health challenges such as an aging population, rising health care costs, and continued gender and racial disparities.

Over the last year, NHLBI has been engaged in a Strategic Visioning process that engages the NHLBI community to inform Institute-solicited research activities. The goals for the Strategic Visioning process span the NHLBI mission and include research on health and disease in heart, lung, blood, and sleep systems; the translation of research for prevention, diagnosis, and treatment of diseases; and the support of training and resources for biomedical researchers across the landscape.

The strength of the NHLBI's Strategic Visioning process rests in the collective input of the diverse perspectives within the heart, lung, blood, and sleep community, including, but not limited to, scientists, academic institutions, patient communities, and the general public, allowing these stakeholders the opportunity to identify and catalyze areas where targeted investments are needed. In spring of 2015, the community identified scientific opportunities (Compelling Questions, or CQs) and barriers to research progress (Critical Challenges, or CCs) facing heart, lung, blood, and sleep research. NHLBI leadership, staff, and advisory groups reviewed the ideas to identify the highest priorities for the Institute based on timeliness, feasibility, and overall ability to advance the fields of study.

Ultimately, more than 1,000 ideas were submitted to the Strategic Visioning Forum. Ideas came from all 50 states and from countries across the globe, representing diverse perspectives of scientists, academic institutions, patient communities, and the general public.

Together the NHLBI, its Board of Extramural Experts, and the NHLBI Advisory Council, refined and synthesized the CQs and CCs as appropriate, and organized them under Objectives. The resulting CQs and CCs, as delineated in the Draft Strategic Research Priorities document, address important research avenues and support the Institute's strategic goals. The Draft Strategic Research Priorities document is not meant to encompass NHLBI's entire research portfolio, but instead is meant to reflect those areas of study that are currently deemed to be the most important, timely, and feasible for the Institute to address in its targeted/solicited research portfolio in the next decade.

Request for Comments

This notice invites public comment on NHLBI's Draft Strategic Research Priorities. We seek diverse perspectives including, but not limited to, that of patients, patient advocates, clinicians, and researchers, as well as federal agencies and for-profit and not-for-profit stakeholders. The comments will be important factors in finalizing the document and thereby shaping NHLBI's Institute-solicited future research directions.

Privacy Act Notification Statement: Responses to this notice are voluntary. Respondents are advised that the

Government is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted. No proprietary, classified, confidential, or sensitive information should be included in your response. The NHLBI may use the information gathered to develop grant, contract, or other funding priorities and initiatives.

This notice is for information and planning purposes only and should not be construed as a solicitation or as an obligation on the part of the Federal Government in general, the NIH, or the NHLBI specifically. The NHLBI does not intend to make any awards based on responses to this RFI or pay for the preparation of any information submitted or for the Government's use of such information.

Dated: January 26, 2016.

Gary H. Gibbons,

Director, National Heart, Lung, and Blood Institute.

[FR Doc. 2016–02120 Filed 2–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Language and Communication.

Date: February 22, 2016.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Argonaut Hotel, 495 Jefferson Street, San Francisco, CA 94109.

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, (301) 594–3292, *niw@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Psychosocial Risks and Disease Prevention.

Date: March 1, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, 301–594–3292, *niw@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Environmental Contributors to Autism Spectrum Disorders.

Date: March 2, 2016.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Cambria Hotels & Suites, 1 Helen Heneghan Way, Rockville, MD 20850.

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Sensory and Motor Neurosciences, Cognition and Perception.

Date: March 3–4, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Pier 2620 Hotel Fisherman's Wharf, 2620 Jones Street, San Francisco, CA 94133.

Contact Person: Sharon S Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7846, Bethesda, MD 20892, 301–237–1487, *lowss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Biochemistry and Biophysical Chemistry.

Date: March 3–4, 2016.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David R Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, (301)–437–7927, *jollieda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Research Project Grant.

Date: March 3, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@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: January 29, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02053 Filed 2–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: February 25–26, 2016.

Time: 7:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Rd. NW, Washington, DC 20015.

Contact Person: Helen Lin, Ph.D., Scientific Review Officer, NIH/NIAMS/RB, 6701 Democracy Blvd., Suite 800, Plaza One, Bethesda, MD 20817, 301–594–4952, *linh1@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: January 29, 2016.

Sylvia Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02049 Filed 2–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''Investigator Initiated Clinical Planning (R34) and Implementation (R01) Grants.''

Date: February 19, 2016.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Raymond R. Schleef, Ph.D., Senior Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3E61, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5019, *schleefr@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 29, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02052 Filed 2–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Date: February 24–25, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, White Oak B Room, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: James T. Snyder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities/Room 3G31B, National Institutes of Health, NIAID, 5601 Fishers Lane MSC 9834, Bethesda, MD 20892–9834, (240) 669–5060, *james.snyder@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 29, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02050 Filed 2–3–16; 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 Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee : National Institute of Environmental Health Sciences Special Emphasis Panel Engineered Nanomaterials Resource and Coordination U24 Review.

Date: February 25, 2016.

Time: 12:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone, 530 Davis Drive, Research Triangle Park, NC 27713.

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, (919) 541–0670, *worth@niehs.nih.gov.*

(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: January 29, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02054 Filed 2–3–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0031]

Chemical Transportation Advisory Committee Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The Chemical Transportation Advisory Committee and its subcommittees will meet on March 1, 2, and 3, 2016, in Houston, TX, to discuss the safe and secure marine

transportation of hazardous materials. The meetings will be open to the public.

DATES: Subcommittees will meet on Tuesday, March 1, 2016, from 9:00 a.m. to 5 p.m. and on Wednesday, March 2, 2016, from 9:00 a.m. to 5 p.m. The full committee will meet on Thursday, March 3, 2016, from 9:00 a.m. to 5 p.m. Please note that these meetings may close early if the Committee has completed its business.

ADDRESSES: The meetings will be held at the U.S. Coast Guard Sector Houston-Galveston, 13411 Hillard St. Houston, TX 77034. Foreign national attendees will be required to pre-register no later than 5 p.m. on February 12, 2016, to be admitted to the meeting. U.S. Citizen attendees will be required to pre-register no later than 5 p.m. on February 19, 2016, to be admitted to the meeting. To pre-register contact Lieutenant Cristina Nelson at *Cristina.E.Nelson@uscg.mil* with CTAC in the subject line and provide your name, company, and telephone number; if a foreign national, also provide your country of citizenship, and passport number and expiration date. All attendees will be required to provide government-issued picture identification in order to gain admittance to the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Committee as listed in the ''Agenda'' section below. Written comments for distribution to Committee members must be submitted no later than February 12, 2016 if you want the Committee members to be able to review your comments before the meeting, and must be identified by USCG–2016–0031. Written comments may be submitted using the Federal eRulemaking Portal: *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this notice for alternate instructions.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* type USCG–2016–0031 in the Search box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Commander Evan Hudspeth, Designated Federal Official of the Chemical Transportation Advisory Committee, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509, telephone 202–372–1420, fax 202–372–8380, or *Evan.D.Hudspeth@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 United States Code Appendix.

The Chemical Transportation Advisory Committee is an advisory committee authorized under section 871 of the Homeland Security Act of 2002, 6 United States Code 451, and is chartered under the provisions of the Federal Advisory Committee Act. The committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard and the Deputy Commandant for Operations on matters relating to safe and secure marine transportation of hazardous materials activities insofar as they relate to matters within the United States Coast Guard's jurisdiction. The Committee advises, consults with, and makes recommendations reflecting its independent judgment to the Secretary.

Agendas of Meetings

Subcommittee Meetings on March 1 and 2, 2016

The subcommittee meetings will separately address the following tasks:

(1) Task Statement 13–06: Harmonization of Response and Carriage Requirement for Oil-Like Substances, including Biofuels and Biofuel Blends.

(2) Task Statement 13–03: Safety Standards for the Design of Vessels Carrying Natural Gas or Using Natural Gas as Fuel.

(3) Task Statement 13–07: Recommendations for Safety Standards for Ship to Ship Transfer of Hazardous Material Outside of the Baseline.

(4) Task Statement 13–01: Recommendations for Guidance on the Implementation of Revisions to MARPOL Annex II and the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (commonly known as IBC code) and 46 CFR 153 Regulatory Review.

(5) Task Statement 13–04: Improve Implementation and education of discharge requirements related to solid bulk cargo residues.

(6) Task Statement 15–01: Marine Vapor Control System (VCS) Certifying Entities (CE) Guidelines update and VCS supplementary guidance for the implementation of the final rule.

The task statements from the last committee meeting are located at Homeport at the following address: *https://homeport.uscg.mil.* Go to: Missions > Ports and Waterways > Safety Advisory Committees > CTAC Subcommittees and Working Groups.

The agenda for each subcommittee will include the following:

1. Review task statements, which are listed in paragraph (4) of the agenda for the March 3, 2016, meeting.

2. Work on tasks assigned in task statements mentioned above.

3. Public comment period.

4. Discuss and prepare proposed recommendations for the Chemical Transportation Advisory Committee meeting on March 3, 2016, on tasks assigned in detailed task statements mentioned above.

Full Committee Meeting on March 3, 2016

The agenda for the Chemical Transportation Advisory Committee meeting on March 3, 2016, is as follows:

1. Introductions and opening remarks.

2. Swear in newly appointed Committee members.

3. Coast Guard Leadership Remarks.

4. Public comment period.

5. Committee will review, discuss, and formulate recommendations on the following items:

a. Task Statement 13–06: Harmonization of Response and Carriage Requirement for Oil-Like Substances, including Biofuels and Biofuel Blends.

b. Task Statement 13–03: Safety Standards for the Design of Vessels Carrying Natural Gas or Using Natural Gas as Fuel.

c. Task Statement 13–07: Recommendations for Safety Standards for Ship to Ship Transfer of Hazardous Material Outside of the Baseline.

d. Task Statement 13–01: Recommendations for Guidance on the Implementation of Revisions to MARPOL Annex II and the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (commonly known as the IBC Code) and 46 CFR part 153 Regulatory Review.

e. Task Statement 13–04: Improve implementation and education of

discharge requirements related to solid bulk cargo residues.

f. Task Statement 15–01: Marine Vapor Control System (VCS) Certifying Entities (CE) Guidelines update and VCS supplementary guidance for the implementation of the final rule.

6. USCG presentations on the following items of interest:

a. Update on International Maritime Organization activities as they relate to the marine transportation of hazardous materials.

b. Update on U.S. regulations and policy initiatives as they relate to the marine transportation of hazardous materials.

7. Set next meeting date and location.

8. Set subcommittee meeting schedule.

A public comment period will be held during each Subcommittee and the full committee meeting concerning matters being discussed. Public comments will be limited to 3 minutes per speaker. Please note that the public comment period may end before the time indicated, following the last call for comments. Please contact Commander Evan Hudspeth, listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Dated: February 1, 2016.

J.G. Lantz,

Director of Commercial Regulations and Standards, United States Coast Guard.

[FR Doc. 2016–02126 Filed 2–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3375–EM; Docket ID FEMA–2016–0001]

Michigan; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Michigan (FEMA–3375–EM), dated January 16, 2016, and related determinations.

DATES: *Effective Date:* January 16, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 16, 2016, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Michigan described in the Governor's request as resulting from contaminated water beginning on April 25, 2014, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Michigan.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program. This emergency assistance is to provide water, water filters, water filter cartridges, water test kits, and other necessary related items for a period of no more than 90 days.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, David G. Samaniego, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following area of the State of Michigan has been designated as adversely affected by this declared emergency:

Genesee County for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

This emergency assistance is to provide water, water filters, water filter cartridges, water test kits, and other necessary related items for a period of no more than 90 days for Genesee County.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–02028 Filed 2–3–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4250–DR; Docket ID FEMA–2016–0001]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–4250–DR), dated January 21, 2016, and related determinations.

DATES: *Effective Date:* January 21, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 21, 2016, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of December 23, 2015 to January 9, 2016, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds

available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael L. Parker, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Missouri have been designated as adversely affected by this major disaster:

Barry, Barton, Camden, Cape Girardeau, Cole, Crawford, Franklin, Gasconade, Greene, Hickory, Jasper, Jefferson, Laclede, Lawrence, Lincoln, Maries, McDonald, Morgan, Newton, Osage, Phelps, Polk, Pulaski, Scott, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Stone, Taney, Texas, Webster, and Wright Counties for Individual Assistance.

All areas within the State of Missouri are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–02026 Filed 2–3–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4249–DR; Docket ID FEMA–2015–0002]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA–4249–DR), dated January 15, 2016, and related determinations.

DATES: Effective date: January 15, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 15, 2016, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Washington resulting from severe storms, straight-line winds, flooding, landslides, and mudslides during the period of November 12–21, 2015, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas J. Dargan, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Washington have been designated as adversely affected by this major disaster:

Chelan, Clallam, Garfield, Island, Jefferson, Kittitas, Lewis, Lincoln, Mason, Pend Oreille, Skamania, Snohomish, Spokane, Stevens, Wahkiakum, and Whitman Counties for Public Assistance.

All areas within the State of Washington are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–02030 Filed 2–3–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4246–DR; Docket ID FEMA–2016–0001]

Idaho; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Idaho (FEMA–4246–DR), dated December 23, 2015, and related determinations.

DATES: *Effective Date:* January 20, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Dolph A. Diemont, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Thomas J. Dargan as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–02024 Filed 2–3–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4248–DR; Docket ID FEMA–2016–0001]

Mississippi; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA–4248–DR), dated January 4, 2016, and related determinations.

DATES: *Effective date:* January 22, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Mississippi is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of January 4, 2016.

Monroe and Prentiss Counties for Individual Assistance and Public Assistance.

Panola County for Individual Assistance (already designated for Public Assistance).

Clay, Itawamba, and Tallahatchie Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–02027 Filed 2–3–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4251–DR; Docket ID FEMA–2016–0001]

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–4251–DR), dated January 21, 2016, and related determinations.

DATES: *Effective Date:* January 21, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 21, 2016, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Alabama resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of December 23–31, 2015, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Alabama.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Elizabeth Turner, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Alabama have been designated as adversely affected by this major disaster:

Autauga, Barbour, Blount, Bullock, Butler, Chambers, Cherokee, Clay, Cleburne, Coffee, Colbert, Conecuh, Covington, Crenshaw, Cullman, Dale, DeKalb, Elmore, Escambia, Fayette, Franklin, Geneva, Henry, Houston, Jackson, Lamar, Lawrence, Lee, Lowndes, Macon, Marion, Marshall, Monroe, Perry, Pike, Russell, St. Clair, Walker, and Winston Counties for Public Assistance.

All areas within the State of Alabama are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals

and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–02021 Filed 2–3–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2016–0010]

Cooperative Research and Development Agreement Opportunity With the Department of Homeland Security for the International Foot-and-Mouth Disease Vaccine and Diagnostics Field Trial

AGENCY: Chemical and Biological Defense Division (CBD), Homeland Security Advanced Research Projects Agency, Science and Technology Directorate, Department of Homeland Security.

ACTION: Notice of intent.

SUMMARY: The Department of Homeland Security (DHS), Science and Technology Directorate (S&T), through its Homeland Security Advanced Research Projects Agency (HSARPA), Chemical Biological Defense Division (CBD) is implementing and executing an international foot-and-mouth disease (FMD) vaccine and diagnostics field trial. The objective of the project is to evaluate a newly developed FMD vaccine(s) and companion diagnostic(s) in an FMDV endemic country. The specific goals of this project are to establish the efficacy of the newly developed replication-deficient adenovirus-vectored FMD (AdFMD) vaccine; the effectiveness, sensitivity, specificity, and ruggedness of a new companion diagnostic test (''3B ELISA'') under field conditions, and to provide data on the usage of a DIVA vaccine and companion diagnostic in an endemic disease situation which may be used to inform the U.S. response to an FMD outbreak. DHS anticipates that this project may lead to the development and fostering of partnerships and collaborations with industry, countries and national and international organizations that will result in a solid foundation that will facilitate the future development and testing of additional transboundary animal disease (TAD) vaccines and diagnostics.

CBD is seeking industry partners to enter into a Cooperative Research and Development Agreement (CRADA). It is envisioned that the primary role of the selected industry collaborator(s) will be to provide subject matter experts to inform the vaccine and diagnostic field trial design(s), country selection and regulatory processes, in addition to potentially developing, manufacturing and distributing or providing, the AdFMD experimental vaccines and companion ELISA diagnostic kits for the field trial.

DATES: Submit comments on or before March 7, 2016.

ADDRESSES: Mail comments and requests to participate to Dr. Roxann Motroni, (ATTN: Roxann Motroni, 245 Murray Lane SW., Washington, DC 20528–0075). Submit electronic comments and other data with the subject line ''International FMD Field Trial Notice of Intent'' to *Roxann.Motroni@hq.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: *Information on DHS CRADAs:* Scott Pugh, *scott.pugh@hq.dhs.gov,* (202) 254–2288.

SUPPLEMENTARY INFORMATION:

Background

Ensuring livestock resiliency across the United States is crucial to the economic success of the American livestock industry. Foot-and-mouth disease (FMD) is caused by a highly infectious virus that affects cloven-hoofed animals and causes high morbidity. While the animal health consequences are serious, the economic consequences are grave, since all trade of animals and animal products from the U.S. will cease. Worldwide, FMD eradication and control is difficult as it is costly, requires significant animal health infrastructure, and infection or vaccination with a single strain of a serotype often does not confer protection against other strains of the virus.

Many countries with periodic FMD outbreaks vaccinate with a ''killed'' vaccine produced by inactivating the FMD virus (FMDV) and adding an immune system stimulant called an adjuvant. The killed vaccine has several drawbacks, including the requirement for high biosecurity production facilities to reduce the risk of accidental release of live FMDV, and the need for costly, sophisticated, and consistent purification procedures to remove FMDV pieces that may cause animals vaccinated with the killed FMD vaccine to test FMD positive in 3B based diagnostic assays.

Because killed FMD vaccines vary in their ability to consistently differentiate infected from vaccinated animals (DIVA), under current regulations, killed FMD vaccine usage in an outbreak could result unnecessarily in the humane euthanasia of both vaccinated and infected animals.

The Department of Homeland Security, and United States Department of Agriculture (USDA) scientists at Plum Island Animal Disease Center, working with industry partners have developed an effective AdFMD vaccine that does not required live FMDV for manufacturing and is also DIVA compatible, giving the U.S. a key component of implementing a vaccinate-to-live policy. In 2012, DHS S&T successfully pursued licensure for a single FMD serotype, A24 Cruzeiro, however this single vaccine will not protect against the multitude of other FMD serotypes/subtypes/topotypes that exist, thus DHS S&T has interest in continued development of additional serotype and broader spectrum vaccines. Since FMD is not endemic to the U.S., the goals of the International FMD Vaccine and Diagnostic Field Trial are to test the efficacy of these newly developed vaccines, and the DIVA compatibility of the vaccines using one or more companion ELISA diagnostic tests under natural exposure conditions.

Role of the Industry Collaborator

Any selected industry collaborator would play a crucial role in the CRADA partnership to implement and execute the international FMD vaccine field trial. Each proposal must address item 1, and may address one or more of items 2–6:

1. Provide subject matter expertise for vaccine and companion ELISA diagnostic trial design, data analysis, country selection, and import and export regulations for biological products, be they licensed or experimental;

2. Manufacture, test, and release FMD vaccines (experimental AdFMD and/or currently licensed, killed vaccines) and companion ELISA diagnostic kits to be used in field trial;

3. Acquisition, transport, export, and import of the experimental and killed conventional vaccines, and companion ELISA diagnostic kits into the FMD endemic country;

4. Research and development capabilities to construct AdFMD vaccine candidates and/or produce pre-master seed AdFMD viruses for additional FMD serotypes/topotypes/lineages for which new vaccines may be required;

5. Real-time data analysis for the AdFMD field trial as the trial is conducted; and

6. Final data analysis once the international field trial is completed.

Any selected industry collaborator, depending on the terms of the CRADA, would likely benefit by acquiring:

1. Better understanding of FMD epidemiology in the FMD endemic country, which may allow for increased sales and marketing of a company's current inactivated FMD vaccine(s) and FMD ELISA diagnostic kit franchise and;

2. Pre-published knowledge of AdFMD vaccine performance during the field trial, as compared to the current inactivated FMD vaccines;

3. Pre-published knowledge of the ELISA diagnostic performance during the field trial;

4. Understanding of how the AdFMD vaccine may be used with a companion diagnostic test to better plan and execute FMD control and eradication strategies on the local, regional and national levels; and

5. Unique perspectives to better leverage existing public-public partnerships that will focus corporate stewardship toward more cost effective FMD control strategies associated with the United Nations Food and Agriculture Organization (FAO) related to the FMD Progressive Control Programme.

Period of Performance

The CRADA will be in effect for 5 years or 60 months from the effective date of the agreement.

Selection Criteria

DHS S&T reserves the right to not issue a CRADA in response to this announcement or to issue CRADAs to one or more prospective collaborator's proposals submitted in response to this announcement. DHS S&T will provide no funding for reimbursement of proposal development costs. Proposals (or any other material) submitted in response to this notice will not be returned. Proposals submitted are expected to be unclassified. If Proprietary Information is included in proposals, it must be properly marked as such. DHS S&T will select any CRADA collaborator(s) at its sole discretion on the basis of:

1. How well the proposal communicates the collaborators' understanding of and ability to meet the CRADA's goals and proposed timeline.

2. How well the proposal addresses the following criteria as they would be relevant to its proposal:

a. Availability, qualifications and willingness of subject matter experts to participate in interagency meetings and other teleconferences;

b. Capability of the collaborator to provide equipment and materials for FMD vaccine and diagnostic manufacturing;

c. Ability of the collaborator to produce experimental AdFMD vaccine(s) and licensed highly-purified inactivated FMD vaccine(s) for use in the field trial;

d. Ability of the collaborator to produce and provide companion ELISA diagnostic kits for use in the field trial;

e. Ability of the collaborator to work with appropriate regulatory authorities to allow for export of experimental and licensed FMD vaccines and import of these materials into a partner country;

f. Ability of the collaborator to work with appropriate regulatory authorities to allow for export of companion ELISA diagnostic kits and import of these materials into a partner country.

Participation in this CRADA does not imply nor create any obligation on DHS's part for the future purchase of any materials, equipment, or services from the collaborating entities, and non-Federal CRADA participants will not be excluded from any future DHS S&T procurements based solely on their participation in this CRADA.

Authority: CRADAs are authorized by the Federal Technology Transfer Act of 1986, as amended and codified by 15 U.S.C. 3710a. DHS, as an executive agency under 5 U.S.C. 105, is a Federal agency for the purposes of 15 U.S.C. 3710a and may enter into CRADAs. DHS delegated the authority to conduct CRADAs to the Science and Technology Directorate and its laboratories.

Dated: January 21, 2016.

Kristin Wyckoff,

Director, Office of Public Private Partnerships.

[FR Doc. 2016–02123 Filed 2–3–16; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2016–0007]

Office of the Chief Information Officer; Homeland Security Information Network Advisory Committee Meeting Notice

AGENCY: Information Sharing Environment (ISEO)/Office of the Chief Information Officer (OCIO), DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Homeland Security Information Network Advisory Council (HSINAC) calls a virtual meeting of its membership to receive all relevant information and facilitate development of recommendations to the HSIN Program Management Office (PMO) regarding the following major issue areas: (1) Programmatic business process enhancements for achieving enhanced requirements management and governance for HSIN's users, (2) continuous system protection through advanced security testing; and (3) HSIN's infrastructure and support model enhancements through hosting and application services.

DATES: The HSINAC will meet Tuesday, February 16, 2016 from 1:00–2:30 p.m. EST via conference call and HSIN Connect, an online web-conferencing tool, both of which will be made available to members of the general public. Please note that the meeting may end early if the committee has completed its business.

ADDRESSES: The meeting will be held virtually via HSIN Connect, an online web-conferencing tool at *https://share.dhs.gov/hsinac,* and available via Teleconference at 1–855–852–7677 Conference Pin: 9999–6207–5505 for all public audience members. To access the web conferencing tool, go to *https://share.dhs.gov/hsinac,* click on ''enter as a guest,'' type in your name as a guest, and click ''submit.'' The teleconference lines will be open for the public and the meeting brief will be posted beforehand on the **Federal Register** site (*https://www.federalregister.gov/*). If the Federal government is closed, the meeting will be rescheduled.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Allison Buchinski, *allison.buchinski@associates.dhs.gov,* 202–343–4277, as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee. Comments must be submitted in writing no later than February 10, must be identified by the docket number—DHS–2016–0007, and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* Allison Buchinski, *allison.buchinski@associates.hq.dhs.gov.* Also include the docket number in the subject line of the message.
- *Fax:* 202–343–4294
- *Mail:* Allison Buchinski, Department of Homeland Security, OPS CIO–D Stop 0426, 245 Murray Lane SW., Bldg. 410, Washington, DC 20528–0426.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket

number (DHS–2016–0007) for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the HSINAC go to *http://www.regulations.gov* and type the docket number DHS–2016–0007 into the ''search'' field at the top right of the Web site.

A public comment period will be held during the meeting on Tuesday, February 16, 2015 from 2:00–2:15 p.m. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may take place before the time indicated, as it will follow the last call for comments from the committee members. Contact one of the individuals listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, Michael Brody, *Michael.brody@hq.dhs.gov,* 202–282–9464.

SUPPLEMENTARY INFORMATION: The Homeland Security Information Network Advisory Committee (HSINAC) is an advisory body to the Homeland Security Information Network (HSIN) Program Office. This committee provides advice and recommendations to the U.S. Department of Homeland Security (DHS) on matters relating to HSIN. These matters include system requirements, operating policies, community organization, knowledge management, interoperability and federation with other systems, and any other aspect of HSIN that supports the operations of DHS and its Federal, State, territorial, local, tribal, international, and private sector mission partners. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

Agenda

The agenda will consist of the following major components.

1. There will be a discussion between the HSIN Program and members of the committee in the following key areas:

a. Welcome new members to the HSINAC through round table introductions and provide an overview of roles and responsibilities.

b. An Introduction to the Information Sharing Environment Office (ISEO)—Provide embers with an overview of the office and HSIN's recent alignment with ISEO and the Office of the Chief Information Officer (OCIO).

c. The State of HSIN—Provide members with a strategic update on HSIN's FY15 accomplishments, challenges, and FY16 outlook.

d. Focused Mission Growth—Members will participate in a facilitated feedback session that will help to ensure HSIN's goals, work effort and business processes are in alignment with and driven by stakeholder needs.

2. HSIN PMO will formally task the HSINAC to offer recommendations on the issue of how HSIN achieves growth in its user base and/or mission application, and the business process enhancements the Program must make to advance its requirements management processes and governance for HSIN's users.

3. HSIN PMO will formally task the HSINAC to offer recommendations on the issue of support for procurement activities around advanced security and cybersecurity testing to ensure protection of the system and its growing user base.

4. HSIN PMO will formally task the HSINAC to offer recommendations on the issue of upcoming infrastructure and system support enhancements with the goal of reducing the risk of system downtime due to aging equipment and older support models, as well as, mitigate funding gaps for these enhancements and future development activities.

5. Public comment period.
6. Committee Deliberation & Voting.
7. Closing Remarks.
8. Adjournment of the meeting.

Dated: January 29, 2016.

James Lanoue,

HSIN Program Director.

[FR Doc. 2016–02029 Filed 2–3–16; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5913–N–02]

60-Day Notice of Proposed Information Collection: Housing Counseling Training Grant Program

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

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* April 4, 2016.

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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Brian Siebenlist, Director, Office of Housing Counseling, Policy and Grants Administration, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–5415 (this is not a toll free number) for copies of the proposed forms and other available information.

Copies of available documents submitted to OMB may be obtained from Mr. Siebenlist.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Housing Counseling Training Grant Program.

OMB Approval Number: 2502–0567.

Type of Request: Extension.

Form Number: SF–424, SF–424 Supp, SF–424CB, SF–LLL, HUD–2880, HUD–2994.

Description of the need for the information and proposed use: Eligible organizations submit information to HUD through Grants.gov when applying for grant funds to provide housing counseling training to housing counselors. HUD uses the information collected to evaluate applicants competitively and then select qualified organizations to receive funding that supplement their housing counseling training program. Post-award collection, such as quarterly reports, will allow HUD to evaluate grantees' performance.

Respondents: Not for profit Institutions.

Estimated Number of Respondents: 21.

Estimated Number of Responses: 30.

Frequency of Response: One-time application and quarterly reports.

Average Hours per Response: 14.0.

Total Estimated Burdens: 1192.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: February 1, 2016.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.

[FR Doc. 2016–02179 Filed 2–3–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5915–N–01]

60 Day Notice of Proposed Information Collection: ConnectHome Use and Benefits Telephone Survey

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* April 4, 2016.

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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: ConnectHome Use and Benefits Telephone Survey.

OMB Approval Number: Pending.

Type of Request: New.

Form Number: Survey.

Description of the need for the information and proposed use: President Barack Obama and Secretary Julián Castro announced ConnectHome on July 15, 2015, as the next step in the Obama Administration's efforts to increase access to high-speed Internet access for all Americans. Through public-private partnerships, nonprofits, businesses, and Internet service providers (ISPs) ConnectHome will offer high-speed Internet service, devices, technical training, and digital literacy programs to residents of HUD assisted housing in 28 pilot communities, including the Choctaw Nation of Oklahoma.

As communities begin to implement ConnectHome in 2016 and connect residents to internet within their homes, this telephone survey will illuminate how families are taking advantage of ConnectHome. The telephone survey will explore ConnectHome subscribers' previous broadband access, current and planned use patterns, and current and anticipated benefits of their at-home high-speed Internet access. The survey will particularly focus on educational Internet use such as completing homework, connecting parents with educators, and applying to college.

Respondents (*i.e.* affected public): Residents in the 28 communities who have secured at-home Internet access through the ConnectHome program.

Estimated Number of Respondents: 2,800.

Frequency of Response: One time.

Average Hours Per Response: 0.5 hours (30 minutes).

Total Estimated Burden: 1,400 hours.

Respondents' Obligation: Voluntary.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 22, 2016.

Katherine M. O'Regan,

Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 2016–02180 Filed 2–3–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5876–N–02]

Changes in Certain Multifamily Mortgage Insurance Premiums

Correction

In notice document 2016–01511 beginning on page 4926 in the issue of Thursday, January 28, 2016, make the following correction:

1. On page 4926, in the third column, in the **DATES** section, ''February 17,

2016.'' should read ''February 29, 2016.''

[FR Doc. C1–2016–01511 Filed 2–3–16; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–FHC–2016–N015; FXFR1334088TWG0W4–123–FF08EACT00]

Trinity River Adaptive Management Working Group; Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting of the Trinity River Adaptive Management Working Group (TAMWG). The TAMWG is a Federal advisory committee that affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

DATES: *Public meeting:* TAMWG will meet from 9 a.m. to 4 p.m. Pacific Time on Wednesday, February 17, 2016. *Deadlines:* For deadlines on submitting written material, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Trinity River Restoration Program Office, 1313 South Main Street, Weaverville, CA 96093.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polos, by mail at U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; by telephone at 707–822–7201 or by email at *joe_polos@fws.gov* or Elizabeth W. Hadley, Redding Electric Utility, by mail at 777 Cypress Avenue, Redding, CA 96001; by telephone at 530–339–7308 or by email at *ehadley@reupower.com.* Individuals with a disability may request an accommodation by sending an email to either point of contact.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Trinity River Adaptive Management Working Group will hold a meeting.

Background

The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the TMC. The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

Meeting Agenda

- Designated Federal Officer (DFO) update;
- TMC Chair update;
- Executive Director and Trinity River Restoration Program (TRRP) staff update;
- Workgroup update;
- TMC Current issues;
- Flow update;
- Public comment; and
- 2015 Run size.

The final agenda will be posted on the Internet at *http://www.fws.gov/arcata.*

Public Input

If you wish to	You must contact Elizabeth Hadley (**FOR FURTHER INFORMATION CONTACT**) no later than
Submit written information or questions for the TAMWG to consider during the meeting.	February 10, 2016.

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the TAMWG to consider during the meeting. Written statements must be received by the date listed in ''Public Input,'' so that the information may be available to the TAMWG for their consideration prior to this meeting. Written statements must be supplied to Elizabeth Hadley in one of the following formats: One hard copy with original signature, one electronic copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, PowerPoint, or rich text file).

Registered speakers who wish to expand on their oral statements, or those who wished to speak but could not be accommodated on the agenda, may submit written statements to Elizabeth Hadley up to 7 days after the meeting.

Meeting Minutes

Summary minutes of the meeting will be maintained by Elizabeth Hadley (see **FOR FURTHER INFORMATION CONTACT**). The minutes will be available for public inspection within 14 days after the meeting, and will be posted on the TAMWG Web site at *http://www.fws.gov/arcata.*

Dated: January 29, 2016.

Joseph C. Polos,

Supervisory Fish Biologist, Arcata Fish and Wildlife Office, Arcata, California.

[FR Doc. 2016–02094 Filed 2–3–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[16XD4253WS/DS61200000/DWSN00000.000000/DP61203]

Invasive Species Advisory Committee; Call for Nominations

AGENCY: Office of the Secretary, National Invasive Species Council, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, on behalf of the interdepartmental National Invasive Species Council (NISC), proposes to appoint new members to the Invasive Species Advisory Committee (ISAC). The Secretary of the Interior, acting as administrative lead, is requesting nominations for qualified persons to serve as members of the ISAC.

DATES: Nominations must be postmarked by February 18, 2016.

ADDRESSES: Nominations should be sent to Jamie K. Reaser, Executive Director, National Invasive Species Council Secretariat (OS/NISC), by regular/express mail: 1849 C Street NW., (Mailstop 3530), Washington, DC 20240 and email: *Jamie_Reaser@ios.doi.gov.*

FOR FURTHER INFORMATION CONTACT: Kelsey Brantley, Program Specialist and ISAC Coordinator, at (202) 208–4122, fax: (202) 208–4118, or by email at *Kelsey_Brantley@ios.doi.gov.*

SUPPLEMENTARY INFORMATION: Executive Order (EO) 13122 authorized the National Invasive Species Council (NISC) to provide interdepartmental coordination, planning, and leadership for the Federal Government on the prevention, eradication, and control of invasive species. NISC is currently comprised of thirteen Federal Departments and Agencies. The Co-chairs of NISC are the Secretaries of the Interior, Agriculture, and Commerce. The Invasive Species Advisory Committee (ISAC) advises NISC. NISC is requesting nominations for senior-level professionals to serve on the ISAC.

Nominations that were submitted in response to the **Federal Register** notice dated September 30, 2015 are still under

consideration. These nominees do not need to reapply, unless they wish to make changes to their nomination package.

NISC provides high-level interdepartmental coordination of Federal invasive species actions and works with other Federal and non-Federal groups to address invasive species issues at national and international levels. NISC duties, as outlined in EO 13112 are to: oversee implementation of EO 13112, while working to ensure that the Federal agency activities concerning invasive species are coordinated, complementary, cost-efficient, and effective; encourage planning and action at local, tribal, state, regional, and ecosystem-based level to achieve strategic goals; develop recommendations for international cooperation; work with the Council on Environmental Quality (CEQ) to develop guidance to Federal Agencies pursuant to the National Environmental Policy Act (NEPA); facilitate development of a coordinated network among Federal Agencies to document, evaluate, and monitor invasive species impacts; and prepare, issue (implement), and update a National Invasive Species Management Plan (Management Plan).

ISAC is regulated by the Federal Advisory Committee Act (FACA; 5 U.S.C. App. 2). At the request of NISC, ISAC provides advice to NISC member Departments and Agencies on topics related to NISC's aforementioned duties. As a multi-stakeholder advisory committee, ISAC is intended to play a key role in recommending plans and actions to be taken at local, tribal, state, regional, and ecosystem-based levels to achieve the goals and objectives of the Management Plan. It is hoped that, collectively, ISAC will represent the views of the broad range of individuals and communities knowledgeable of and affected by invasive species.

Prospective members of ISAC need to be senior-level professionals with expertise relevant to the prevention, eradication, and/or control of invasive species who have demonstrated a high degree of capacity for: Advising individuals in leadership positions, team work, project management, tracking relevant Federal government programs and policy making procedures, and networking with and representing their peer-community of interest. ISAC members need not be scientists. Membership from a wide range of disciplines and professional sectors is encouraged. At this time, we are particularly interested in applications from senior-level representatives of tribes, small businesses, non-profit and/or private sector entities focused on landscape-scale management, and organizations specializing in innovative communication strategies.

After consultation with the other members of NISC, the Secretary of the Interior will appoint members to ISAC. NISC will select members based on their individual qualifications, as well as the overall need to achieve a balanced representation of viewpoints, subject matter expertise, regional knowledge, and representation of communities of interests. ISAC member terms are limited to three (3) years from their date of appointment to ISAC. Following completion of their first term, an ISAC member may request consideration for reappointment to an additional term. Reappointment is not guaranteed.

Typically, the ISAC meets twice per year (spring and fall). Between these meetings, ISAC subcommittees are expected to work via conference calls and email exchanges. Members of the ISAC and its subcommittees serve without pay. However, while away from their homes or regular places of business in the performance of services of the ISAC, members may be reimbursed for travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the government service, as authorized by section 5703 of Title 5, United States Code. Employees of the Federal Government ARE NOT eligible for nomination or appointment to ISAC.

Individuals who are federally registered lobbyists are ineligible to serve on all FACA and non-FACA boards, committees, or councils in an individual capacity. The term ''individual capacity'' refers to individuals who are appointed to exercise their own individual best judgment on behalf of the government, such as when they are designated Special Government Employees, rather than being appointed to represent a particular interest.

Submitting Nominations: Nominations should include a resume providing an adequate description of the nominee's qualifications (see paragraph five), including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the ISAC and permit the Department of the Interior to contact a potential member.

Any interested person or entity may nominate one or more qualified individuals for membership on the ISAC. Self-nominations are also accepted. Persons or entities submitting nomination packages on the behalf of others must confirm that the individual(s) is/are aware of their nomination. Nominations must be postmarked no later than February 18, 2016 to Jamie K. Reaser, Executive Director, National Invasive Species Council Secretariat (OS/NISC), Regular Mail: 1849 C Street NW. (MS 3530), Washington, DC, 20240 and emailed to: *Jamie_Reaser@ios.doi.gov.*

Dated: January 29, 2016.

Jamie K. Reaser,

Executive Director, National Invasive Species Council.

[FR Doc. 2016–02192 Filed 2–3–16; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV912000 L13400000.PQ0000 LXSS006F0000; MO#4500090018]

Notice of Public Meeting: Bureau of Land Management Nevada Resource Advisory Councils; Postponement

In the notice document published Monday, February 1, 2016 (81 FR 5132), a public meeting of the Bureau of Land Management Nevada Resource Advisory Councils was announced.

The BLM Nevada Resource Advisory Council meeting scheduled for February 10–11, 2016 has been postponed until the outstanding member appointments have been finalized. A new notice will be published when the dates have been decided.

Rudy Evenson,

Deputy Chief, Office of Communications.

[FR Doc. 2016–02095 Filed 2–3–16; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZC03000.L12200000.EA0000; AZ–SRP–030–15–01]

Notice of Temporary Closures of Selected Public Lands in La Paz County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closures.

SUMMARY: Notice is hereby given that a closure is in effect on public lands administered by the Bureau of Land Management (BLM), Lake Havasu Field Office.

DATES: The closure will be in effect from 2 p.m., February 5, 2016, through 11:59

p.m., February 6, 2016, Mountain Standard Time.

FOR FURTHER INFORMATION CONTACT: Jonathan Azar, Colorado River District Chief Ranger, or Amanda Deeds, Outdoor Recreation Planner, at BLM Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406, telephone 928–505–1200. 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. FIRS is available 24 hours a day, 7 days a week, to leave a message or question for the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The closure affects public lands in the Lake Havasu Field Office, under its administration in La Paz County, Arizona. This action is being taken to help ensure public safety, prevent unnecessary environmental degradation, and to protect natural and cultural resources adjacent to the event site during the Best in the Desert (BITD) Racing Association ''BlueWater Resort Parker 425'' official permitted off-highway vehicle (OHV) events.

The closure order is issued under the authority of 43 CFR part 8340 subpart 8341; 43 CFR part 8360, subpart 8364.1; and 43 CFR part 2932 which allows the BLM to establish closures for the protection of persons; property; and public lands and resources. Violation of any of the terms, conditions, or restrictions contained within this closure order may subject the violator to citation or arrest with a penalty or fine or imprisonment or both as specified by law.

Description of Race Course Closed Area: With the exception of access to designated spectator areas, areas subject to this closure include all public lands situated within the interior of the race course, as well as county-maintained roads and highways located within two miles of the designated course's perimeter. Beginning at the eastern boundary of the Colorado River Indian Tribe (CRIT) Reservation, the closed area runs east along Shea Road, then east into Osborne Wash on the Parker-Swansea Road to the Central Arizona Project (CAP) Canal, then north on the west side of the CAP Canal, crossing the canal on the county-maintained road, running northeast into Mineral Wash Canyon, then southeast on the county-maintained road, through the four-corners intersection to the Midway (Pit) intersection, then east on Transmission Pass Road, through State Trust Land located in Butler Valley, turning north into Cunningham Wash to North Tank; continuing south to Transmission Pass Road and east (reentering public land) within two miles of Alamo Dam Road. The course turns south and west onto the wooden power line road, onto the State Trust Land in Butler Valley, turning southwest into Cunningham Wash to the Graham Well, intersecting Butler Valley Road, then north and west on the county-maintained road to the ''Bouse Y'' intersection, two miles north of Bouse, Arizona. The course proceeds north, paralleling the Bouse-Swansea Road to the Midway (Pit) intersection, then west along the north boundary (power line) road of the East Cactus Plain Wilderness Area to Parker-Swansea Road. The course turns west into Osborne Wash crossing the CAP Canal, along the north boundary of the Cactus Plain Wilderness Study Area; it continues west staying in Osborne Wash and crossing Shea Road along the southern boundary of Gibraltar Wilderness, rejoining Osborne Wash at the CRIT Reservation boundary.

Closure Restrictions: The following acts are prohibited during the temporary land closures:

1. Being present on or driving on the designated race course or the adjacent lands described above. All spectators must stay within the designated spectator areas. The spectator areas have protective fencing and barriers. This does not apply to race participants, race officials, nor emergency vehicles authorized or operated by local, State, or Federal government agencies. Emergency medical response shall only be conducted by personnel and vehicles operating under the guidance of the La Paz County Emergency Medical Services and Fire, the Arizona Department of Public Safety, or the BLM.

2. Vehicle parking or stopping in areas affected by the closures, except where such is specifically allowed (designated spectator areas).

3. Camping in the closed area described above, except in the designated spectator areas.

4. Discharge of firearms.

5. Possession or use of any fireworks.

6. Cutting or collecting firewood of any kind, including dead and down wood or other vegetative material.

7. Operating any vehicle including all-terrain vehicles, motorcycles, utility terrain vehicles, golf carts, rhinos, side by sides, and any OHV which are not legally registered for street and highway operations.

8. Operating any vehicle in the area of the closure or on roads within the event area at a speed of more than 35 mph. This does not apply to registered race vehicles during the race, while on the designated race course.

9. Failure to obey any official sign posted by the BLM, La Paz County, or the race promoter.

10. Parking any vehicle in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property, or feature. Vehicles parked in violation are subject to citation, removal, and/or impoundment at the owner's expense.

11. Failure to obey any person authorized to direct traffic or control access to event area including law enforcement officers, BLM officials, and designated race officials.

12. Failure to observe spectator area quiet hours of 10 p.m. to 6 a.m.

13. Failure to keep campsite or race viewing site free of trash and litter.

14. Allowing any pet or other animal to be unrestrained. All pets must be restrained by a leash of not more than six feet in length.

15. Spectator area site reservations. Denying other visitors or parties from utilizing unoccupied portions of the spectator area.

Exceptions to Closure: The restrictions do not apply to emergency or law enforcement vehicles owned by the United States, the State of Arizona, or La Paz County, and designated race officials, participants, pit crews, or persons operating on their behalf. All BITD registered media personnel are permitted access to existing routes 50 feet from the race course per BITD standards.

Penalties: Any person who violates these closures rules may be tried before a United States magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Arizona law.

Effect of Closure: The entire area encompassed by the designated course and all areas outside the course as described above and in the time period as described above are closed to all vehicles. The authorized applicant or their representatives are required to post warning signs, control access to, and clearly mark the event route and areas, common access roads, and road crossings during the closure period. Support vehicles under permit for operation by event participants must follow the race permit stipulations.

Authority: 43 CFR 8364.1.

Jason West,

Field Manager.

[FR Doc. 2016–02142 Filed 2–3–16; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–ASIS–19041; PPNEASIS00–PMP00UP05.YP0000]

Draft General Management Plan/ Environmental Impact Statement, Assateague Island National Seashore, Maryland and Virginia

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The National Park Service (NPS) announces the availability of a Draft General Management Plan/ Environmental Impact Statement (Draft GMP/EIS) for Assateague Island National Seashore, Maryland and Virginia.

DATES: The NPS will accept comments on the Draft GMP/EIS for a period of 90 days following publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register**. The National Park Service will hold public information sessions during the public review period to provide general information and answer questions. Meeting dates, times and locations will be announced in local media in advance of the meeting dates.

ADDRESSES: The Draft GMP/EIS will be available for public review and comment online at *http://parkplanning.nps.gov/asis,* and in hardcopy at the office of the Superintendent, Assateague Island National Seashore, 7206 National Seashore Lane, Berlin, MD 21811, (410) 629–6090. Copies may also be viewed at area public libraries including Worcester County, Ocean City, Berlin, Pocomoke and Wicomico (Salisbury) in Maryland and Eastern Shore (Accomac) and Chincoteague Island in Virginia. Comments may be submitted electronically at *http://parkplanning.nps.gov/asis.* You may also mail written comments to: Superintendent, Assateague Island National Seashore, 7206 National Seashore Lane, Berlin, MD 21811, Attn: GMP Comments.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might 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.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act of 1969, the National Park Service is preparing a Draft General Management Plan/Environmental Impact Statement (Draft GMP/EIS) for Assateague Island National Seashore (Seashore) to replace the 1982 GMP which does not adequately address the issues facing the Seashore today. Once approved, the GMP will guide and direct management strategies for the future that support the protection of outstanding Mid-Atlantic coastal resources of Assateague Island and its adjacent waters and the natural processes upon which they depend and the provision of high quality, resource-compatible recreational experiences.

The Draft GMP/EIS evaluates the continuation of current management (no action alternative) and three action alternatives with particular emphasis on how the park may respond to climate change and sea level rise and analyzes the environmental consequences of implementing any of the alternatives.

FOR FURTHER INFORMATION CONTACT: Deborah Darden, Superintendent, Assateague Island National Seashore, 7206 National Seashore Lane, Berlin, MD 21811. Phone: (410) 629–6090.

Dated: August 27, 2015.

Michael A. Caldwell,

Regional Director, Northeast Region, National Park Service.

[FR Doc. 2016–02109 Filed 2–3–16; 8:45 am]

BILLING CODE 4310–WV–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–345]

Recent Trends in U.S. Services Trade, 2016 Annual Report

AGENCY: United States International Trade Commission.

ACTION: Schedule for 2016 report and opportunity to submit information.

SUMMARY: The Commission has prepared and published annual reports in this series under investigation No. 332–345, Recent Trends in U.S. Services Trade, since 1996. The 2016 report, which the Commission plans to publish in September 2016, will provide aggregate data on cross-border trade in services for the period ending in 2014, and transactions by affiliates based outside the country of their parent firm for the period ending in 2013. The report's analysis will focus on financial services (banking, insurance, and securities services). The Commission is inviting interested members of the public to furnish information and views in connection with the 2016 report.

DATES: March 30, 2016: Deadline for filing written submissions.

September 30, 2016: Anticipated date for publishing the report.

ADDRESSES: All Commission offices are located in the United States International Trade Commission Building, 500 E St. SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E St. SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket information system (EDIS) at *https://edis.usitc.gov/edis3-internal/app.*

FOR FURTHER INFORMATION CONTACT: Project Leader George Serletis (202–205–3315 or *george.serletis@usitc.gov*) or Services Division Chief Martha Lawless (202–205–3497 or *martha.lawless@usitc.gov*) for information specific to this investigation. For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: The 2016 annual services trade report will provide aggregate data on cross-border trade and affiliate transactions in services, and more specific data and information on trade in financial services (banking, insurance, and securities services). Under Commission investigation No. 332–345, the Commission publishes two annual reports, one on services trade (Recent Trends in U.S. Services Trade), and a second on merchandise trade (Shifts in U.S. Merchandise Trade). The Commission's 2015 annual report in the series of reports on Recent Trends in

U.S. Services Trade is now available online at *http://www.usitc.gov.*

The initial notice of institution of this investigation was published in the **Federal Register** on September 8, 1993 (58 FR 47287) and provided for what is now the report on merchandise trade. The Commission expanded the scope of the investigation to cover services trade in a separate report, which it announced in a notice published in the **Federal Register** on December 28, 1994 (59 FR 66974). The separate report on services trade has been published annually since 1996, except in 2005. As in past years, the report will summarize trade in services in the aggregate and provide analyses of trends and developments in selected services industries during the latest period for which data are published by the U.S. Department of Commerce, Bureau of Economic Analysis. As indicated above, the 2016 report will focus on trade in financial services (banking, insurance, and securities services).

Written Submissions: Interested parties are invited to file written submissions and other information concerning the matters to be addressed by the Commission in its 2016 report. For the 2016 report, the Commission is particularly interested in receiving information relating to trade in financial services (banking, insurance, and securities services). Submissions should be addressed to the Secretary. To be assured of consideration by the Commission, written submissions related to the Commission's report should be submitted at the earliest practical date and should be received not later than 5:15 p.m., March 30, 2016. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the paragraph below for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802).

Any submissions that contain confidential business information (CBI) must also conform with the requirements in section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are confidential or non-confidential, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission intends to prepare only a public report in this investigation. The report that the Commission makes available to the public will not contain confidential business information. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel solely for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a manner that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: The Commission intends to publish summaries of the positions of interested persons in this report. If you wish to have a summary of your position included in an appendix of the report, please include a summary with your written submission. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. In the report the Commission will identify the name of the organization furnishing the summary, and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: January 29, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–02012 Filed 2–3–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–954]

Certain Variable Valve Actuation Devices and Automobiles Containing the Same; Commission Determination Not To Review an Initial Determination Terminating the Investigation; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 16) terminating the above-captioned investigation. The Commission has determined to terminate the investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 14, 2015, based on an amended complaint filed by Jacobs Vehicle Systems, Inc. of Bloomfield, Connecticut. 80 FR 20012 (Apr. 14, 2015). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of certain claims of U.S. Patent Nos.: 6,474,277; 6,883,492 (''the '492 patent''); 5,829,397 (''the '397

patent''); 8,776,738; 8,820,276 (''the '276 patent''); and 7,059,282 (''the '282 patent''). The complaint further alleged that a domestic industry exists or is in the process of being established. The Commission's Notice of Investigation named the following respondents: Fiat Chrysler Automobiles N.V. (''Fiat'') of Slough, United Kingdom; FCA US LLC of Auburn Hills, Michigan; FCA Mexico, S.A. de C.V. of Sante Fe, Mexico; FCA Melfi S.p.A. of Melfi, Italy; and FCA Serbia d.o.o. Kragujevac of Kragujevac, Serbia. The Office of Unfair Import Investigations is not participating in the investigation. Respondent Fiat and the following patents and patent claims were later terminated from the investigation: (1) The '397 patent (ALJ's Order No. 6, *unreviewed,* Comm'n Notice Aug. 18, 2015); (2) the '492 patent (ALJ's Order No. 8, *unreviewed,* Comm'n Notice Oct. 26, 2015); (3) Claims 3, 5, 13–16, 18–19, 22, 35–36, 38–44, 46–48, 50, and 54–56 of the '738 patent; claims 1–5, 7, 10, 19–23, and 26–28 of the '276 patent; and Fiat (*see* ALJ's Order No. 13, *unreviewed,* Comm'n Notice Dec. 21, 2015); and (4) the '282 patent (*see* ALJ's Order No. 15, *unreviewed,* Comm'n Notice Jan. 29, 2016).

On January 6, 2016, complainant moved for termination of the investigation based on withdrawal of the complaint. No party opposed the motion.

On January 7, 2016, the ALJ issued the subject ID (Order No. 16) granting complainant's motion and finding that the motion for termination satisfies Commission Rule 210.21(a)(1) and that no ''extraordinary circumstances'' exist that would preclude granting the motion. No party petitioned for review of the ID.

The Commission has determined not to review the ID and the Commission has terminated the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Dated: January 29, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–02018 Filed 2–3–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–556 and 731–TA–1311 (Preliminary)]

Truck and Bus Tires From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–556 and 731–TA–1311 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of truck and bus tires from China, provided for in statistical reporting numbers 4011.20.1015 and 4011.20.5020 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by March 14, 2016. The Commission's views must be transmitted to Commerce within five business days thereafter, or by March 21, 2016.

DATES: *Effective Date:* January 29, 2016.

FOR FURTHER INFORMATION CONTACT: Nathanael N. Comly, 202–205–3174, Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on January 29, 2016, by United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Pittsburg, PA.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigation and public service list. Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference. The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on February 19, 2016, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (do not file on EDIS) on or before February 17, 2016.

Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before February 24, 2016, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: January 29, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–02066 Filed 2–3–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Louis Watson, M.D.; Decision and Order

On July 9, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Louis Watson, M.D. (Respondent). The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration FW2729804, and the denial of any pending application to renew or modify the registration, on ground that he ''do[es] not have authority to practice medicine or handle controlled substances in California, the state in which he is registered with the DEA.'' Show Cause Order, at 1 (citing 21 U.S.C. 823(f) and 824(a)(3)).[1]

The Show Cause Order alleged that Respondent is registered with the DEA as a practitioner, pursuant to which he is authorized to dispense controlled substances in Schedules II through V, at the registered address of 99 N. San Antonio Ave., #140, Upland, California. *Id.* The Order also alleged that Respondent's registration does not expire until May 31, 2017. *Id.*

The Show Cause Order further alleged that effective September 12, 2014, the Medical Board of California (MBC) revoked Respondent's California Physician's and Surgeon's Certificate, based on the recommendation of a state Administrative Law Judge (ALJ), who had conducted a hearing. *Id.* The Show Cause Order thus alleged that Respondent is currently ''without authority to handle controlled substances in California, the state in which [he is] registered with the'' Agency, and that ''DEA must revoke [his] registration.'' *Id.* (citing 21 U.S.C. 802(21), 823(f), 824(a)(3)).

The Show Cause Order also notified Respondent of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence of failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The Show Cause Order further explained that ''[m]atters are deemed filed upon receipt by the Hearing Clerk.'' *Id.*

On July 15, 2015, DEA Diversion Investigators (DIs) went to a location in Claremont, California which they believed to be Respondent's residence. GX 3. The DI verified that the location was Respondent's address with a neighbor and a pool maintenance employee. *Id.* The DI then left the Show Cause Order ''on his front door.'' *Id; see also* GX 6, at 11–12 (Declaration of DI).

Thereafter, Respondent submitted a request for hearing to the DEA Office of Administrative Law Judges (OALJ). While Respondent's request was dated August 9, 2015, it was not received by the OALJ until August 24, 2015. GX4.

In his Hearing Request, Respondent listed the name and address of the attorney who was representing him in a state court challenge to the MBC's order, thus suggesting that the attorney was representing him in this matter. *Id.* Thereafter, the Chief Administrative Law Judge (CALJ) issued an order directing the Government to file evidence to support its allegation that Respondent lacks state authority to handle controlled substances as well as any motion for summary disposition based on this ground no later than September 8, 2015; the order also directed that if the Government filed such a motion, Respondent was to file his response no later than September 22, 2015. GX 5, at 1–2. In his order, the CALJ also noted that although Respondent's Hearing Request listed the attorney retained to represent his appeal of the decision of the California Medical Board, there was no indication that this attorney was also representing him in the instant proceeding, and thus Respondent's hearing request was construed to be ''a *pro se* request.'' *Id.* A copy of the CALJ's order was mailed postage pre-paid to Respondent at 2058 N. Mills Avenue #142, Claremont, California, the address listed on the envelope containing Respondent's Hearing Request. GX 9, at 2; *see also* GX 5, at 2.

Thereafter, the Government filed a motion requesting that the CALJ deny Respondent's request for a hearing on the ground that it was not timely filed pursuant to 21 CFR 1301.43(a), which requires the filing of a written request for hearing ''within 30 days after the date of receipt of the order to show cause.'' GX 6, at 1 (Motion to Preclude Response to the Order to Show Cause). Therein, the Government argued that Respondent's hearing request was filed 40 days after the date of service of the Order to Show Cause, and that Respondent had not shown good cause for the untimely filing. The Government thus argued that Respondent had waived his right to a hearing and that the CALJ should issue an order denying his hearing request and forwarding the file to the Administrator for a final decision. *Id.* at 3.

On the same date, the Government also filed a Motion for Summary Disposition. Therein, the Government requested that the CALJ ''issue a Recommended Decision to summarily revoke'' Respondent's DEA registration on the ground that he lacks state authority to dispense controlled substances in California, the State in which he hold his registration. GX 7, at 1–2. As support for its motion, the Government submitted copies of the MBC's Decision and the state ALJ's

[1] The Show Cause Order also proposed the denial of any other pending application. Show Cause Order, at 1.

Proposed Decision. GX 7, at Attachments 2 and 3.

The CALJ then issued a second Order directing Respondent to respond to the Government's Motion to Preclude by September 22, 2015, the same due date for Respondent's reply, if any, to the Government's Motion for Summary Disposition. GX 8. This order was also sent to Respondent's address at 2058 N. Mills Avenue, #142, Claremont, California. *Id.* at 2.

On September 24, the CALJ issued a Notice of Re-Service. GX 10. Therein, the CALJ explained the all of his prior orders had been sent to Respondent at the return address listed on the envelope the latter had used to mail his Hearing Request to the OALJ. The CALJ further noted that this address was different from the address the Government had used to serve Respondent with the Order to Show Cause and its motions. Thus, to ensure Respondent received sufficient notice of the response deadlines to the Government's motions, the CALJ re-sent his orders to the address of Respondent's residence and extended the time permitted to respond to the Government's motions.[2] *Id.*

On October 7, 2015, the CALJ, having received no response from Respondent to either motion, granted the Government's motion to terminate the proceedings, finding that Respondent's request for a hearing was not timely filed and that he had neither sought an extension nor offered an explanation for the untimeliness of his hearing request. GX 9, at 3. The CALJ also denied the Government's Motion for Summary Disposition as moot. *Id* at 4.

Thereafter, the Government submitted its Request for Final Agency Action to this Office. The Government supported its request with various exhibits, including the Proposed Decision of the MBC's ALJ and the MBC's Decision.

Based on the record, I find that Respondent's Hearing Request was untimely and that he has failed to demonstrate good cause to excuse his untimeliness. 21 CFR 1301.43(d). Accordingly, I find that Respondent has waived his right to be heard on the matters of fact and law at issue and issue this Decision and Order based on the record submitted by the Government. I make the following findings of fact.

Respondent is a physician authorized to handle controlled substances in schedules II through V at the registered address of 99 N. San Antonio Ave., #140, Upland, California. GX 2. His registration does not expire until May 31, 2017. *Id.*

On August 13, 2014, the MBC issued an order adopting the Proposed Decision of a state ALJ and ordered the revocation of Respondent's Physician's and Surgeon's License to practice medicine in the State of California, effective September 12, 2014. GX 7, at 9. Based on a search of the MBC's license verification Web page, Respondent's Physician's and Surgeon's license remains revoked. *See www.breeze.ca.gov* (accessed January 14, 2016).

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823, ''upon a finding that the Registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Moreover, DEA has held repeatedly that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed Appx. 826 (4th Cir. 2012).

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[ ] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a physician possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988); *see also Hooper* v. *Holder,* 481 Fed. Appx. at 828.

Based on the revocation of his California Physician's and Surgeon's Certificate, I find that Respondent currently lacks authority to dispense controlled substances in California, the State in which he holds his DEA registration. Accordingly, I will order that his registration be revoked and that any pending applications be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 21 CFR 0.100(b), I order that DEA Certificate of Registration FW2729804, issued to Louis Watson, M.D., be, and it hereby is, revoked. I further order that any pending application of Louis Watson, M.D., to renew or modify his registration, as well as any other pending application be, and it hereby is, denied. This Order is effective March 7, 2016.

Dated: January 18, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–02130 Filed 2–3–16; 8:45 am]

BILLING CODE 4410–09–P

[2] In his Order, the CALJ also noted that his staff had contacted by telephone the attorney listed by Respondent in his Hearing Request to determine the attorney's status because he had not submitted any filings. GX 10, note 2. According to the CALJ, the attorney stated that he ''was not currently, and has never been, [Respondent's] counsel in this matter''; the attorney also stated that upon his receipt of the Government's motions he had called Respondent and clarified to him that he was not representing him in this matter. *Id.*

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Pharmacore, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before April 4, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of

the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on December 3, 2015, Pharmacore, Inc., 4180 Mendenhall Oaks Parkway, High Point, North Carolina 27265 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Oxymorphone (9652)	II
Noroxymorphone (9668)	II

The company plans to manufacture the listed controlled substances as active pharmaceutical ingredients (APIs) for clinical trials.

Dated: January 27, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–02128 Filed 2–3–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

David W. Bailey, M.D.; Decision and Order

On September 9, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David W. Bailey, M.D. (Registrant), of Hesperia, California. The Show Cause order proposed the revocation of Registrant's Certificate of Registration FB4421474, and the denial of any applications to renew or modify this registration or for any other registration on two grounds. GX 1, at 1.

First, the Show Cause Order alleged on April 3, 2015, the Medical Board of California (MBC or Board) revoked his state medical license, and that therefore, Registrant is ''without authority to handle controlled substances in California, the [S]tate in which [he is] registered with the DEA. *Id.* (citing 21 U.S.C. 802(21), 823(f), and 824(a)(3)).

Second, the Order alleged that Registrant's registration ''is inconsistent with the public interest'' because he failed to ''comply with applicable state and Federal law[s]'' related to controlled substances. *Id.* at 2.

With respect to the latter contention, the Show Cause Order alleged that in the MBC proceeding, the MBC Administrative Law Judge (ALJ) found that Registrant admitted to eighteen occasions on which he issued clonazepam prescriptions to his wife but had the drugs dispensed to himself for his ''own abuse.'' *Id.* at 2. The Show Cause Order also alleged that the MBC's ALJ found that Registrant ''started a treatment program for alcohol and clonazepam abuse but completed only five days of the thirty-day program,'' and that ''[a]n expert physician testified that [his] diagnosis included benzodiazepine dependence and that [he was] not currently undergoing any recovery. *Id.* The Order alleged these findings establish that Registrant violated 21 U.S.C. 844(a) and 843(a)(3), as well as various provisions of the California Business and Professions Code. *Id.* The Order thus alleged that the MBC ALJ's findings prove that Registrant's registration ''is inconsistent with the public interest under 21 U.S.C. 824(a)(4) and 823(f)(4).'' *Id.*

Finally, the Show Cause Order notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). On September 16, 2015, DEA Diversion Investigators (DIs) travelled to Registrant's address and after verifying his identity, personally served him with the Show Cause Order. GX 5, at 2 (Declaration of DI).

On December 1, the Government filed its Request for Final Agency Action along with with various exhibits. In its Request, the Government states that since the date of service of the Show Cause Order, neither Registrant, ''nor anyone representing him[,] has requested a hearing or sent any other correspondence to'' the Agency. Request for Final Agency Action, at 9.

Based on the Government's submission, I find that 30 days have now passed since the date of service of the Show Cause Order, and neither Registrant, nor anyone purporting to represent him, has either requested a hearing on the allegations or submitted a written statement in lieu of a hearing. *See* 21 CFR 1301.43(a) and (c). Accordingly, I find that Registrant has waived his right to a hearing or to submit a written statement in lieu of hearing. *Id.* § 1301.43(c) and (d). I therefore issue this Decision and Final Order based on the Investigative Record submitted by the Government. *Id.* § 1301.43(e). I make the following findings of fact.

Findings

Registrant is a physician authorized to dispense controlled substances in schedules II through V as a practitioner, at the registered address of LaSalle Medical Associates, 16455 Main St., Suite 1, Hesperia, California. GX 2. His registration is not due to expire until July 31, 2016. *Id.*

On March 6, 2015, the MBC issued an order revoking Registrant's Physician's and Surgeon's License to practice medicine in the State of California, effective April 3, 2015. GX 4. The MBC's revocation was based on the decision of a state ALJ who found, based on clear and convincing evidence, that Registrant: (1) Is alcohol and benzodiazepine dependent, (2) used alcohol and controlled substances in a manner dangerous to himself and others, (3) prescribed a controlled substance to another with the intention of using that substance himself, (4) self-administered a controlled substance that he had prescribed in the name of another, (5) violated the California Medical Practice Act, and 6) engaged in unprofessional conduct.[1] GX 3, at 1.

More specifically, the state ALJ found, by clear and convincing evidence, that Registrant:

> engaged in unprofessional conduct by violating state laws related to the prescription and use of Klonopin as follows: [he] repeatedly issued prescriptions for Klonopin in [his wife's] name with the intent of self-administering the Klonopin obtained from the prescriptions; he engaged in fraud and deceit in order to obtain Klonopin; he provided a false name to obtain Klonopin; he repeatedly used Klonopin in violation of the

[1] Notwithstanding that Registrant failed to appear at the MBC hearing, the MBC's findings of fact and conclusions of law are entitled preclusive effect in this proceeding. The MBC found that Registrant was properly served with the Accusation and, in fact, several days before the hearing telephoned the MBC's counsel ''and advised her that he was not going to appear.'' GX 3, at 2. Thus, notwithstanding that he defaulted, Registrant had a full and fair opportunity to challenge the MBC's allegations. *See Jose G. Zavaleta,* 78 FR 27431, 27434 (2013) (collecting cases holding that findings made in a proceeding against a party in default are entitled to preclusive effect if the party could have appeared and defended if he had wanted to); *see also id.* (quoting *Gottlieb* v. *Kest,* 141 Cal. App. 4th 110, 149 (Cal. Ct. App. 2006) (''A default judgment conclusively establishes, between the parties so far as subsequent proceedings on a different cause of action are concerned, the truth of all material allegations contained in the complaint in the first action, and every fact necessary to uphold the default judgment.'') (int. quotations and citations omitted).

law; and he repeatedly used and possessed Klonopin that was not obtained with a legitimate prescription.

Id. at 19 (citing Cal. Bus. & Prof. Code sec. 2238(a)).

The state ALJ also found that Registrant ''intentionally created medical records—prescriptions to [his wife] for Klonopin—that were false because he intended to use the Klonopin obtained from the prescription for himself.'' *Id.* (citing Cal. Bus. & Prof. Code § 2262). The state ALJ further found that Registrant violated the California Medical Practice Act when he ''used dangerous drugs in a manner that was dangerous to himself, violated state laws related to dangerous drugs and controlled substances, knowingly made false representation of fact, and created false medical records with a fraudulent intent.'' *Id.* (citing Bus. & Prof. Code sec. 2234).

The ALJ then concluded that Registrant:

suffers from alcohol dependence and benzodiazepine dependence, and his substance abuse presents a substantial risk of harm to himself, patients and the public. [H]e does not appear to be able or willing to become abstinent of alcohol despite his treatment with psychiatrists and psychologists and despite his brief participation in substance abuse programs.

Id. at 20. The state ALJ thus concluded that ''[u]nder all the circumstances, the outright revocation of respondent's certificate is the only disciplinary option available at this time that will protect the public.'' *Id.*

On March 6, 2015, the MBC adopted the proposed decision, and on April 3, 2015, Registrant's Physician's and Surgeon's Certificate was revoked. GX 4. According to the online records of the MBC, Registrant's license remains revoked. *See also www.breeze.ca.gov.*

Discussion

The Loss of State Authority Ground

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823, ''upon a finding that the Registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Moreover, DEA has held repeatedly that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed Appx. 826 (4th Cir. 2012).

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988). *See also Hooper* v. *Holder,* 481 Fed. Appx. at 828.

Based on the MBC's revocation of his medical license, I find that Registrant lacks authority to dispense controlled substances in California, the State in which he holds his DEA registration. According, I will order that Registrant's registration be revoked and that any pending applications be denied. 21 U.S.C. 824(a)(3).

The Public Interest Ground

Section 304(a) of the Controlled Substances Act (CSA) also provides that a registration to ''dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a)(4). With respect to a practitioner, the Act requires the consideration of the following factors in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing . . . controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id. § 823(f).

''These factors are. . . considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). I ''may rely on any one or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether a registration should be revoked.'' *Id.; see also Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009). And while I must consider each factor, I ''need not make explicit findings as to each one and can 'give each factor the weight [I] determine[] is appropriate.' '' *MacKay* v. *DEA,* 664 F.3d 808, 816 (10th Cir. 2011) (quoting *Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009)); *see also Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005)); *see also Morall* v. *DEA,* 412 F.3d 165, 173–74 (D.C. Cir. 2005) (same). In this matter, I concluded that the evidence with respect to Factors Two and Four establishes that Registrant has committed acts which render his registration inconsistent with the public interest.

The Government contends that the MBC ALJ's findings of fact and conclusions of law establish that Registrant violated state and federal laws related to controlled substances.[2] I agree that the State's findings establish that Registrant committed several violations of state laws that are actionable under Factor Four. Specifically, Respondent violated Cal. Bus. & Prof. Code sec. 2239(a), which provides that ''[t]he use or prescribing for or administering to himself. . . of any controlled substance; or the use of any of the dangerous drugs. . . to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other persons or to the public, or to the extent that such use impairs the ability of the licensee to practice

[2] As for Factor One, while the State has not made a recommendation to the Agency, the State has revoked Respondent's medical license and thus, he no longer meets the CSA's requirement that he is authorized to dispense controlled substances in the State where he is registered.

As for Factor Three, the record contains no evidence that Registrant has been convicted of an offense related to the manufacture, distribution or dispensing of controlled substances.

As for Factor Five, even though the evidence shows that Respondent engaged in the self-abuse of controlled substances, the Government did not set forth any argument that Respondent's conduct is also actionable under this Factor. Thus, I make no findings under this Factor.

medicine safely. . . . constitutes unprofessional conduct.'' *See also* Cal. Bus. & Prof. Code sec. 2238 (''A violation of any federal statute or regulation, or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.'').

I further conclude that the MBC's findings establish that Registrant violated the CSA when he issued fraudulent prescriptions in his wife's name for Klonopin (clonazepam), a schedule IV controlled substance, which he then used and abused. *See* 21 U.S.C. 843(a)(3) (''It shall be unlawful for any person knowingly or intentionally. . . to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.''); *see also id.* sec. 844(a) (''It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice.''); 21 CFR 1306.04(a) (''A prescription for a controlled substance. . . must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.''). Not only is this conduct actionable under Factor Four, it is also relevant in assessing Registrant's experience in dispensing controlled substances (Factor Two).

Accordingly, I find that the evidence establishes Registrant ''has committed such acts as would render his registration. . . inconsistent with the public interest.'' *See* 21 U.S.C. 824(a)(4). Because Registrant failed to respond in any manner to the Show Cause Order, I will order that his registration be revoked and that any pending application be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration FB4421474, issued to David W. Bailey, M.D., be, and it hereby is, revoked. I further order that any pending application of David W. Bailey, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective March 7, 2016.

Dated: January 18, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–02127 Filed 2–3–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Kenneth H. Bull, M.D.; Decision and Order

On August 21, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Kenneth H. Bull, M.D. (Respondent), of Albuquerque, New Mexico. GX 1, at 1. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration AB5662552, and the denial of any applications for renewal or modification of the registration, as well as for any other registration, on two grounds: (1) That he lacks authority to handle controlled substances in New Mexico, the State in which he is registered with DEA, and (2) his ''registration would be inconsistent with the public interest.'' *Id.* (citing 21 U.S.C. 823(f), 824(a)(3) and (4)).

The Show Cause Order alleged that Respondent is registered as a practitioner in schedules IIN, IIIN, IV and V, at the registered address of 3500 Comanche Blvd., Building Suite 6, Albuquerque, New Mexico. *Id.* The Order also alleged that his registration does not expire until July 31, 2017. *Id.*

As grounds for the proposed action, the Show Cause Order alleged that effective June 30, 2014, the New Mexico Medical Board (Board) issued a Decision and Order which revoked Respondent's medical license, thus rendering him without authority ''to order, dispense, prescribe or administer any controlled substances'' in New Mexico, the State in which he holds his registration. *Id.* Continuing, the Order asserted that ''the DEA must revoke [Respondent's] registration based upon [his] lack of authority to handle controlled substances in'' New Mexico. *Id.* (citing 21 U.S.C. 802(21), 823(f), and 824(a)(3)).

As further ground, the Government alleged that Respondent's ''registration is inconsistent with the public interest because [he] did not comply with applicable Federal law related to controlled substances, in violation of 21 U.S.C. 824(a)(4) and 823(f)(4).'' *Id.* The Government based this allegation on the factual findings and legal conclusions of a prior agency proceeding, which suspended his DEA registration for six months and restricted his registration to non-narcotic controlled substances. *Id.* at 2 (citing *Kenneth Harold Bull, M.D.,* 78 FR 62666 (2013)). The Show Cause Order then set forth several of the 2013 Order's findings of the violations found during a November 2009 administrative inspection.[1] *Id.*

The Show Cause Order was served on Respondent by registered mail sent to his registered location; according to the Government, the return receipt card showed that the mailing was received on September 16, 2015. Request for Final Agency Action (RFAA), at 2; GX 7. Thereafter, on September 22, 2015, Respondent, through his attorney, filed a written response to the Show Cause Order. GX 8.

Therein, Respondent expressly waived his right to a hearing but submitted a written statement for my consideration. GX 8, at 1 (citing 21 CFR 1301.43(c)). Thereafter, the Government submitted a Request for Final Agency Action with supporting documents; in its submission, the Government also included Respondent's written statement.

Based on Respondent's submission, I find that he has waived his right to a hearing on the allegations of the Show Cause Order. 21 CFR 1301.43(c). However, I will consider Respondent's statement along with the evidence submitted by the Government in this matter. I make the following findings of fact.

Findings

Respondent, who is a psychiatrist in the State of New Mexico, is the holder of DEA Certificate of Registration AB5662552, pursuant to which he is currently authorized to dispense controlled substances in Schedules IIN, IIIN, IV and V; his registration does not expire until July 31, 2017. GX 2, at 1. Respondent was previously authorized to dispense controlled substances in Schedules II through V, as well to dispense buprenorphine as a DATA-Waiver physician. *See Bull,* 78 FR at 62669. However, on September 22, 2013, the then-Administrator issued a Decision and Order which suspended Respondent's registration for six months; the Order also revoked Respondent's DATA-Waiver Identification Number and restricted his dispensing authority to non-narcotic controlled substances only.[2] *Id.* at 62676; GX 2.

[1] The Show Cause Order also notified Respondent of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence of failing to elect either option. GX 1, at 2 (citing 21 CFR 1301.43).

[2] Pursuant to an earlier Board Order, Respondent did not, at the time of the prior Agency proceeding, possess state authority ''to prescribe narcotics, including but not limited to, all opioid analgesics, including buprenorphine and all synthetic opioid analgesics.'' *Id.* at 62676.

On June 30, 2014, the New Mexico Medical Board issued a Decision and Order which adopted nearly all of the findings of a state Hearing Officer. GX 4, at 1. The Board suspended Respondent's medical license ''effectively immediately,'' based upon ''the deficiencies noted in'' a report by the Center for Personalized Education for Physicians (CPEP), which had assessed his clinical skills, as well as the Hearing Officer's ''finding of manifest incompetence.'' *Id.* The Board further ordered that the suspension would remain in effect until Respondent ''successfully completes a Board approved retraining in a residency or residency-like program to address the deficiencies noted in the CPEP report,'' and that upon completion, he ''may petition. . . for reinstatement of his medical license.''*Id.*

The Government states that Respondent's medical license remains suspended, and Respondent does not deny this in his written statement. GX 8, at 2. Moreover, a search of the online records of the New Mexico Medical Board shows that Respondent's medical license remains suspended. *See http://cgi.docboard.org/cgi-shl/nhayer.exe.*

Respondent's written statement summarizes his academic and professional career, noting that he has been practicing for more than 40 years.[3] *Id.* at 1–2. Respondent disputes the allegation of the Order to Show Cause that his medical license has been revoked, arguing that ''the Board suspended [his] license pending [his] attending a residency-like program.'' *Id.* at 2. While Respondent is correct, as a practical matter, this is a distinction without a material difference.

Respondent further states that he ''strongly disagrees with the Board's findings and conclusions, but has accepted them.'' *Id.* Continuing, he states that he ''has freely accepted and described without reservation the mistakes he had made as a practitioner, but disagrees [that] he is 'manifestly incompetent.' '' ''*Id.*

Respondent then engages in a collateral attack on the Board's Order. He argues:

> [T]he Medical Board's prosecution rested its case entirely on unsworn hearsay evidence in the form of a report issued by a Colorado physician assessment organization called the . . . CPEP. The report was based on approximately three hours of interview time with [him] done by unidentified physician consultants who conducted a review of a tiny fraction of his total patient records (24 records out of hundreds of cases). [Respondent] also participated in two 30 minute simulated patient intake interviews with actors playing the patients. The New Mexico Medical Board based its suspension on its conclusion [that he] required a residency-type program to continue practicing psychiatry, a claim [his] expert witness disagreed with strongly.[4]
>
> *Id.*

Respondent then argues that ''there is no claim [he] engaged in any sort of financial impropriety, diversion of medications, boundary issues, or harmed a patient in any manner.'' Stating that he ''intends to ask the Board to modify its order in the near future to allow him to resume practice,'' Respondent asks that I delay consideration of the matter ''until this occurs.'' *Id.* Finally, Respondent notes that ''New Mexico is a notoriously underserved medical community'' and that he provided care for patients ''in desperate need of psychiatric services'' and ''with severe behavioral problems and extremely serious mental illness,'' and that ''[h]e will not be able to do so without a DEA registration.'' *Id.* at 3.

Discussion

In its Request for Final Agency Action, the Government asserts two grounds to revoke Respondent's registration. RFAA, at 4. With respect to the public interest ground, the Government contends that, ''in the present proceeding, [I] can give *res judicata* effect to the prior DEA final order,'' and therefore, ''the prior findings of fact and conclusions of law in [that] proceeding may be incorporated into the present final order.'' *Id.*

The Government does not explain, however, why the factual findings and legal conclusions of the prior Agency Decision and Order now support the revocation of Respondent's registration on public interest grounds. Notably, in that proceeding, the prior Administrator found that Respondent had accepted responsibility and demonstrated that he would not engage in future misconduct with respect to the misconduct that ''was properly at issue in the proceeding.'' 78 FR at 62675. Moreover, the prior Administrator did not find the misconduct that was proven on the record of the proceeding to be sufficiently egregious to warrant revocation. *Id.* at 62676.

Presumably, Respondent served his suspension without incident, and notably, the Government makes no allegation in this proceeding that Respondent has, since the first proceeding, engaged in any further misconduct related to controlled substances. *See* GX 1, at 1–2 (Show Cause Order). Indeed, in its Request for Final Agency Action, the Government states that Show Cause Order ''did not allege that [the Board's] final order entails findings that reveal violations related to [Respondent's] DEA registration.'' RFAA, at 3. Given the Government's position that the State Board proceeding does not involve misconduct related to his registration and the absence of evidence of misconduct related to controlled substances since the first proceeding, there is no basis to invoke the Agency's public interest authority to revoke his registration.[5]

There is, however, no dispute that Respondent lacks authority to handle controlled substances in New Mexico, the State where he is currently registered, and pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823, ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Moreover, DEA has repeatedly held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration.

[3] Respondent states that he is the holder of a DEA Certificate of Registration, which authorizes him to dispense controlled substances in schedules II through V, including narcotic controlled substances, as a practitioner. GX 8, at 2. Although his statement notes that his registration was the subject of a previous DEA show cause proceeding, it does not accurately state the outcome of that proceeding, which restricted his registration to authorize the dispensing of only non-narcotic controlled substances. *See* 78 FR at 62676.

[4] Respondent also included a copy of the Post-Hearing Brief filed on his behalf in the Board proceeding.

[5] It is noted that the Hearing Officer found that ''[t]he CPEP Assessment was designed to evaluate Respondent's practice of outpatient adolescent and adult psychiatry, including the prescribing of controlled substances within a psychiatry practice,'' and the CPEP Assessment involved a review of Respondent's medical charts, interviews of Respondent, and ''simulated patient-physician interactions.'' GX 5, at 8. Moreover, the Board adopted the Hearing Officer's findings that Respondent's ''[c]linical judgment and reasoning were not adequate, particularly his prescribing of controlled substances within the context of a psychiatric practice'' and ''[h]is documentation in the patient charts submitted for review was not adequate.'' *Id.* The Board also adopted the Hearing Officer's finding regarding Respondent's use of cheek swabs rather than urine drug screening ''[t]o address the addiction and diversion issues in his patients.'' *Id.* at 9. However, the Government does not argue that these findings support a finding that Respondent has committed such acts as would render his registration inconsistent with the public interest and, in adjudicating this matter, I rely solely on the Board's action in suspending his medical license and the fact that the suspension remains in effect.

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[ ] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988).

Thus, the Agency has held that revocation is warranted even where, as here, the state board has suspended (as opposed to revoked) a practitioner's dispensing authority and that authority may be restored at some point in the future through further proceedings. *See Ramsey* 76 FR at 20036 (citations omitted). As the Agency has held, the controlling question is not whether a practitioner's license to practice medicine in the state is suspended or revoked; rather, it is whether the Respondent is currently authorized to handle controlled substances in the state. *James L. Hooper,* 76 FR 71371 (2011) (collecting cases), *pet. for rev. denied, Hooper* v. *Holder,* 481 Fed. Appx. 826 (4th Cir. 2012).

Respondent further argues that I should consider that the Medical Board's case ''rested entirely on unsworn hearsay evidence in the form of'' the CPEP Report and that his expert witness ''disagreed with'' the Board's conclusion that he should undergo a ''residency-type program to continue practicing. GX 8, at 2. This argument is simply a collateral attack on the State Board proceeding. The Agency has held, however, ''that a registrant cannot collaterally attack the result of a state criminal or administrative proceeding in a proceeding under section 304, 21 U.S.C. 824, of the CSA.'' *Muzaffer Aslan,* 77 FR 37068, 37069 (2012) (other citations omitted). ''Rather, Respondent's challenge to the validity of the [New Mexico Board's] Order must be litigated in the forums provided by the State of [New Mexico], and his contentions regarding the validity of the [Board's] order are not material to this Agency's resolution of whether he is entitled to maintain his DEA registration in'' New Mexico. *Id.*

Because it is undisputed that Respondent's New Mexico medical license remains suspended, I find that he no longer has authority under the laws of New Mexico, the State in which he is registered, to dispense controlled substances. Therefore, he is not entitled to maintain his DEA registration. *See* 21 U.S.C. 802(21), 823(f), 824(a)(3). Accordingly, I will order that his registration be revoked and that any pending application to renew or modify his registration be denied.[6]

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration AB5662552, issued to Kenneth Harold Bull, M.D., be, and it hereby is, revoked. I further order that any application of Kenneth Harold Bull, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.[7]

Dated: January 18, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–02129 Filed 2–3–16; 8:45 am]

BILLING CODE 4410–09–P

[6] While Respondent also asked that I delay the resolution of this matter, ''in circumstances similar to those raised by Respondent, DEA has repeatedly denied requests to stay the issuance of a final order of revocation, noting that [u]nder the Controlled Substances Act, a practitioner must be currently authorized to handle controlled substances in the jurisdiction in which [he] practices in order to maintain [his] DEA registration.'' *Gregory F. Saric,* 76 FR 16821, 16822 (2011) (internal quotations and citations omitted). Of further note, Respondent's state medical license was suspended more than 18 months ago, and yet his license still remains suspended.

Finally, while Respondent asserts that New Mexico is a medically underserved area, in the case of individual practitioners, DEA has held that community impact evidence is irrelevant in the public interest determination as it is in a proceeding based on a loss of state authority. *See Linda Sue Cheek,* 76 FR 66972, 66972 (2011); *Gregory Owens,* 74 FR 36751, 36757 (2009). So too, Respondent's statement regarding his acceptance of responsibility is not a defense to a revocation based on the loss of state authority, because the CSA mandate that a practitioner possess such authority to obtain and maintain a DEA registration.

[7] Based on the findings of fact and conclusions of law which led the NMMB to immediately suspend Registrant's license until he successfully completes Board approved re-training,'' GX 4, at 1; I conclude that the public interest requires that this Order be effective immediately. See 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Partial Consent Decree Under the Clean Water Act

On January 28, 2016, the Department of Justice lodged a proposed Partial Consent Decree with the United States District Court for the Northern District of Mississippi in the lawsuit entitled *United States and the State of Mississippi* v. *City of Greenville, Mississippi,* Civil Action No. 4:16–cv–00018–DMB–JMV.

The United States and the State of Mississippi filed this lawsuit under the Clean Water Act and the Mississippi Air and Water Pollution Control Law. The complaint seeks injunctive relief and civil penalties for violations in connection with the City's sanitary sewer system. The City has grouped mini-systems within the sewer system into three different groups and prioritized Sewer Group 1 and Sewer Group 2 for sewer assessment and rehabilitation work. The Partial Consent Decree provides for the City to conduct early action projects; capacity, management, operations, and maintenance program; and assessment and rehabilitation of Sewer Groups 1 and 2. The partial settlement will not resolve the claims for civil penalties or for injunctive relief related to Sewer Group 3, as those will be the topics of future negotiation among the parties.

The publication of this notice opens a period for public comment on the Partial Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Mississippi* v. *City of Greenville, Mississippi,* D.J. Ref. No. 90–5–1–1–10932. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Partial Consent Decree 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 Partial Consent Decree upon written

request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $60.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the appendices, the cost is $14.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–02068 Filed 2–3–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0302]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval has Expired: 2016 Supplemental Victimization Survey (SVS)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting 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.

DATES: Comments are encouraged and will be accepted for 60 days until April 4, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jennifer Truman or Rachel Morgan, Statisticians, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Jennifer.Truman@usdoj.gov;* telephone: 202–514–5083; email: *Rachel.Morgan@usdoj.gov;* telephone: 202–616–1707).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evalute whether and if so how the quality, utility, and clarity of the information to be collected can be enchanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement of the Supplemental Victimization Survey (SVS), with change, to a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* 2016 Supplemental Victimization Survey (SVS)

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number for the questionnaire is SVS–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be persons 16 years or older living in households located throughout the United States sampled for the National Crime Victimization Survey (NCVS). The SVS will be conducted as a supplement to the NCVS in all sample households for a six (6) month period. The SVS is primarily an effort to measure the prevalence of stalking victimization among persons, the types of stalking victimization experienced, the characteristics of stalking victims, the nature and consequences of stalking victimization, and patterns of reporting to the police. BJS plans to publish this information in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justices statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimate of the total number of respondents is 111,960. About 98.5% (110,280) will have no stalking victimization and will complete the short interview with an average burden of four (4) minutes. Among the 1.5% of respondents (1,679) who experience stalking victimization, the time to ask the detailed questions regarding the aspects of their stalking victimization is estimated to take an average of 8.25 minutes. Respondents will be asked to respond to this survey only once during the six month period. The burden estimates are based on data from the prior administration of the SVS.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 7,583 total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: February 1, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–02125 Filed 2–3–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2016–0002]

Federal Advisory Council on Occupational Safety and Health (FACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Announcement of FACOSH meeting.

SUMMARY: The Federal Advisory Council on Occupational Safety and Health (FACOSH) will meet Thursday, February 18, 2016, in Washington, DC.

DATES: *FACOSH meeting:* FACOSH will meet from 1 to 4:30 p.m., Thursday, February 18, 2016.

Submission of comments, requests to speak, speaker presentations, and requests for special accommodations:

You must submit (postmark, send, transmit, deliver) comments, requests to speak at the FACOSH meeting, speaker presentations, and requests for special accommodations to attend the meeting by February 11, 2016.

ADDRESSES:

FACOSH meeting: FACOSH will meet in C5520, Room 6, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Submission of comments, requests to speak, and speaker presentations: You may submit comments, requests to speak at the FACOSH meeting, and speaker presentations using one of the following methods:

Electronically: You may submit materials, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for making submissions;

Facsimile: If your submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648; or

Mail, express delivery, hand delivery, or messenger/courier service: You may submit materials to the OSHA Docket Office, Docket No. OSHA–2016–0002, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA TTY (877) 889–5627). Deliveries (hand, express mail, messenger/courier service) are accepted during the Department's and the OSHA Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., weekdays.

Requests for special accommodations to attend the FACOSH meeting: You may submit requests for special accommodations by hard copy, email, or telephone to Ms. Gretta Jameson, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; email *jameson.grettah@dol.gov;* telephone (202) 693–1999.

Instructions: All submissions must include the agency name and docket number for this **Federal Register** notice. Due to security-related procedures, receipt of submissions by regular mail may result in a significant delay. Please contact the OSHA Docket Office for information about security procedures for making submissions by hand delivery, express delivery, and messenger/courier service. For additional information making submissions, see Public Participation in the **SUPPLEMENTARY INFORMATION** section of this notice.

OSHA will post comments, requests to speak, and speaker presentations, including any personal information provided, without change in the FACOSH public docket and submissions may be available online at *http://www.regulations.gov.* Therefore, OSHA cautions individuals about submitting certain personal information, such as Social Security numbers and birthdates.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.*

For general information: Mr. Francis Yebesi, Director, OSHA Office of Federal Agency Programs, Room N–3622, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2122; email *ofap@dol.gov.*

SUPPLEMENTARY INFORMATION: FACOSH will meet February 18, 2016, in Washington, DC. The meeting is open to the public. Some FACOSH members may attend the meeting electronically.

The tentative agenda for the FACOSH meeting includes:

- The Presidential Initiatives focusing federal agencies' efforts on improving workplace safety and health and return-to-work outcomes for federal workers who sustain injuries or illnesses in the performance of duty;
- Status of the 2014 Secretary of Labor's Report to the President on Federal Department and Agency Occupational Safety and Health Program Activity (Report), and the request for information to federal departments and agencies for the 2015 Report;
- Construction safety and health stand-down;
- Draft Updated OSHA Safety and Health Program Management Guidelines; and
- Updates from FACOSH subcommittees.

FACOSH is authorized by 5 U.S.C. 7902; section 19 of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 668); and Executive Order 11612, as amended, to advise the Secretary of Labor (Secretary) on all matters relating to the occupational safety and health of federal employees. This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the federal workforce, and how to encourage each federal Executive Branch department and agency to establish and maintain effective occupational safety and health programs. FACOSH operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

OSHA transcribes and prepares detailed minutes of FACOSH meetings. The Agency posts meeting transcripts and minutes plus other materials presented at the FACOSH meeting in the public record of the meeting.

Public Participation, Submissions, and Access to Public Record

FACOSH meeting: FACOSH meetings are open to the public. Individuals attending meetings at the U.S. Department of Labor Frances Perkins Building must enter the building at the Visitors' Entrance, 3rd and C Streets NW., and pass through building security. Attendees must have valid government-issued photo identification to enter. For additional information about building security measures, and requests for special accommodations for attending the FACOSH meeting, please contact Ms. Jameson (see **ADDRESSES** section).

Submission of comments. You may submit comments, including data and other information, using one of the methods listed in the **ADDRESSES** section. Your submissions, including attachments and other materials, must identify the agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA–2016–0002). You may submit supplementary materials electronically. If, instead, you wish to submit hard copies of supplementary materials, you must submit them to the OSHA Docket Office following the instructions in the **ADDRESSES** section. The additional materials must clearly identify your electronic submission by name, date, and docket number. OSHA will provide copies of submissions to FACOSH members.

Because of security-related procedures, receipt of submissions by regular mail may result in a significant delay. For information about security procedures concerning submissions by hand, express delivery, and messenger/courier service, please contact the OSHA Docket Office (see **ADDRESSES** section).

Submission of requests to speak and speaker presentations. You may submit a request to speak to FACOSH and speaker presentations in advance by one of the methods listed in the **ADDRESSES** section or sign up at the FACOSH meeting to speak. Your request must state:

- The amount of time you request to speak;

• The interest you represent (*e.g.,* organization name), if any; and,

• A brief outline of your presentation.

PowerPoint speaker presentations and other electronic materials must be compatible with Microsoft Office 2010 formats. The FACOSH chair may grant requests to address FACOSH at his discretion, and as time and circumstances permit.

Access to submissions and public record. OSHA places comments, requests to speak, speaker presentations, meeting transcripts and minutes, and other documents presented at the FACOSH meeting in the public record without change. Those documents also may be available online at *http://www.regulations.gov.* Therefore, OSHA cautions individuals about submitting certain personal information, such as Social Security numbers and birthdates.

To read or download documents in the public record, go to Docket No. OSHA–2016–0002 at *http://www.regulations.gov.* Although all meeting documents are listed in the index of that Web page, some documents (*e.g.,* copyrighted materials) are not publicly available to read or download. All meeting documents, including copyrighted materials, are available at the OSHA Docket Office.

Information about using *http://www.regulations.gov* to make submissions and access the record of FACOSH meetings is available at that Web page. Please contact the OSHA Docket Office for assistance with making submissions and obtaining documents in the FACOSH record, and for information about materials that are not available on *http://www.regulations.gov.*

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 about FACOSH, also is available at OSHA's Web page at *http://www.osha.gov/.*

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice pursuant to 5 U.S.C. 7902; 5 U.S.C. App. 2; 29 U.S.C. 668; Executive Order 12196 (45 CFR 12629 (2/27/1980)), as amended; 41 CFR part 102–3; and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on January 21, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–02139 Filed 2–3–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2016–0002]

Federal Advisory Council on Occupational Safety and Health (FACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for nominations to serve on FACOSH.

SUMMARY: The Assistant Secretary of Labor for Occupational Safety and Health invites interested individuals to submit nominations for membership on FACOSH.

DATES: You must submit (postmark, send, transmit, deliver) nominations by April 29, 2016.

ADDRESSES: You may submit nominations and supporting materials using one of the following methods:

Electronically: You may submit materials, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for making submissions;

Facsimile (FAX): If your submission, including attachments, does not exceed 10 pages, you may FAX it to the OSHA Docket Office at (202) 693–1648; or

Mail, express delivery, hand delivery, or messenger/courier service: You may submit nominations and supporting materials to the OSHA Docket Office, Docket No. OSHA–2016–0002, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA TTY (877) 889–5627). Deliveries (hand, express mail, messenger/courier service) are accepted during the Department's and the OSHA Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., weekdays.

Instructions: Your nominations and supporting materials must include the agency/organization name and docket number for this **Federal Register** notice. Due to security-related procedures, receipt of submissions by regular mail may result in a significant delay. Please contact the OSHA Docket Office for information about security procedures for submitting nominations and supporting materials by hand delivery, express delivery, and messenger/courier service. For additional information on submitting nominations and supporting materials, see Public Participation in the **SUPPLEMENTARY INFORMATION** section of this notice.

OSHA will post submissions, including any personal information provided, without change in the FACOSH docket and they may be available online at *http://www.regulations.gov.* Therefore, OSHA cautions individuals about submitting certain personal information, such as Social Security numbers and birthdates.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.*

For general information: Mr. Francis Yebesi, Director, OSHA Office of Federal Agency Programs, Room N–3622, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2122; email *ofap@dol.gov.*

SUPPLEMENTARY INFORMATION: The Assistant Secretary of OSHA invites interested individuals to submit nominations for membership on FACOSH.

Background. FACOSH is authorized to advise the Secretary of Labor (Secretary) on all matters relating to the occupational safety and health of federal employees (5 U.S.C. 7902; 29 U.S.C. 668, Executive Order 12196, as amended). This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the federal workforce, and how to encourage the establishment and maintenance of effective occupational safety and health programs in each federal agency.

FACOSH membership. FACOSH is comprised of 16 members, 8 management representatives from federal agencies; and 8 representatives from labor organizations that represent federal employees, whom the Secretary of Labor appoints to staggered terms of up to three years. The number of members the Secretary will appoint to three-year terms beginning January 1, 2017, are:

• Three labor representatives; and

• Three management representatives.

FACOSH members serve at the pleasure of the Secretary and may be appointed to successive terms. FACOSH meets at least twice a year.

The Department of Labor is committed to equal opportunity in the

workplace and seeks broad-based and diverse FACOSH membership. Any federal agency, labor organization representing federal workers, or individual(s) may nominate one or more qualified persons for membership on FACOSH. Interested individuals also are invited and encouraged to submit statements in support of a nominee(s).

Nomination requirements. Submission of nominations must include the following information:

1. The nominee's name, contact information and current employment;

2. The nominee's resume or curriculum vitae, including prior membership on FACOSH and other relevant organizations, associations and committees;

3. Category of membership (management or labor) that the nominee is qualified to represent;

4. A summary of the nominee's background, experience and qualifications that address the nominee's suitability to serve on FACOSH;

5. Articles or other documents the nominee has authored that indicate the nominee's knowledge, experience and expertise in occupational safety and health, particularly as it pertains to the federal workforce; and

6. A statement that the nominee is aware of the nomination, is willing to regularly attend and participate in FACOSH meetings, and has no apparent conflicts of interest that would preclude membership on FACOSH.

Member selection. The Secretary appoints FACOSH members based upon criteria that include the nominee's level of responsibility for occupational safety and health matters involving the federal workforce; experience and competence in occupational safety and health; and willingness and ability to regularly and fully participate in FACOSH meetings. Federal agency management nominees who serve as their agency's Designated Agency Safety and Health Official (DASHO), or at an equivalent level of responsibility within their respective federal agencies, are preferred as management members. Labor nominees who have responsibilities for federal employee occupational safety and health matters within their respective labor organizations are preferred as labor members.

Information received through the nomination process, along with other relevant sources of information, will assist the Secretary in making appointments to FACOSH. In selecting FACOSH members, the Secretary will consider individuals nominated in response to this **Federal Register** notice, as well as other qualified individuals. OSHA will publish a list of the new FACOSH members in the **Federal Register**.

OSHA will consider any nomination submitted in response to this notice for the vacancies that occur on January 1, 2017. In addition, OSHA will consider the nominations for any vacancy that may occur during 2016 and for member positions that open January 1, 2017, provided the information the nominee submitted continues to remain current and accurate. OSHA believes that 'rolling over' nominations for future consideration will make it easier for interested individuals to be considered for membership on FACOSH. This process also will provide OSHA with a broad base of nominations for ensuring that FACOSH membership is fairly balanced as the Federal Advisory Committee Act (5 U.S.C. App.2, Section (5)(b)(2); 41 CFR 102–3.30(c)). OSHA will continue to request nominations as vacancies occur, but nominees whose information is current and accurate will not need to resubmit a nomination.

Public Participation, Submissions, and Access to Public Record

Instructions for submitting nominations. Interested individuals may submit nominations and supplemental materials using one of the methods listed in the **ADDRESSES** section. All nominations, attachments and other materials must identify the agency name and the docket number for this **Federal Register** notice. You may supplement electronic nominations by uploading materials electronically. If, instead, you wish to submit hard copies of materials that supplement an electronic submission, you must submit them to the OSHA Docket Office (see **ADDRESSES** section). The additional material must clearly identify your electronic submission by name and docket number so that the materials can be attached to your nomination.

Because of security-related procedures, the use of regular mail may cause a significant delay in the receipt of nominations. For information about security procedures concerning the submission of materials by mail, hand, express delivery, messenger or courier service, please contact the OSHA Docket Office (see **ADDRESSES** section).

All submissions in response to this **Federal Register** notice are posted without change in the FACOSH docket and may be made available online at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal information, such as Social Security numbers and birthdates. Information on submitting nominations and supporting materials in response to this **Federal Register** notice is available at *http://www.regulations.gov* and from the OSHA Docket Office.

Access to docket and other materials. To read or download nominations and additional materials submitted in response to this **Federal Register** notice, go to Docket No. OSHA–2016–0002 at *http://www.regulations.gov.* All submissions are listed in the index of that docket; however, some documents (*e.g.,* copyrighted materials) are not publicly available to read or download through that Web page. All submissions, including copyrighted materials, are available at the OSHA Docket Office. Contact the OSHA Docket Office for information about materials not available through *http://www.regulations.gov,* and for assistance in using the Internet to locate submissions.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This document, as well as news releases and other relevant information, also is available at OSHA's Web page at *http://www.osha.gov.*

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice pursuant to 5 U.S.C. 7902; 5 U.S.C. App. 2; 29 U.S.C. 668; Executive Order 12196 (45 CFR 12629 (2/27/1980)), as amended; 41 CFR part 102–3; and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on January 21, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–02140 Filed 2–3–16; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (16–106)]

NASA Advisory Council; Science Committee; Heliophysics Subcommittee; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Heliophysics Subcommittee of the

NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, March 1, 2016, 9:00 a.m.–5:00 p.m., and Wednesday, March 2, 2016, 9:00 a.m.–4:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 3H42, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Delo, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0750, fax (202) 358–2779, or *ann.b.delo@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 1–800–369–3367, passcode 8618491, on both days, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/;* the meeting number is 997 214 949 and the password is HPS2016! for both days. The agenda for the meeting includes the following topics:

—Heliophysics Division Overview and Program Status
—Heliophysics Budget Update
—Flight Mission Status Report
—Diversify, Realize, Integrate, Venture and Educate (DRIVE) Program

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Due to the Real ID Act, Public Law 109–13, any attendees with drivers licenses issued from non-compliant states/territories must present a second form of ID. [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the ''List of the Acceptable Documents'' on Form I–9]. Non-compliant states/territories are: American Samoa, Arizona, Idaho, Louisiana, Maine, Minnesota, New Hampshire, and New York. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Ann Delo via email at *ann.b.delo@nasa.gov* or by fax at (202) 358–2779. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Ann Delo. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2016–02152 Filed 2–3–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 16–005]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: Interested persons are invited to submit written comments regarding the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 7th Street NW., Washington DC, 20543. Attention: Desk Officer for NASA.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Frances Teel, NASA Clearance Officer, NASA Headquarters, 300 E Street SW., JF0000, Washington, DC 20546, *Frances.C.Teel@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

To ensure accurate reporting of Government-owned, contractor-held property on financial statements and to provide information necessary for effective property management in accordance with FAR Part 45, NASA collects information on an annual basis. The information is collected to validate official property records maintained by NASA contractors. The information is submitted via the NASA Form 1018, at the end of each fiscal year. NASA reimburses its contractors for the cost to prepare and submit the annual reports.

This 30-day FRN reflects a change in the information published in the 60-day FRN. Specifically, it reflects an increase in the estimated number of respondents as well as an increase in the estimate number of burden hours. The estimated annual cost to the government is also reflected.

II. Method of Collection

Electronic.

III. Data

Title: NASA Property in the Custody of Contractors.

OMB Number: 2700–0017.

Type of review: Revision of currently approved collection.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 661.

Estimated Time per Response: variable.

Estimated Total Annual Burden Hours: 3,921.

Estimated Total Annual Cost: $308,944.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection.

They will also become a matter of public record.

Frances Teel,

NASA PRA Clearance Officer.

[FR Doc. 2016–02016 Filed 2–3–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Meetings; Proposal Review

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The review and evaluation may also include assessment of the progress of awarded proposals. The majority of these meetings will take place at NSF, 4201 Wilson Blvd., Arlington, Virginia 22230.

These meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will not be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web site: *http://www.nsf.gov/events/.* This information may also be requested by telephoning, 703/292–8687.

Dated: February 1, 2016.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2016–02083 Filed 2–3–16; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, February 9, 2016

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTER TO BE CONSIDERED:

8734 *Commercial Truck Collision With Stopped Vehicles on Interstate 88, Naperville, Illinois, January 27, 2014* (HWY14FH002)

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Friday, February 5, 2016.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Candi Bing at (202) 314–6403 or by email at *bingc@ntsb.gov.*

FOR MEDIA INFORMATION CONTACT: Keith Holloway at (202) 314–6100 or by email at *keith.holloway@ntsb.gov*.

Dated: Monday, February 1, 2016.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2016–02176 Filed 2–2–16; 11:15 am]

BILLING CODE 7533–01–P

NATIONAL WOMEN'S BUSINESS COUNCIL

Quarterly Public Meeting

AGENCY: National Women's Business Council.

ACTION: Notice of open public meeting.

DATES: The Public Meeting will be held on Monday, March 7th, 2016 from 3:00 p.m. to 5:00 p.m. EST.

ADDRESSES: The meeting will be held in Washington, DC. Location details will be provided upon RSVP, as will information about teleconferencing and livestream options.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), the U.S. Small Business Administration (SBA) announces the meeting of the National Women's Business Council. The National Women's Business Council is tasked with providing policy recommendations on issues of importance and impact to women entrepreneurs to the SBA, Congress, and the White House.

This meeting is the 2nd quarterly meeting of the Council for Fiscal Year 2016. The program will include remarks from the Council Chair, Carla Harris; an update from each of the NWBC committees; and a discussion of the Council's FY2016 agenda. The discussion will focus on the policy recommendations that the Council will be making to the SBA, Congress, and the White House for improving the business climate for women entrepreneurs, as well as the new research portfolio. Time will be reserved at the end for audience participants to address Council Members directly with questions, comments, or feedback. Additional speakers will be promoted upon confirmation.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public however advance notice of attendance is requested. To RSVP and confirm attendance, the general public should email *info@nwbc.gov* with subject line—''RSVP for 03/07 Public Meeting.'' Anyone wishing to make a presentation to the NWBC at this meeting must either email their interest to *info@nwbc.gov* or call the main office number at 202–205–3850.

For more information, please visit the National Women's Business Council Web site at *www.nwbc.gov*.

Dated: January 29, 2016.

Miguel J. L'Heureux,

SBA Committee Management Officer.

[FR Doc. 2016–02145 Filed 2–3–16; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0159]

LR–ISG–2015–01, Changes to Buried and Underground Piping and Tank Recommendations

AGENCY: Nuclear Regulatory Commission.

ACTION: Interim staff guidance; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing the final License Renewal Interim Staff Guidance (LR–ISG), LR–ISG–2015–01, ''Changes to Buried and Underground Piping and

Tank Recommendations.'' This LR–ISG will replace NRC staff-recommended aging management program (AMP) XI.M41, ''Buried and Underground Piping and Tanks,'' and its associated Updated Final Safety Evaluation Report (UFSAR) Summary Description in LR–ISG–2011–03, ''Changes to the Generic Aging Lessons Learned (GALL) Report Revision 2 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.

ADDRESSES: 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 document using any of the following methods:

- *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 individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Document 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 final LR–ISG–2015–01 is available electronically in ADAMS under Accession No. ML15308A018.
- *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 Interim Staff Guidance Web Site:* LR–ISG documents are also available online under the ''License Renewal'' heading at *http://www.nrc.gov/reading-rm/doc-collections/isg/license-renewal.html.*

FOR FURTHER INFORMATION CONTACT: William Holston, telephone: 301–415–8573; email: *William.Holston@nrc.gov* or Brian Allik, telephone: 301–415–1082; email: *Brian.Allik@nrc.gov.* Both are staff of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

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, NUREG–1801, Rev. 2 (Dec. 2010), and the Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants (SRP–LR), NUREG–1800, Rev. 2 (Dec. 2010), which are available under ADAMS Accession Nos. ML103490041 and ML103490036, respectively. 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).

The NRC staff has developed LR–ISG–2015–01 to 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.''

On June 29, 2015, (80 FR 37028) the NRC requested public comments on draft LR–ISG–2015–01 (ADAMS Accession No. ML15125A377).

The NRC received comments from the Nuclear Energy Institute by letter dated August 6, 2015, (ADAMS Accession No. ML15225A076), Hank Kleinfelder by letter dated August 6, 2015, (ADAMS Accession No. ML15225A077), Anonymous by letter dated August 7, 2015, (ADAMS Accession No. ML15225A078), Kevin Anstee for Entergy—River Bend Station by letter dated August 10, 2015, (ADAMS Accession No. ML15244A392), and Steven Daily by letter dated August 10, 2015, (ADAMS Accession No. ML15244A391). No other comments were submitted. The NRC considered these comments in developing the final LR–ISG. Detailed responses to the comments can be found in Appendix D of the final LR–ISG.

The final LR–ISG–2015–01 is approved for NRC staff and stakeholder use and will be incorporated into the NRC's next formal license renewal guidance document revision.

Congressional Review Act

This ISG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Backfitting and Issue Finality

Issuance of this final LR–ISG does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise 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 the final 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 29th day of January, 2016.

For the Nuclear Regulatory Commission.

Jane E. Marshall,

Deputy Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–02122 Filed 2–3–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Notice of Meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on March 17–18, 2016. A sample of agenda items to be discussed during the public session includes: A discussion on the reporting of medical events for various modalities; an update on medical-related events; a discussion on the training and experience requirements for authorized users of alpha and beta emitters; an update on the licensing guidance for yttrium-90 microsphere brachytherapy; and a discussion on the licensing guidance for the Leksell Gamma Knife® Icon™ unit. The agenda is subject to change. The current agenda and any

updates will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2016.html* or by emailing Ms. Sophie Holiday at the contact information below.

Purpose: Discuss issues related to 10 CFR part 35 Medical Use of Byproduct Material.

Date and Time for Open Sessions: March 17, 2016, from 9:30 a.m. to 5:00 p.m. and March 18, 2016, from 8:00 a.m. to 11:30 a.m.

Data and Time for Closed Sessions: March 17, 2016, from 7:30 a.m. to 9:30 a.m., March 18, 2016, from 7:30 a.m. to 8:00 a.m., and March 18, 2016, from 12:00 p.m. to 1:00 p.m.

Address for Public Meeting: U.S. Nuclear Regulatory Commission, Two White Flint North Building, Room T2–B3, 11545 Rockville Pike, Rockville, Maryland 20852.

Public Participation: Any member of the public who wishes to participate in the meeting in person or via phone should contact Ms. Holiday using the information below. The meeting will also be webcast live: *video.nrc.gov.*

Contact Information: Ms. Sophie J. Holiday, email: *sophie.holiday@nrc.gov,* telephone: (301) 415–7865.

Conduct of the Meeting

Philip O. Alderson, M.D., will chair the meeting. Dr. Alderson will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Holiday at the contact information listed above. All submittals must be received by March 15, 2016, and must pertain to the topic on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The draft transcript and meeting summary will be available on ACMUI's Web site *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2016.html* on or about April 29, 2016.

4. Persons who require special services, such as those for the hearing impaired, should notify Ms. Holiday of their planned attendance.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10 *Code of Federal Regulations* Part 7.

Dated at Rockville, Maryland, this 28th day of January 2016.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2016–02121 Filed 2–3–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–6563; NRC–2015–0139]

Mallinckrodt, LLC.

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering amending the NRC's Source Materials License No. STB–401 to allow the option to perform direct dose assessment of residual radioactivity in addition to using derived concentration guideline levels (DCGLs) to demonstrate compliance with the license termination criteria at the Mallinckrodt site in St. Louis, Missouri. The NRC staff is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) associated with the proposed action.

DATES: The EA and FONSI referenced in this document are available on February 4, 2016.

ADDRESSES: Please refer to Docket ID NRC–2015–0139 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–2015–0139. 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.

FOR FURTHER INFORMATION CONTACT: Karen Pinkston, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–3650; email: *Karen.Pinkston@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an amendment to the NRC's Source Materials License No. STB–401, issued to Mallinckrodt, for operation of their facility located in St. Louis, Missouri. This amendment allows Mallinckrodt the option to perform direct dose assessment of residual radioactivity in addition to using derived concentration guideline levels (DCGLs) to demonstrate compliance with the license termination criteria at the Mallinckrodt site in St. Louis, Missouri. Consistent with part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC performed an EA. Based on the results of the EA described below, the NRC will not prepare an environmental impact statement for the license amendment, and is issuing a FONSI.

The NRC received, by letter dated February 12, 2015 (ADAMS Accession No. ML15063A404), an application from Mallinckrodt LLC to amend the NRC's Source Materials License No. STB–401. The licensee requests the option to perform direct dose assessment of residual radioactivity in addition to using DCGLs to demonstrate compliance with the license termination criteria in 10 CFR 20.1402 at the Mallinckrodt site in St. Louis, Missouri. The license currently states that the Decommissioning of the Columbium-Tantalum (C–T) process area building slabs and foundations, paved surfaces, and all subsurface materials, shall be done in accordance with the Mallinckrodt C–T Decommissioning Project, C–T Phase II Decommissioning Plan (DP), Revision 2, submitted to NRC on October 14, 2008 (ADAMS Accession No. ML083150652), and revisions submitted on June 3, 2010 (ADAMS Accession No. ML101620140). A Notice of Availability of an EA and FONSI was published for the NRC's approval of the DP in the **Federal Register** on July 1, 2010 (75 FR 38148). The NRC approved

this DP on July 1, 2010 (ADAMS Accession No. ML091960063). The DP only included the use of the DCGL approach to demonstrate compliance with the license termination criteria. The NRC's guidance in NUREG–1757, Vol. 2, allows for the use of either the DCGL or dose assessment approach in demonstrating compliance with 10 CFR 20.1402.

On June 4, 2015, the NRC published in the **Federal Register** (80 FR 31927), a Notice of Opportunity for Hearing on the February 12, 2015, Mallinckrodt license amendment request. No request for a hearing was received.

II. Environmental Assessment

Description of the Proposed Action

The proposed action is approval of a requested license amendment. Mallinckrodt LLC requests the option to perform direct dose assessment of residual radioactivity in addition to using DCGLs to demonstrate compliance with the license termination criteria in 10 CFR 20.1402 at the Mallinckrodt site in St. Louis, Missouri. The NRC's guidance in NUREG–1757, Vol. 2, allows for the use of either the DCGL or dose assessment approach in demonstrating compliance with the license termination criteria. In its amendment request, Mallinckrodt proposed to evaluate two different scenarios in its dose assessment: an industrial worker who works on the site and an intruder into the subsurface material. In the first scenario, the residual radioactivity that is located at depth is assumed to be covered with non-contaminated material. In the second scenario, the potential dose due to an intrusion into the material because of pipeline installation or foundation construction is evaluated.

The proposed action is in accordance with the licensee's application dated February 12, 2015 (ADAMS Accession No. ML15063A404).

Need for the Proposed Action

Mallinckrodt is not permitted to use the dose assessment approach without a license amendment authorizing that approach. During site remediation, Mallinckrodt identified areas of elevated contamination that are located at depth in inaccessible areas. The DCGL values developed in Mallinckrodt's DP were based on the conservative assumption that the residual radioactivity was located at the surface. The use of the dose assessment approach instead of the DCGL approach allows Mallinckrodt to evaluate the actual configuration of residual radioactivity in a more realistic manner; and thus, to avoid conservative remediation activities not needed to protect health and safety. The removal of the inaccessible residual radioactivity to levels that are below the previously approved DCGL values would require extraordinary measures such as undermining building foundations and structures or installing sheet pilings for soil stability.

Environmental Impacts of the Proposed Action

The proposed action is administrative and would have no direct environmental impacts, but it would authorize Mallinckrodt to adopt a dose assessment approach to demonstrate compliance with the license termination criteria in 10 CFR 20.1402. The EA for Mallinckrodt's Phase II DP described the potential environmental effects from the remediation of radiologically contaminated soil and pavement of the site.

The maximum total radiological dose from both the proposed action and the previously approved DCGL values will be less than the 25 mrem/yr criteria in 10 CFR 20.1402. However, the configuration of the residual radioactivity allowed to remain at the site would likely be different based on the dose assessment approach than would be allowed based on the previously approved DCGL values. The DCGL values resulted in a lower total allowed level of residual radioactivity, while the dose assessment approach will result in a higher allowed level located at depth, reflecting the fact that not all contamination is at the surface, which is assumed in the DCGL values. The projected dose from residual radioactivity at the Mallinckrodt site is through the direct radiation, soil ingestion, and inhalation of dust pathways. The projected dose from the in situ residual radioactivity located at depth under clean cover at the Mallinckrodt site is therefore much smaller than the dose from comparable residual radioactivity located at the surface. Mallinckrodt's evaluation of the potential dose due to an intrusion demonstrates that the dose will remain less than 25 mrem/yr even if the material is uncovered. The difficulty of additional remediation of residual radioactivity located in inaccessible areas makes such remediation unreasonable, therefore the ALARA requirement in 10 CFR 20.1402 is met for the dose assessment approach despite the reduction in required remediation activities.

There are no cumulative effects from the proposed action and previously approved actions at the site because the total dose from residual radioactivity at the site will continue to be less than the 25 mrem/yr criteria and there will be no additional environmental impacts beyond those described in the EA associated with the Phase II DP.

Environmental Impacts of the Alternatives to the Proposed Action

The alternative to the proposed action is denial of the requested license amendment. If Mallinckrodt is not authorized to use the dose assessment approach to demonstrate compliance with 10 CFR 20.1402, then Mallinckrodt would have to remove the inaccessible residual radioactivity to levels that are below the approved DCGL values in order to terminate their license. The removal of this material would require extraordinary measures to remove without damaging the buildings that are over this material. The additional removal also creates a potential for radiological environmental impacts. Radiological environmental impacts that could result from remediation activities include exposure, inhalation, and ingestion hazards to workers and the public. These hazards could occur during excavation and loading of radioactively contaminated material. Air quality and noise impacts could also result from these remediation activities. The potential impacts from any additional remediation activities are described in the EA for the DP, specifically, Phase II remediation activities.

Alternative Use of Resources

The proposed action does not affect any resource implications discussed in previous environmental reviews.

Agencies and Persons Consulted

In accordance with its stated policy, on September 15, 2015, the staff consulted with the Missouri Department of Natural Resources regarding the environmental impact of the proposed action. No comments were received. The NRC did not consult with either the U.S. Fish and Wildlife Service or the State Historic Preservation Office because the proposed action, approval of the requested license amendment, can only result in a reduction of previously considered impacts to these resource areas. In fact, the need for the proposed action is to allow Mallinckrodt to avoid previously authorized activities that would be required in the absence of the proposed action.

III. Finding of No Significant Impact

Consistent with 10 CFR 51.21, the NRC conducted the EA for the proposed action described in Section II of this

document, the EA is publicly available in ADAMS under Accession No. ML15268A311). On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC will not prepare an environmental impact statement for the proposed action.

Dated at Rockville, Maryland, this 4th day of January 2016.

For the Nuclear Regulatory Commission.

Michael A. Norato,

Branch Chief, Materials Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–02131 Filed 2–3–16; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from October 1, 2015, to October 31, 2015.

FOR FURTHER INFORMATION CONTACT: Senior Executive Resources Services, Senior Executive Services and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 213.103, Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/*. OPM also publishes an annual notice of the consolidated listing of all Schedule A, B, and C appointing authorities, current as of June 30, in the **Federal Register**.

Schedule A

No Schedule A Authorities to report during October 2015.

Schedule B

No Schedule B Authorities to report during October 2015.

Schedule C

The following Schedule C appointing authorities were approved during October 2015.

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE.	Office of the Assistant Secretary for Congressional Relations.	Legislative Analyst	DA160002	10/6/2015
	Office of the Under Secretary for Research, Education, and Economics.	Special Assistant	DA160004	10/19/2015
	Office of the Secretary	White House Liaison	DA160007	10/19/2015
DEPARTMENT OF COMMERCE ..	Office of the Assistant Secretary for Industry and Analysis.	Special Assistant (2)	DC16000	10/6/201
			DC160014	10/30/2015
	Office of the Under Secretary	Senior Advisor (2)	DC16000	10/6/2015
			DC160004	10/6/2015
	Office of the Assistant Secretary for Economic Development.	Special Assistant	DC160005	10/6/2015
	Office of Public Affairs	Deputy Director of Public Affairs and Press Secretary.	DC160006	10/6/2015
		Deputy Director of Public Affairs and Director of Digital Strategy and Engagement.	DC160007	10/8/2015
		Senior Public Affairs Coordinator ..	DC160008	10/20/2015
		Deputy Director of Public Affairs and Director of Speechwriting.	DC160015	10/28/2015
	Office of the Chief Information Officer.	Chief of Staff	DC160010	10/21/2015
	International Trade Administration	Senior Advisor	DC160011	10/21/2015
CONSUMER PRODUCT SAFETY COMMISSION.	Office of Legislative Affairs	Director, Office of Congressional Relations.	PS160001	10/7/2015
DEPARTMENT OF DEFENSE	Office of the Under Secretary of Defense (Policy).	Special Advisor for Russia/Ukraine External Affairs.	DD150199	10/9/2015
	Washington Headquarters Services.	Defense Fellow (5)	DD15020	10/13/2015
			DD15020	10/21/2015
			DD15020	10/21/2015
			DD15020	10/21/2015
			DD160007	10/23/2015
	Office of the Secretary	Special Assistant	DD160004	10/15/2015
		Protocol Officer (2)	DD16000	10/26/2015
			DD160011	10/28/2015
	Office of the Assistant Secretary of Defense (International Security Affairs).	Special Assistant for Nuclear Missile Defense Policy.	DD150200	10/21/2015
	Office of the Assistant Secretary of Defense (Asian and Pacific Security Affairs).	Special Assistant (Afghanistan, Pakistan and Central Asia).	DD160001	10/30/2015
	Office of the Under Secretary of Defense (Personnel and Readiness).	Special Assistant (Personnel and Readiness).	DD160010	10/30/2015

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Assistant Secretary of Defense (Legislative Affairs).	Special Assistant	DD150198	10/13/2015
		Special Assistant (Legislative Affairs) (Team Chief, Personnel and Readiness).	DD160012	10/30/2015
DEPARTMENT OF EDUCATION ..	Office of the Under Secretary	Executive Director, White House Initiative on Historically Black Colleges and Universities.	DB150126	10/1/2015
		Senior Policy Advisor	DB160002	10/29/2015
	Office of the Deputy Secretary	Deputy Chief of Staff	DB150127	10/1/2015
	Office of the Secretary	Strategic Operations Manager	DB160003	10/30/2015
DEPARTMENT OF ENERGY	Office of Public Affairs	Deputy Press Secretary	DE150142	10/9/2015
	Office of Economic Impact and Diversity.	Special Advisor	DE160002	10/9/2015
	Office of Associate Administrator for External Affairs.	Press Secretary	DE160010	10/16/2015
	Office of Assistant Secretary for Energy Efficiency and Renewable Energy.	Senior Advisor	DE160008	10/19/2015
	Office of Assistant Secretary for Congressional and Intergovernmental Affairs.	Legislative Affairs Advisor	DE150146	10/28/2015
	Office of Scheduling and Advance	Director of Scheduling	DE160006	10/28/2015
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Administrator	Director of Scheduling and Advance.	EP160005	10/9/2015
		Deputy White House Liaison	EP160001	10/16/2015
		Deputy Chief of Staff for Operations.	EP160004	10/16/2015
EXECUTIVE OFFICE OF THE PRESIDENT.	Council on Environmental Quality	Executive Assistant	OP160001	10/9/2015
FEDERAL ENERGY REGULATORY COMMISSION.	Office of General Counsel	Program Analyst	DR160001	10/6/2015
GENERAL SERVICES ADMINISTRATION.	Office of Communications and Marketing.	Deputy Press Secretary	GS150057	10/6/2015
		Senior Advisor	GS160003	10/21/2015
	Office of Congressional and Intergovernmental Affairs.	Policy Advisor	GS160002	10/21/2015
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Assistant Secretary for Legislation.	Special Assistant (2)	DH15019	10/1/2015
			DH160002	10/9/2015
	Office of the Assistant Secretary for Health.	Senior Policy Advisor	DH150192	10/1/2015
	Office for Civil Rights	Special Assistant	DH150193	10/1/2015
	Centers for Medicare and Medicaid Services.	Special Assistant	DH160004	10/9/2015
	Substance Abuse and Mental Health Services Administration.	Policy Advisor	DH160008	10/21/2015
	Office of the National Coordinator for Health Information Technology.	Chief of Staff	DH160006	10/26/2015
	Office of the Assistant Secretary for Children and Families.	Special Assistant	DH160011	10/30/2015
DEPARTMENT OF HOMELAND SECURITY.	Office of the Executive Secretariat	Special Projects Coordinator	DM150265	10/1/2015
	Office of the Chief of Staff	Deputy White House Liaison	DM160001	10/2/2015
	Office of the Under Secretary for National Protection and Programs Directorate.	Special Assistant	DM160004	10/9/2015
	Federal Emergency Management Agency.	Special Assistant	DM150257	10/13/2015
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of Congressional and Intergovernmental Relations.	Senior Advisor	DU150079	10/9/2015
	Office of the Secretary	Special Assistant and Briefing Book Coordinator.	DU160002	10/27/2015
DEPARTMENT OF THE INTERIOR.	Office of Assistant Secretary—Indian Affairs.	Senior Advisor—Indian Affairs	DI150120	10/9/2015
	Office of Congressional and Legislative Affairs.	Special Assistant, Office of Congressional and Legislative Affairs.	DI150121	10/9/2015
	Secretary's Immediate Office	Special Assistant	DI150130	10/9/2015
		Deputy Director, Intergovernmental Affairs.	DI160002	10/19/2015
	United States Fish and Wildlife Service.	Special Assistant	DI150047	10/16/2015
	Office of Special Trustee for American Indians.	Advisor	DI150125	10/28/2015
	Bureau of Ocean Energy Management.	Special Assistant	DI160004	10/28/2015

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF JUSTICE	Civil Rights Division	Senior Counsel	DJ160005	10/8/2015
	Office on Violence Against Women	Confidential Assistant	DJ160007	10/13/2015
	Office of Public Affairs	Press Secretary and Senior Advisor.	DJ160003	10/15/2015
DEPARTMENT OF LABOR	Veterans Employment and Training Service.	Special Advisor	DL150094	10/8/2015
	Office of Public Affairs	Special Assistant (2)	DL16000	10/16/2015
			DL160002	10/21/2015
NATIONAL ENDOWMENT FOR THE ARTS.	Office of the Chairman	Press Secretary	NA160002	10/26/2015
		Public Affairs Specialist (Social Media).	NA160003	10/28/2015
OFFICE OF MANAGEMENT AND BUDGET.	Office of Federal Procurement Policy.	Confidential Assistant	BO150041	10/1/2015
SMALL BUSINESS ADMINISTRATION.	Office of Congressional and Legislative Affairs.	Legislative Policy Advisor	SB160002	10/6/2015
	Office of Communications and Public Liaison.	Senior Advisor for Public Engagement.	SB160001	10/15/2015
DEPARTMENT OF STATE	Bureau of Democracy, Human Rights and Labor.	Foreign Affairs Officer	DS160002	10/8/2015
		Special Assistant	DS160003	10/13/2015
	Office of the Under Secretary for Arms Control and International Security Affairs.	Senior Advisor	DS150101	10/9/2015
		Senior Advisor	DS150102	10/9/2015
	Foreign Policy Planning Staff	Special Assistant (Speechwriter)	DS150132	10/15/2015
	Office of the Under Secretary for Public Diplomacy and Public Affairs.	Writer-Editor (Speechwriter)	DS150131	10/16/2015
	Bureau of Western Hemisphere Affairs.	Foreign Affairs Officer	DS160005	10/23/2015
	Bureau of Political and Military Affairs.	Writer-Editor (Speechwriter)	DS150134	10/30/2015
	Office of the Lead Coordinator for Iran Nuclear Implementation.	Staff Assistant	DS160007	10/30/2015
TRADE AND DEVELOPMENT AGENCY.	Office of the Director	Director of Public Engagement	TD160001	10/27/2015
DEPARTMENT OF THE TREASURY.	Office of the Secretary of the Treasury.	Special Assistant	DY160002	10/2/2015
		Associate Director	DY160003	10/9/2015
		Senior Advisor	DY160004	10/9/2015
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Secretary and Deputy	Special Assistant	DV150062	10/1/2015
	Office of the Assistant Secretary for Congressional and Legislative Affairs.	Director Outreach	DV150065	10/1/2015.

The following Schedule C appointing authorities were revoked during October 2015.

Agency name	Organization name	Position title	Authorization No.	Vacate date
COMMISSION ON CIVIL RIGHTS	Office of Commissioners	Special Assistant	CC130004	10/14/2015
COMMODITY FUTURES TRADING COMMISSION	Office of the Chairman	Policy Advisor	CT150003	10/30/2015
CONSUMER PRODUCT SAFETY COMMISSION	Office of Commissioners	Special Assistant (Legal)	PS150001	10/08/2015
DEPARTMENT OF AGRICULTURE	Office of the Under Secretary for Rural Development.	Special Assistant	DA100120	10/03/2015
	Office of the Secretary	Confidential Assistant	DA150003	10/17/2015
DEPARTMENT OF COMMERCE	Office of Deputy Assistant Secretary for Legislative and Intergovernmental Affairs.	Senior Advisor	DC130010	10/12/2015
	Office of the Assistant Secretary for Industry and Analysis.	Director, Office of Advisory Committees and Industry Outreach.	DC150131	10/17/2015
	Office of Public Affairs	Director of Digital Strategy	DC150008	10/17/2015
		Press Secretary	DC120146	10/17/2015
		Director of Speechwriting	DC140099	10/31/2015
		Press Assistant	DC150082	10/31/2015
	Office of the Assistant Secretary for Economic Development.	Confidential Assistant	DC140128	10/17/2015
	Office of the Under Secretary	Chief Communications Officer	DC120150	10/17/2015
OFFICE OF THE SECRETARY OF DEFENSE	Office of the Under Secretary of Defense (Personnel and Readiness).	Special Assistant to the Principal Under Secretary for Defense, Personnel and Readiness.	DD150154	10/17/2015
OFFICE OF THE SECRETARY OF DEFENSE	Office of the Assistant Secretary of Defense (Legislative Affairs).	Special Assistant	DD120010	10/31/2015
DEPARTMENT OF THE ARMY	Office of the Under Secretary	Personal and Confidential Assistant.	DW060064	10/30/2015

Agency name	Organization name	Position title	Authorization No.	Vacate date
DEPARTMENT OF EDUCATION	Office of Legislative and Congressional Affairs.	Special Assistant	DB150022	10/03/2015
	Office of the Deputy Secretary	Deputy Chief of Staff	DB150090	10/03/2015
	Office of the Under Secretary	Deputy Director, White House Initiative on Historically Black Colleges and Universities.	DB130068	10/03/2015
	Office of Planning, Evaluation and Policy Development.	Deputy Assistant Secretary for Planning and Policy Development.	DB140048	10/09/2015
	Office of Career Technical and Adult Education.	Confidential Assistant	DB140087	10/30/2015
	Office of Elementary and Secondary Education.	Deputy Assistant Secretary for Policy and Programs.	DB150062	10/31/2015
	Office of the Secretary	Confidential Assistant	DB150015	10/31/2015
DEPARTMENT OF ENERGY	Office of Public Affairs	Deputy Press Secretary	DE150004	10/03/2015
	Office of Energy Policy and Systems Analysis.	Advisor for Climate Change	DE140062	10/31/2015
	Office of Management	Deputy Director of Scheduling and Advance.	DE150040	10/31/2015
	Office of the Secretary	Special Advisor to the Secretary	DE130116	10/31/2015
ENVIRONMENTAL PROTECTION AGENCY	Office of the Administrator	Director of Scheduling and Advance.	EP130017	10/17/2015
	Operations Staff	Deputy Director for Scheduling and Advance.	EP140014	10/17/2015
DEPARTMENT OF HEALTH AND HUMAN SERVICES	Office of the Assistant Secretary for Health.	Policy Advisor	DH130114	10/03/2015
	Office of the Assistant Secretary for Legislation.	Confidential Assistant to the Deputy Assistant Secretary for Legislation, and Discretionary Health.	DH150014	10/03/2015
	Office of the Assistant Secretary for Children and Families.	Confidential Assistant	DH140114	10/31/2015
DEPARTMENT OF HOMELAND SECURITY	Federal Emergency Management Agency.	Special Assistant	DM140208	10/03/2015
	Office of the Assistant Secretary for Intergovernmental Affairs.	Intergovernmental Affairs Coordinator.	DM150008	10/03/2015
	Office of the Chief of Staff	Special Assistant	DM150050	10/03/2015
	Office of the Secretary	Senior Counselor to the Secretary	DM150200	10/08/2015
	Office of the Assistant Secretary for Policy.	Senior Advisor for Cyber Policy	DM150172	10/16/2015
	Office of the Executive Secretariat.	Deputy Secretary Briefing Book Coordinator.	DM140206	10/16/2015
	United States Citizenship and Immigration Services.	Counselor to the Director	DM140100	10/30/2015
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the Administration	Scheduling Assistant and Briefing Book Coordinator.	DU140051	10/31/2015
DEPARTMENT OF THE INTERIOR	United States Fish and Wildlife Service.	Special Assistant	DI130045	10/17/2015
	Secretary's Immediate Office	Special Assistant	DI140023	10/18/2015
DEPARTMENT OF JUSTICE	Office of Public Affairs	Press Secretary	DJ140016	10/17/2015
	Office on Violence Against Women.	Confidential Assistant	DJ140120	10/17/2015
	Office of the Associate Attorney General.	Counsel and Chief of Staff	DJ150041	10/18/2015
OFFICE OF MANAGEMENT AND BUDGET	Office of Federal Procurement Policy.	Confidential Assistant	BO140036	10/03/2015
DEPARTMENT OF STATE	Bureau of Economic and Business Affairs.	Senior Advisor	DS140079	10/31/2015
DEPARTMENT OF TRANSPORTATION	Office of the Assistant Secretary for Governmental Affairs.	Associate Director for Governmental and Tribal Affairs.	DT140026	10/03/2015

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2016–02114 Filed 2–3–16; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76997; File No. SR–ICC–2016–001]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise the ICC Risk Management Framework

January 29, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] notice is hereby given that on January 27, 2016, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(6)[4] thereunder, so that the proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ICC proposes a revision to the ICC Risk Management Framework to formalize the reporting line of the ICC Chief Risk Officer. This revision does not require any change to the ICC Clearing Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICC proposes revising its Risk Management Framework to address a CFTC recommendation regarding ICC's governance arrangements by including language regarding the ability of risk management personnel to access the Board. Specifically, ICC added language regarding the reporting line of ICC's Chief Risk Officer, namely that the ICC Chief Risk Officer reports to the Chairperson of the ICC Risk Committee, who is also a non-executive manager on the Board.[5] ICC's policy has always allowed for the ICC Chief Risk Officer to report to the Chairperson of the ICC Risk Committee; such changes formalize this policy in the ICC Risk Management Framework.

Section 17(A)(b)(3)(F) of the Act[6] requires, among other things, that the rules of a clearing agency be designed to protect investors and the public interest and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, Section 17(A)(b)(3)(F),[7] because ICC believes that the proposed rule change will protect investors and the public interest, as the proposed revision provides additional clarity regarding ICC's governance arrangements, specifically the reporting line of the ICC Chief Risk Officer. As such, the proposed rule change is designed to protect investors and the public interest within the meaning of Section 17(A)(b)(3)(F)[8] of the Act. In addition, the proposed revision is consistent with the relevant requirements of Rule 17Ad–22,[9] as the revision provides further clarify *[sic]* and transparency regarding ICC's governance arrangements, in accordance with the requirements of Rule 17Ad–22(d)(8).[10] Further, through this Risk Management Framework revision, ICC is complying with a directive from the CFTC regarding ICC's governance arrangements.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. ICC is formalizing the reporting line of its Chief Risk Officer and not making any substantive changes to its overall risk management framework. Therefore, ICC does not believe the proposed rule changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[11] of the Act and Rule 19b–4(f)(6)[12] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

ICC has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to ICC, the proposed rule change does not present any novel or controversial issues. Rather, ICC is merely formalizing its policy of allowing the ICC's Chief Risk Officer to report to the Chairperson of the ICC Risk Committee. Accordingly, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* ICC Rule 505(c).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] *Id.*

[8] *Id.*

[9] 17 CFR 240.17Ad–22.

[10] 17 CFR 240.17Ad–22(d)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] *Id.*

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICC–2016–001 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2016–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2016–001 and should be submitted on or before February 25, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02060 Filed 2–3–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31975; 812–14518]

Susa Registered Fund, LLC and Susa Fund Management LLP; Notice of Application

January 29, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(c) and 18(i) of the Act and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of limited liability company interests (''Interests'') and to impose asset-based service and/or distribution and contingent deferred sales loads (''CDSCs'').

APPLICANTS: Susa Registered Fund, LLC (the ''Fund'') and Susa Fund Management LLP (the ''Adviser'') (together, the ''Applicants'').

FILING DATES: The application was filed on July 23, 2015 and amended on October 13, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail.

Hearing requests should be received by the Commission by 5:30 p.m. on February 23, 2016, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, c/o Kenneth S. Gerstein, Esq., Schulte Roth & Zabel LLP, 919 Third Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Vanessa M. Meeks, Senior Counsel, or Melissa R. Harke, Branch Chief, at (202) 551–6825 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.html* or by calling (202) 551–8090.

Applicants' Representations

1. The Fund is a continuously offered non-diversified closed-end management investment company registered under the Act and organized as a Delaware limited liability company.

2. The Adviser, a limited liability partnership incorporated under the laws of England and Wales, is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act'').

3. The Fund will continuously offer Interests in private placements in reliance on the provisions of Regulation D under the Securities Act of 1933, as amended (''Securities Act'').[1] Interests in the Fund are not listed on any securities exchange and do not trade on an over-the-counter system such as NASDAQ. Applicants do not expect that any secondary market will develop for Interests.

4. The Fund currently issues a single class of Interests (''Initial Class'') at net asset value. The Fund proposes to offer multiple classes of Interests at net asset value that may (but would not necessarily) be subject to a front-end sales load, an asset-based service fee and/or distribution fee, and/or an Early Repurchase Fee (defined below), in each case as set forth in the Fund's confidential private placement

[16] 17 CFR 200.30–3(a)(12).

[1] Interests in the Fund will be sold only to persons who are both: (a) ''accredited investors,'' as defined in Regulation D under the Securities Act; and (b) ''qualified clients,'' as defined in rule 205–3 under the Advisers Act. The Fund reserves the right to register Interests under the Securities Act and to conduct a public offering of Interests in the future. These Interests will be offered subject to minimum initial and subsequent purchase requirements.

memorandum (the ''Confidential Memorandum'').

5. In order to provide a limited degree of liquidity to shareholders, the Fund may from time to time offer to repurchase Interests at their then current net asset value pursuant to rule 13e 4 under the 1934 Act pursuant to written tenders by persons owning Interests in the Fund (''Members'').[2] Repurchases will be made at such times, in such amounts and on such terms as may be determined by the Fund's Board of Managers (the ''Board''), in its sole discretion. The Adviser expects to ordinarily recommend that the Board authorize the Fund to offer to repurchase Interests from Members four times each year, effective at the end of March, June, September and December.

6. The Applicants request that the order also apply to any other continuously-offered registered closed-end management investment company existing now or in the future, for which the Adviser or any entity controlling, controlled by, or under common control (as the term ''control'' is defined in section 2(a)(9) of the Act) with the Adviser acts as investment adviser, and which either (a) provides liquidity to investors by means of issuer tender offers made in compliance with rule 13e–4 under the 1934 Act or (b) operates as an ''interval fund'' pursuant to rule 23c–3 under the Act.[3]

7. Applicants represent that any asset-based service and distribution fees will comply with the provisions of rule 2830(d) of the Conduct Rules of the National Association of Securities Dealers, Inc. (''NASD Conduct Rule 2830'').[4] Applicants also represent that the Fund will disclose in its Confidential Memorandum the fees, expenses and other characteristics of each class of Interests offered for sale, as is required for open-end, multiple class funds under Form N–1A. As is required for open-end funds, the Fund will disclose its expenses in shareholder reports, and disclose any arrangements that result in breakpoints in or elimination of sales loads in its Confidential Memorandum.[5] The Fund will also comply with any requirement that may be adopted by the Commission or FINRA regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding private placement memorandum disclosure of sales loads and revenue sharing arrangements as if those requirements applied to the Fund and the Placement Agents.[6]

8. The Fund will allocate all expenses incurred by it among the various classes of Interests based on the net assets of the Fund attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses of that class. Expenses of the Fund allocated to a particular class of the Fund's Interests will be borne on a pro rata basis by each outstanding Interest of that class. The Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

9. Although the Fund does not presently anticipate imposing CDSCs, the Applicants would only do so in compliance with the provisions of rule 6c–10 of the Act, as if that rule applied to closed-end management investment companies. With respect to any waiver of, scheduled variation in, or elimination of the CDSC, the Fund will comply with rule 22d–1 under the Act as if the Fund were an open-end investment company.

Applicants' Legal Analysis

Multiple Classes of Interests

1. Section 18(c) of the Act provides, in relevant part, that a registered closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of Interests of the Fund may be prohibited by section 18(c) of the Act.

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that permitting multiple classes of Interests of the Fund may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Section 6(c) of the Act provides that, the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or from any rule or regulation under the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request exemptive relief under section 6(c) from sections 18(c) and 18(i) to permit the Funds to issue multiple classes of Interests.

4. Applicants also believe that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of Members. Applicants submit that the proposed arrangements would permit the Fund to facilitate the distribution of Interests and provide a broader choice of investment options. Applicants believe that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures. Applicants state that the Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

CDSCs

1. Applicants believe that the requested relief meets the standards of section 6(c) of the Act. Rule 6c–10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that although the Fund does not currently intend to impose CDSCs, the Fund will only impose a CDSC in compliance with rule 6c–10 as if that rule applied to closed-end

[2] A repurchase fee equal to 2.0% of the value of the Interests repurchased, which is retained by the Fund (the ''Early Repurchase Fee''), will apply with respect to any repurchases of Interests if the date as of which the Interests are to be valued for purposes of repurchase is less than one year following the date of a Member's initial investment in the Fund. The Early Repurchase Fee will equally apply to all classes of Interests of the Fund, consistent with section 18 of the Act and rule 18f–3 thereunder. To the extent the Fund determines to waive, impose scheduled variations of, or eliminate the Early Repurchase Fee, it will do so consistently with the requirements of rule 22d–1 under the Act and the Fund's waiver of, scheduled variation in, or elimination of, the Early Repurchase Fee will apply uniformly to all classes of Interests of the Fund.

[3] Any Fund relying on this relief will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each person presently intending to rely on the order requested in the application is listed as an applicant.

[4] All references to NASD Conduct Rule 2830 include any successor or replacement rule that may be adopted by FINRA.

[5] See Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release).

[6] See Confirmation Requirements and Point of Sale Disclosure Requirements for Transactions in Certain Mutual Funds and Other Securities and Other Confirmation Requirement Amendments, and Amendments to the Registration Form for Mutual Funds, Investment Company Act Release No. 26341 (Jan. 29, 2004) (proposing release).

management investment companies. The Fund would also make required disclosures in accordance with the requirements of Form N–1A concerning CDSCs as if the Fund were an open-end investment company. Applicants further state that, in the event it imposes CDSCs, the Fund will apply the CDSCs (and any waivers or scheduled variations of the CDSCs) uniformly to all Members of a given class and consistently with the requirements of rule 22d–1 under the Act.

Asset-Based Service and Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) of the Act and rule 17d–1 under the Act to permit the Fund to impose asset-based service and/or distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, and 22d–1 under the Act, as amended from time to time or replaced, as if those rules applied to closed-end management investment companies, and will comply with NASD Conduct Rule 2830, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02065 Filed 2–3–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76998; File No. 10–221]

In the Matter of the Application of ISE Mercury, LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission

January 29, 2016.

I. Introduction

On September 29, 2014, ISE Mercury, LLC (''ISE Mercury'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission'') an Application for Registration as a National Securities Exchange (''Form 1 Application'') [1] under Section 6 of the Securities Exchange Act of 1934 (''Act'').[2] On June 26, 2015, ISE Mercury submitted Amendment No. 1 to its Form 1 Application.[3] Notice of the Form 1 Application, as modified by Amendment No. 1, was published for comment in the **Federal Register** on September 16, 2015.[4] The Commission received one comment letter regarding the Form 1 Application.[5] ISE Mercury submitted a response to comments on December 7, 2015.[6] On January 8, 2016, ISE Mercury submitted Amendment No. 2 to the Form 1 Application.[7]

II. Discussion

Under Sections 6(b) and 19(a) of the Act,[8] the Commission shall by order grant an application for registration as a national securities exchange if the Commission finds, among other things, that the proposed exchange is so organized and has the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange.

As discussed in greater detail below, the Commission finds, after consideration of the comment letter and the Exchange's response thereto, that ISE Mercury's application for exchange registration meets the requirements of the Act and the rules and regulations thereunder. Further, the Commission finds that the proposed rules of ISE Mercury are consistent with Section 6 of the Act in that, among other things, they assure a fair representation of the Exchange's members in the selection of its directors and administration of its affairs and provide that one or more directors will be representative of issuers and investors and not be associated with a member of the exchange, or with a broker or dealer; [9] and that they are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest and are not designed to permit unfair discrimination between customers, issuers, or broker-dealers.[10] Finally, the

[1] ISE Mercury, in conjunction with its submission of the Form 1 Application, requested an exemption under Section 36(a)(1) of the Act from certain requirements of Rules 6a–1(a) and 6a–2 of the Act. On September 9, 2015, the Commission issued an order granting ISE Mercury exemptive relief, subject to certain conditions, in connection with the filing of its Form 1 Application. *See* Securities Exchange Act Release No. 75867 (September 9, 2015), 80 FR 55395 (September 15, 2015). Because the Form 1 Application was not considered filed without the exemptive relief, the date of filing of such application is September 9, 2015. *Id.*

[2] 15 U.S.C. 78f.

[3] Amendment No. 1, among other things, includes changes to the Limited Liability Company Agreement of ISE Mercury (''ISE Mercury LLC Agreement'') and the Constitution of ISE Mercury (''ISE Mercury Constitution'') concerning board composition and fair representation of the Exchange's members, use of confidential information for non-regulatory purposes, and the use of regulatory funds. Amendment No. 1 also includes revisions to the proposed rules of ISE Mercury. Amendment No. 1 further provides additional descriptions in Exhibit E to the Form 1 Application regarding ISE Mercury's compliance with Regulation Systems Compliance and Integrity (''Regulation SCI'').

[4] *See* Securities Exchange Act Release No. 75884 (September 10, 2015), 80 FR 55691 (''Notice'').

[5] *See* Letter from Kurt Eckert, Principal, Wolverine Trading, LLC (''Wolverine''), to Elizabeth M. Murphy, Secretary, Commission, dated October 23, 2014 (''Wolverine Letter'').

[6] *See* Letter from Michael Simon, General Counsel and Secretary, ISE Mercury, to Brent J. Fields, Secretary, Commission, dated December 7, 2015 (''ISE Mercury Response Letter'').

[7] Amendment No. 2, among other things, also includes revisions to the proposed rules of ISE Mercury to reflect changes to comparable ISE rules since the filing of Amendment No. 1. The changes proposed in Amendment No. 2 are not substantive, are consistent with the existing rules of other registered national securities exchanges, and do not raise any new or novel regulatory issues.

[8] 15 U.S.C. 78f(b) and 15 U.S.C. 78s(a), respectively.

[9] *See* 15 U.S.C. 78f(b)(3).

[10] *See* 15 U.S.C. 78f(b)(5).

Commission finds that ISE Mercury's proposed rules do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[11]

A. Overview of Ownership of ISE Mercury

ISE Mercury is structured as a Delaware limited liability company (''LLC'') and is a wholly-owned subsidiary of International Securities Exchange Holdings, Inc. (''ISE Holdings'').[12] ISE Holdings, in turn, is a wholly-owned subsidiary of U.S. Exchange Holdings, Inc. (''U.S. Exchange Holdings''), which is wholly-owned by Eurex Frankfurt AG, a German stock corporation (''Eurex Frankfurt''), and Deutsche Börse AG (''Deutsche Börse,'' and together with U.S. Exchange Holdings and Eurex Frankfurt, the ''Upstream Owners'').[13]

B. Governance of ISE Mercury

1. ISE Mercury Board of Directors

The board of directors of ISE Mercury (''ISE Mercury Board'' or ''Board'') will be its governing body and will possess all of the powers necessary for the management of its business and affairs, including governance of ISE Mercury as a self-regulatory organization (''SRO'').[14] The ISE Mercury Board will be comprised of no fewer than eight, but no more than 16, directors.[15] Specifically, at least 50% of the ISE Mercury Board must be comprised of Non-Industry Directors,[16] of which at least one of the Non-Industry Directors must be a Public Director.[17] Further, the ISE Mercury Board will include the President/Chief Executive Officer as a director.[18] Moreover, at least 30% of the ISE Mercury Board must be officers, directors or partners of ISE Mercury members, and must be elected by a plurality of holders of Exchange Rights [19] (''Industry Directors''), of which at least: (i) one must be elected by a plurality of holders of Primary Market Maker (''PMM'') Exchange Rights, (ii) one must be elected by a plurality of holders of Competitive Market Maker (''CMM'') Exchange Rights, and (iii) one must be elected by a plurality of holders of Electronic Access Member (''EAM'') Exchange Rights, provided that the number of each type of Industry Director shall always be equal.[20]

As part of the process to elect members of the Board, the Nominating Committee will nominate the proposed Industry Directors and the Corporate Governance Committee [21] and ISE Holdings will nominate the proposed Non-Industry Directors.[22] A petition process will allow ISE Mercury members to nominate alternate candidates for consideration as Industry Directors.[23] At the first annual meeting and at each annual meeting thereafter, ISE Holdings will elect all of the members of the ISE Mercury Board (except the Industry Directors, which are elected by ISE Mercury members [24]) but will be required to do so in compliance with the compositional requirements for the Board outlined in the ISE Mercury Constitution.

The Commission believes that the requirements in the ISE Mercury Constitution—that at least 30% of the directors be Industry Directors and the means by which they will be chosen by ISE Mercury members [25]—are consistent with Section 6(b)(3) of the Act because they provide for the fair representation of members in the selection of directors and the administration of ISE

[11] *See* 15 U.S.C. 78f(b)(8).

[12] Following any Commission grant of registration to ISE Mercury, ISE Holdings will be the sole holding company of three registered national securities exchanges: International Securities Exchange LLC (''ISE''), ISE Gemini Exchange, LLC (''ISE Gemini''), and ISE Mercury. *See* Exhibit C to the Form 1 Application, Section M.

[13] Eurex Frankfurt holds an 85% interest in U.S. Exchange Holdings, and Deutsche Börse holds the remaining 15%. In turn, Deutsche Börse holds a 100% interest in Eurex Frankfurt. The current upstream ownership structure of ISE Mercury is the result of the acquisition of ISE Holdings by Eurex Frankfurt in 2007 (the ''Eurex Acquisition'')1 and a corporate reorganizations in 2014.1 *See* Securities Exchange Act Release No. 56955 (December 13, 2007), 72 FR 71979 (December 19, 2007) (File No. SR–ISE–2007–101) (order approving a transaction in which ISE Holdings became a wholly-owned indirect subsidiary of Eurex Frankfurt) (''Eurex Acquisition Order''); and Securities Exchange Act Release Nos. 73530 (November 5, 2014), 79 FR 67224 (November 12, 2014) (SR–ISE–2014–44); 73860 (December 17, 2014), 79 FR 77066 (December 23, 2014); 73531 (November 5, 2014), 79 FR 67215 (November 12, 2014) (SR–ISEGemini-2014–24); and 73861 (December 17, 2014), 79 FR 77064 (December 23, 2014).

[14] *See* ISE Mercury Constitution, Article III, Section 3.1.

[15] *See* ISE Mercury Constitution, Article III, Section 3.2(a).

[16] *See* ISE Mercury Constitution, Article III, Section 3.2(b)(ii). Under the ISE Mercury Constitution, ''Non-Industry Director'' means a member of ISE Mercury Board that meets the requirements of a non-industry representative and is elected by ISE Holdings. *See id.* ''The term 'non-industry representative' means any person that is not considered an 'industry representative,' as well as (i) a person affiliated with a broker or dealer that operates solely to assist the securities-related activities of the business of non-member affiliates, (ii) an employee of an entity that is affiliated with a broker or dealer that does not account for a material portion of the revenues of the consolidated entity, and who is primarily engaged in the business of the non-member entity.'' ISE Mercury Constitution, Article VIII, Section 13.1(v). The term ''industry representative'' means a person who is an officer, director or employee of a broker or dealer or who has been employed in any such capacity at any time within the prior three (3) years, as well as a person who has a consulting or employment relationship with or has provided professional services to the Exchange and a person who had any such relationship or provided any such services to the Exchange at any time within the prior three (3) years. *See* ISE Mercury Constitution, Article VIII, Section 13.1(s).

[17] *See* ISE Mercury Constitution, Article III, Section 3.2(b)(ii). Under the ISE Mercury Constitution, ''Public Director'' means a Non-Industry Director that is a non-industry representative who has no material relationship with a broker or dealer or any affiliate of a broker or dealer or the Exchange or any affiliate of the Exchange. *See* ISE Mercury Constitution, Article VIII, Sections 13.1(aa) and (bb), and Article III, Section 3.2(b)(ii).

[18] *See* ISE Mercury Constitution, Article III, Section 3.2(b)(iii).

[19] *See* ISE Mercury Rule 300 Series. ''Exchange Rights'' means the PMM Rights, CMM Rights and EAM Rights collectively. *See* ISE Mercury Rule 100(a)(17). PMM Rights, CMM Rights and EAM Rights have the meaning set forth in Article VI of ISE Mercury LLC Agreement. *See* ISE Mercury Rules 100(a)(12), 100(a)(15) and 100(a)(36).

[20] *See* ISE Mercury Constitution, Article III, Section 3.2(b)(i).

[21] *See infra* Section II.B.3. for a description of ISE Mercury's Nominating Committee and Corporate Governance Committee.

[22] *See, e.g.,* ISE Mercury Constitution, Article III, Section 3.10(a)–(b). ISE Holdings, as the Sole LLC Member of ISE Mercury, is permitted to petition the Corporate Governance Committee to propose alternate Non-Industry Directors and Public Directors. *See* ISE Mercury Constitution, Article III, Section 3.10(b)(ii). *See also infra* note 63 for a definition of ''Sole LLC Member.''

[23] *See, e.g.,* ISE Mercury Constitution, Article III, Section 3.10(a)(ii). Specifically, in addition to the Industry Director nominees named by the Nominating Committee, persons eligible to serve as such may be nominated for election to the ISE Mercury Board by a petition, signed by the holders of not less than five percent (5%) of the outstanding Exchange Rights of the series entitled to elect such person if there are more than eighty (80) Exchange Rights in the series entitled to vote, ten percent (10%) of the outstanding rights of such series entitled to elect such person if there are between eighty (80) and forty (40) Exchange Rights in the series entitled to vote, and twenty-five percent (25%) of the outstanding Exchange Rights of such series entitled to elect such person if there are less than forty (40) Exchange Rights in the series entitled to vote. For purposes of determining whether a person has been nominated for election by petition by the requisite percentage, no ISE Mercury member, alone or together with its affiliates, may account for more than 50% of the signatures of the holders of outstanding Exchange Rights of the series entitled to elect such person, and any such signatures by such Exchange Members, alone or together with its affiliates, in excess of such 50% limitation shall be disregarded. *Id.* This process is identical to the process in place at ISE. *See* ISE Second and Amended Constitution, Article III, Section 3.10(a)(ii).

[24] *See* ISE Mercury Constitution, Article III, Sections 3.2(b)(i) and (c). The Commission notes that pursuant to Section 6.3(b) of the ISE Mercury LLC Agreement, a holder of Exchange Rights, together with any affiliate, as such term is defined in the ISE Mercury Constitution, may not exercise the voting rights associated with more than twenty percent (20%) of the outstanding Exchange Rights. Any exercise of voting rights in excess of twenty percent (20%) of the outstanding Exchange Rights by a holder of Exchange Rights, together with any affiliate, shall be deemed null and void. *See* Exhibit J.2 to the Form 1 Application.

[25] *Id. See also* ISE Mercury Constitution, Article III, Section 3.10(a)(ii).

Mercury.[26] Section 6(b)(3) of the Act requires that ''the rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer.'' As the Commission previously has noted, this statutory requirement helps to ensure that members have a voice in the Exchange's use of self-regulatory authority and that the Exchange is administered in a way that is equitable to all those persons who trade on its market or through its facilities.[27] In addition, the Commission believes that the requirements that at least 50% of the Board be composed of Non-Industry Directors and that at least one director be a Public Director satisfy the requirements of Section 6(b)(3) of the Act.[28]

2. Interim Board

After ISE Mercury is granted registration by the Commission, but prior to commencing operations, ISE Holdings, as the sole shareholder of ISE Mercury,[29] will appoint an interim board of directors for ISE Mercury that will serve only until the first annual meeting (''Interim ISE Mercury Board''). The Interim ISE Mercury Board will be comprised of the same individuals as those then-serving ISE board and ISE Gemini board and will consist of 15 directors: the President/Chief Executive Officer Director; [30] six Industry Directors; and eight Non-Industry Directors.[31] ISE Mercury anticipates that there will be a significant overlap between its membership and the membership of ISE and ISE Gemini.[32] ISE Mercury also ''does not expect to receive a meaningful number of applications for membership from non-ISE and ISE Gemini members during the tenure of the Interim ISE Mercury Board.'' [33] Thus, the six interim Industry Directors to be appointed to the ISE Mercury Board likely will have been elected by ISE Mercury members in their capacity as ISE and ISE Gemini members.[34]

These interim Industry Directors will serve until the first initial ISE Mercury Board is elected pursuant to the full nomination, petition, and voting process set forth in the ISE Mercury Constitution as described above.[35] ISE Mercury will complete such process as promptly as possible and within 90 days after its application for registration as a national securities exchange is granted by the Commission.[36]

The Commission believes that the process for electing the Interim ISE Mercury Board, as proposed, is consistent with the requirements of the Act, including that the rules of the exchange assure fair representation of the exchange's members in the selection of its directors and administration of its affairs.[37] The Commission believes that the Interim ISE Mercury Board process is designed to provide member representation sufficient to allow ISE Mercury to commence operations for an interim period prior to going through the process to elect a new Board pursuant to the full nomination, petition, and voting process set forth in the ISE Mercury Constitution.

The Interim ISE Mercury Board will be filled by current ISE and ISE Gemini Board members (which currently include Industry Directors who were elected by current ISE and ISE Gemini members) until the first annual meeting of ISE Mercury.[38] As noted above, ISE Mercury anticipates that there will be significant overlap between the initial members of ISE Mercury and the current members of ISE and ISE Gemini.[39] Moreover, ISE Mercury will complete the full nomination, petition, and voting process, as set forth in the ISE Mercury Constitution,[40] as promptly as possible and within 90 days of when ISE Mercury's application for registration as a national securities exchange is granted.[41] As a part of the full nomination, petition, and voting process, members of ISE Mercury will be able to petition for alternate candidates to be considered for Industry Director positions.[42] This process will provide persons who are approved as members of ISE Mercury after the effective date of this order with the opportunity to participate in the selection of the Industry Directors.

3. Exchange Committees

ISE Mercury will have a number of Board committees,[43] including an Executive Committee (consisting of six directors, and with the number of Non-Industry Directors equaling or exceeding the number of Industry Directors),[44] a Finance and Audit Committee (consisting of between three and five directors, all of whom must be Non-Industry Directors),[45] a Compensation Committee (consisting of between three and five directors, all of whom must be Non-Industry Directors),[46] a Corporate Governance Committee (consisting of at least three directors, all of whom must be Non-Industry Directors),[47] and such other additional committees as may be approved by the ISE Mercury Board.[48]

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[26] 15 U.S.C. 78f(b)(3).

[27] *See, e.g.,* Securities Exchange Act Release Nos. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (File No. 10–209) (order granting the exchange registration of ISE Gemini) (''ISE Gemini Order''); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (order granting the exchange registration of Nasdaq Stock Market, Inc.) (''Nasdaq Order''); and 58375 (August 18, 2008), 73 FR 49498 (August 21, 2008) (File No. 10–182) (order granting the exchange registration of BATS Exchange, Inc.) (''BATS Order'').

[28] 15 U.S.C. 78f(b)(3). *See also* ISE Gemini Order, *supra* note 27; Securities Exchange Act Release No. 68341, p.8, (December 3, 2012), 77 FR 73065, 73067 (December 7, 2012) (File No. 10–207) (order granting the registration of Miami International Securities Exchange, LLC) (''MIAX Order''); and Regulation of Exchanges and Alternative Trading Systems, Securities Exchange Act Release No. 40760 (December 8, 1998), 63 FR 70844 (December 22, 1998) (''Regulation ATS Release'').

[29] *See infra* Section II.C.1. for a discussion of the ownership of ISE Mercury.

[30] *See* Exhibit J to the Form 1 Application.

[31] *See* Exhibit J to the Form 1 Application.

[32] *See* Exhibit L to the Form 1 Application. Based on discussions with ISE members, ISE Mercury represented that it currently expects that ISE Mercury's membership will consist substantially of current ISE and ISE Gemini members, including, but not limited to, those ISE and ISE Gemini members that have representatives serving as industry directors on the ISE Board. *See* Exhibit J to ISE Mercury Form 1 Application.

[33] Exhibit J to the Form 1 Application.

[34] *See id.*

[35] *See* ISE Mercury Constitution, Article III, Sections 3.2(c) and 3.10; *see also* Exhibit J to the Form 1 Application.

[36] *See* Exhibit J to the Form 1 Application.

[37] *See* 15 U.S.C. 78f(b)(3). ISE Mercury's proposed timeline for the Interim ISE Mercury Board process comports with the interim board process approved by the Commission for ISE Gemini, the Boston Options Exchange (''BOX'') and Miami International Securities Exchange, LLC (''MIAX''). *See* ISE Gemini Order, *supra* note at 27; Securities Exchange Act Release No. 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012) (File No. 10–206) (''BOX Order''); and the MIAX Order, *supra* note 28.

[38] *See* Exhibit J to the Form 1 Application.

[39] ISE Mercury will have a streamlined waive-in process for existing ISE and ISE Gemini members to apply for membership on ISE Mercury. *See* ISE Mercury Rule 302(a).

[40] *See, e.g.,* ISE Mercury Constitution, Article III, Section 3.10(a)–(b).

[41] *See* ISE Mercury Constitution, Article III, Sections 3.2(c) and 3.10.

[42] *See* ISE Mercury Constitution, Article III, Section 3.10(a)(ii).

[43] *See* ISE Mercury Constitution, Article V, Section 5.1(a).

[44] *See* ISE Mercury Constitution, Article V, Section 5.2. The Executive Committee will have and may exercise all the powers and authority of the Board, except that the Executive Committee will not have the powers of the Board with respect to approving: (i) Any merger, consolidation, sale of substantially all of the assets or dissolution of the Exchange; or (ii) any matters pertaining to the self-regulatory function of the Exchange or relating to the structure of the market which the Exchange regulates. *See id.*

[45] *See* ISE Mercury Constitution, Article V, Section 5.5.

[46] *See* ISE Mercury Constitution, Article V, Section 5.6.

[47] *See* ISE Mercury Constitution, Article V, Section 5.4.

[48] *See* ISE Mercury Constitution, Article V, Section 5.1(a).

ISE Mercury also will have a Nominating Committee, which will be a committee of ISE Mercury and not a committee of the Board.[49] The Nominating Committee will be composed of three Exchange Member Representatives [50] and will be responsible for nominating candidates for Industry Director positions.[51] As noted above, there will be a petition process by which members of ISE Mercury can nominate their own nominees for the Industry Director positions.[52] These nomination processes are consistent with processes that the Commission has approved for other national securities exchanges.[53]

The Commission believes that ISE Mercury's proposed committees, which are similar to committees maintained by other national securities exchanges,[54] are designed to help enable ISE Mercury to carry out its responsibilities under the Act and are consistent with the Act, including Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.[55]

C. Regulation of ISE Mercury

When ISE Mercury commences operations as a national securities exchange, it will have all the attendant regulatory obligations under the Act. In particular, ISE Mercury will be responsible for the operation and regulation of its trading system and the regulation of its members. Certain provisions in the ISE Mercury's and ISE Holdings' governance documents are designed to facilitate the ability of ISE Mercury and the Commission to fulfill their regulatory and oversight obligations under the Act. The discussion below summarizes some of these key provisions.

1. Ownership Structure: Ownership and Voting Limitations

As noted above in Section II.A, ISE Mercury is a Delaware LLC and a wholly-owned subsidiary of ISE Holdings.[56] ISE Holdings is owned by Eurex Frankfurt and Deutsche Börse through an intermediary holding company, U.S. Exchange Holdings. ISE Holdings' governing documents impose limits on any direct or indirect change in control of ISE Holdings, which are to be enforced through the creation of a statutory trust.[57]

Specifically, ISE Holdings' governing documents prohibit any ISE Mercury member (alone or together with its Related Persons [58]) from owning more than 20% of any class of Voting Shares of ISE Holdings.[59] Moreover, pursuant to ISE Holdings' governing documents, no person (alone or together with its Related Persons) may own more than 40% of any class of Voting Shares of ISE Holdings.[60] Finally, no person (alone or together with its Related Persons) may vote or cause the voting of shares representing more than 20% of the voting power of the then outstanding Voting Shares of ISE Holdings.[61] As described more fully below, if a person exceeds an ISE Holdings' ownership or voting limit, a majority of the capital stock of ISE Holdings that has the right by its terms to vote in the election of the ISE Holdings Board or on other matters (other than matters affecting the rights, preferences or privileges of the capital stock) automatically will be transferred to a Delaware statutory trust (''ISE Trust'').[62]

The ISE Mercury LLC Agreement and ISE Mercury Constitution do not include change of control provisions that are similar to those in the ISE Holdings Certificate and ISE Holdings Bylaws. However, the ISE Mercury LLC Agreement and the ISE Mercury Constitution explicitly provide that ISE Holdings is the Sole LLC Member of ISE Mercury.[63] Under the ISE Mercury LLC Agreement, ISE Holdings is permitted to ''assign all (but not less than all)'' of its

[49] *See* ISE Mercury Constitution, Article V, Section 5.3.

[50] *See id.* Article XIII, Section 13.1(n) of the ISE Mercury Constitution defines ''Exchange Member Representative'' as an associated person of an Exchange Member, and Section 13.1(m) defines ''Exchange Member'' as an organization that has been approved to exercise trading rights associated with Exchange Rights.

[51] *See* ISE Mercury Constitution, Article V, Section 5.3. The Interim ISE Mercury Board shall appoint the initial members of the Nominating Committee in accordance with the qualifications prescribed in Section 5.3 of the ISE Mercury Constitution.

[52] *See* ISE Mercury Constitution, Article III, Section 3.10(a)(ii). *See also supra* note 23 and accompanying text.

[53] *See, e.g.,* ISE Second Amended and Restated Constitution, Articles III and V, Sections 3.10 and 5.3; ISE Gemini Constitution, Articles III and V, Sections 3.10 and 5.3; and MIAX Amended and Restated By-laws, Articles II and V, Sections 2.4 and 5.3.

[54] *See, e.g.,* ISE Gemini Order, *supra* note 27, MIAX Order, *supra* note 28, and BOX Order, *supra* note 37.

[55] 15 U.S.C. 78f(b)(1).

[56] The ISE Mercury LLC Agreement provides that ISE Holdings may not assign its interest in ISE Mercury unless such assignment is subject to prior approval by the Commission pursuant to the rule filing procedure under Section 19 of the Act. *See* ISE Mercury LLC Agreement, Section 7.1 (Assignments; Additional LLC Members).

[57] *See* Article FOURTH, Section III.(c) of the Second Amended and Restated Certificate of Incorporation of International Securities Exchange Holdings, Inc. (''ISE Holdings Certificate''). *See infra* notes 67–69 and 101–105 and accompanying text for a discussion of the statutory trust.

[58] *See* ISE Holdings Certificate, Article FOURTH, Section III for the definition of ''Related Persons.''

[59] *See* ISE Holdings Certificate, Article FOURTH, Section III.(a)(i) for the definition of ''Voting Shares.'' The ISE Holdings Certificate defines ''Voting Shares'' as shares of the capital stock (whether Common Stock or Preferred Stock) of the ISE Holdings that have the right by their terms to vote in the election of members of the ISE Holdings board of directors (''ISE Holdings Board'') or on other matters which may require the approval of the holders of voting shares of the ISE Holdings (other than matters affecting the rights, preferences or privileges of a particular class of capital stock).

[60] *See* ISE Holdings Certificate, Article FOURTH, Section III.(a)(i).

[61] *See* ISE Holdings Certificate, Article FOURTH, Section III.(b). *See also* Second Amended and Restated Bylaws of ISE Holdings (''ISE Holdings Bylaws''), Article XI, Section 11.1(b).

[62] *See* ISE Holdings Certificate, Article FOURTH, Section III.(c). *See also infra* notes 67–70 and accompanying text for a discussion of the ISE Trust.

Consistent with the governance structure of other exchanges, however, ISE Holdings Board may waive the 40% ownership limitation and the 20% voting restriction for persons other than ISE Mercury members, subject to certain specified conditions, but such waiver will not be effective unless approved by the Commission. Specifically, The ISE Holdings Certificate allows the ISE Holdings Board to waive the ISE Holdings ownership and voting limits pursuant to an amendment to the ISE Holdings Bylaws, provided that the ISE Holdings Board makes certain determinations. *See* ISE Holdings Certificate, Article FOURTH, Sections III.(a)(i)(A), III.(a)(i)(B) and III.(b)(i).

Article XI of the ISE Holdings Bylaws waives the ISE Holdings ownership and voting limits to allow the Upstream Owners to own and vote all of the common stock of ISE Holdings. Article XI, Section 11.1(b) states that, in waiving the ISE Holdings ownership and voting limits to permit the Upstream Owners to own and vote the capital stock of ISE Holdings, the ISE Holdings Board has determined, with respect to each Upstream Owner, that: (i) Such waiver will not impair the ability of ISE Holdings and each ''Controlled National Securities Exchange'' (*i.e.,* any national securities exchange or facility thereof controlled, directly or indirectly, by ISE Holdings, including ISE, ISE Gemini, and as a result of this order, ISE Mercury) to carry out their respective functions and responsibilities under the Act; (ii) such waiver is in the best interests of ISE Holdings, its stockholders, and each Controlled National Securities Exchange; (iii) such waiver will not impair the ability of the Commission to enforce the Act; (iv) neither the Upstream Owner nor any of its related persons is subject to a statutory disqualification (within the meaning of Section 3(a)(39) of the Act, 15 U.S.C. 78c(a)(39)); and (v) neither the Upstream Owner nor any of its related persons is a member of such Controlled National Securities Exchange. Article XI of the ISE Holdings Bylaws was adopted in connection with the Eurex Acquisition, when ISE was the sole national securities exchange controlled by ISE Holdings. *See* Eurex Acquisition Order, *supra* note 13. Article XI, Section 11.1(b) was subsequently amended to apply to any Controlled National Securities Exchange, which by its terms will include ISE Mercury. *See* Securities Exchange Act Release No. 59135 (December 22, 2008), 73 FR 79954 (December 30, 2008) (order approving proposed rule change relating to the purchase by ISE Holdings of an ownership interest in Direct Edge Holdings, Inc.) and 61498 (February 4, 2010), 75 FR 7299 (February 18, 2010) (order approving proposed rule change relating to changes to the U.S. Exchange Holdings corporate documents and ISE Trust).

[63] *See* ISE Mercury LLC Agreement, Article II, Section 2.1 and ISE Mercury Constitution Article I, Section 1.1 (both of which define ''Sole LLC Member'' to mean ISE Holdings, as the sole member of ISE Mercury).

interest in ISE Mercury, but the assignment of all of ISE Holdings' interest in ISE Mercury will be subject to prior approval by the Commission pursuant to the rule filing procedures under Section 19 of the Act.[64]

To facilitate compliance with the ISE Holdings ownership and voting limits, the Upstream Owners have committed to take reasonable steps necessary to cause ISE Holdings to be in compliance with the ISE Holdings ownership and voting limits. These commitments are contained in the governing documents for U.S. Exchange Holdings[65] and in corporate resolutions for Eurex Frankfurt and Deutsche Börse.[66]

In connection with the Eurex Acquisition, ISE implemented the ISE Trust pursuant to a Trust Agreement (''2007 Trust Agreement'') among ISE Holdings, U.S. Exchange Holdings, trustees (''Trustees''), and a Delaware trustee, which agreement has been subsequently amended to take into account subsequent acquisitions, including the current transaction.[67] The ISE Trust Agreement serves, in part, to effectuate the ownership and voting limits for ISE Holdings in the event that a person obtains an ownership or voting interest in excess of the limits established in the ISE Holdings Certificate without prior Commission approval. To accomplish that purpose, for as long as ISE Holdings controls, directly or indirectly, a national securities exchange, including ISE Mercury, the ISE Trust would accept, hold and dispose of Trust Shares[68] on the terms and subject to the conditions set forth therein.[69] Specifically, if any person's ownership percentage exceeds the ownership limits or any person's voting control percentage exceeds the voting limits without Commission approval, the Excess Shares will be transferred automatically to the ISE Trust pursuant to the terms prescribed in the ISE Holdings Certificate.[70] The ISE Trust then would accept the Excess Shares and hold them for the benefit of the trust beneficiary, U.S. Exchange Holdings, who has the right to reacquire the Excess Shares either when a person no longer exceeds the ownership or voting limits or when such excess ownership percentage or voting control percentage is approved by the Commission in accordance with ISE Holdings Certificate.[71]

Although ISE Holdings is not independently responsible for regulation of ISE Mercury, its activities with respect to the operation of ISE Mercury must be consistent with, and must not interfere with, the self-regulatory obligations of ISE Mercury.[72] As described above, the provisions applicable to direct and indirect changes in control of ISE Holdings and ISE Mercury, as well as the voting limitation, are designed to help prevent any owner of ISE Holdings from exercising undue influence or control over the operation of ISE Mercury and to help ensure that ISE Mercury is able to effectively carry out its regulatory obligations under the Act. In addition, these limitations are designed to address the conflicts of interests that might result from a member of a national securities exchange owning interests in the Exchange. As the Commission has noted in the past, however, a member's interest in an exchange, including an entity that controls an exchange, could become so large as to cast doubts on whether the exchange may fairly and objectively exercise its self-regulatory responsibilities with respect to such member.[73] A member that is a controlling shareholder of an exchange could seek to exercise that controlling influence by directing the exchange to refrain from, or the exchange may hesitate to, diligently monitor and conduct surveillance of the member's conduct or diligently enforce the exchange's rules and the federal securities laws with respect to conduct by the member that violates such provisions. As such, these requirements are designed to minimize the potential that a person or entity can improperly interfere with or restrict the ability of ISE Mercury to effectively carry out its regulatory oversight responsibilities under the Act.

The Commission believes that ISE Mercury's and ISE Holdings' proposed ownership and voting limitation provisions, together with the provisions in U.S. Exchange Holdings' governing documents, the ISE Mercury Resolutions, and the ISE Trust

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[64] *See* 15 U.S.C. 78s; *see also* ISE Mercury LLC Agreement, Article VII, Section 7.1 and ISE Mercury Constitution, Article I, Section 1.1.

[65] The Third Amended and Restated Certificate of Incorporation of U.S. Exchange Holdings (''U.S. Exchange Holdings Certificate'') provides that, for so long as U.S. Exchange Holdings directly or indirectly controls a Controlled National Securities Exchange, U.S. Exchange Holdings will take reasonable steps necessary to cause ISE Holdings to be in compliance with the ISE Holdings' ownership and voting limits. *See* U.S. Exchange Holdings Certificate, Article THIRTEENTH.

[66] *See, e.g.,* Form of German Parent Corporate Resolutions (2007 Resolution Section (4)), Exhibit B to the Form 1 Application. In the Form 1 Application, ISE Mercury included these supplemental resolutions that Eurex Frankfurt and Deutsche Börse have each adopted that, in part, incorporate provisions regarding the ownership and voting limits (''ISE Mercury Resolutions'') in the same manner and to the same extent as prior corporate resolutions signed by Eurex Frankfurt and Deutsche Börse apply to ISE and ISE Gemini (''2007 Resolutions''). The ISE Mercury Resolutions were signed by Eurex Frankfurt and Deutsche Börse, and extend to ISE Mercury the commitments made in the 2007 Resolutions with respect to ISE and ISE Gemini. For example, ISE Mercury represented in Exhibit B of Amendment No. 2 to the Form 1 Application that the Deutsche Börse AG Executive Board adopted its corporate resolution on February 17, 2015 and the Eurex Frankfurt Executive Board adopted its corporate resolutions on February 13, 2015.

[67] *See* Third Amended and Restated Trust Agreement, dated as of December 22, 2014, by and among ISE Holdings, U.S. Exchange Holdings, and the Trustees (''ISE Trust Agreement''). The term of the ISE Trust is perpetual, provided that ISE Holdings directly or indirectly controls a national securities exchange or a facility thereof, which would include ISE Mercury. *See* ISE Trust Agreement, Article III, Section 2.6(a). *See also* Eurex Acquisition Order, *supra* note 13, at Section II.C., for a more detailed description of the ISE Trust. By its terms, the 2007 Trust Agreement related solely to ISE Holdings' ownership of ISE, and not to any other national securities exchange that ISE Holdings might control, directly or indirectly. In 2010, the Commission approved proposed rule changes that revised the 2007 Trust Agreement to replace references to ISE with references to any Controlled National Securities Exchange. *See* Securities Exchange Act Release Nos. 59135 (December 22, 2008), 73 FR 79954 (December 30, 2008) (''ISE Holdings Order'') and 61498 (February 4, 2010), 75 FR 7299 (February 18, 2010) (''U.S. Exchange Holdings Order''); *see also* ISE Trust Agreement, Articles I and II, Sections 1.1 and 2.6. Thus, the ISE Trust Agreement also applies to ISE Gemini and will apply to ISE Mercury, upon the Commission granting ISE Mercury registration as a national securities exchange.

[68] Under the ISE Trust Agreement, the term ''Trust Shares'' means either Excess Shares or Deposited Shares, or both, as the case may be. The term ''Excess Shares'' means that a person obtained an ownership or voting interest in ISE Holdings in excess of the ownership and voting limits pursuant to Article FOURTH of the ISE Holdings Certificate, for example, through ownership of one of the Upstream Owners, without obtaining the approval of the Commission. The term ''Deposited Shares'' means shares that are transferred to the ISE Trust pursuant to the ISE Trust's exercise of the Call Option. Under the ISE Trust Agreement, the term ''Call Option'' means the option granted by the ISE Trust beneficiary to the ISE Trust to call the Voting Shares as set forth in Section 4.2 therein. *See infra* Section II.C.2.b for further discussion of the Call Option.

[69] *See* ISE Trust Agreement, Article IV, Section 4.1; *see also* ISE Holdings Certificate, Article FOURTH, Section III.(c); Eurex Acquisition Order, *supra* note 13, at 72 FR 71982 n.37 and accompanying text.

[70] *See id.*

[71] *See* ISE Trust Agreement, Article IV, Section 4.1(f). In addition, as discussed in Section II.C.2.b below, the Trust also may accept, hold and dispose of Trust Shares in connection with the Call Option. Section 4.2(h) of the ISE Trust Agreement governs when the Trustees can transfer Deposited Shares in connection with the Call Option. Section 4.3(a) of the ISE Trust Agreement further permits the Trustees, upon receipt of written instructions from the Trust Beneficiary, to sell Trust Shares to a person or persons whose ownership percentage or voting control percentage will not violate the ownership or voting limits.

[72] *See also infra* Section II.C.2. (Regulatory Independence and Oversight).

[73] *See, e.g.,* ISE Gemini Order, *supra* note 27; and BATS Order, *supra* note 27; *see also* MIAX Order, *supra* note 28.

Agreement described above,[74] are consistent with the Act, including Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.[75] In particular, these requirements are designed to minimize the potential that a person could improperly interfere with or restrict the ability of the Commission or ISE Mercury to effectively carry out their regulatory oversight responsibilities under the Act.[76]

2. Regulatory Independence and Oversight

a. ISE Holdings

Although ISE Holdings itself will not itself carry out regulatory functions, its activities with respect to the operation of ISE Mercury must be consistent with, and not interfere with, the self-regulatory obligations of ISE Mercury.[77] In this regard, ISE Mercury and ISE Holdings' respective corporate documents include certain provisions that are designed to maintain the independence of ISE Mercury's self-regulatory function. These provisions are substantially similar to those included in the governing documents of the exchanges that have most recently been granted registration.[78] Specifically:

- The directors, officers, and employees of ISE Holdings must give due regard to the preservation of the independence of the self-regulatory function of ISE Mercury and must not take actions that would interfere with the effectuation of decisions by the ISE Mercury Board relating to ISE Mercury's regulatory functions (including disciplinary matters) or that would adversely affect the ability of ISE Mercury to carry out its responsibilities under the Act.[79]
- ISE Holdings must comply with federal securities laws and the rules and regulations promulgated thereunder, and must cooperate with ISE Mercury and the Commission pursuant to, and to the extent of, their respective regulatory authority. In addition, ISE Holdings' officers, directors, and employees must comply with federal securities laws and the rules and regulations thereunder and agree to cooperate with ISE Mercury and the Commission pursuant to their respective regulatory authority.[80]
- ISE Holdings, and its officers, directors, employees, and agents are deemed to irrevocably submit to the jurisdiction of the U.S. federal courts, the Commission, and ISE Mercury, for purposes of any suit, action, or proceeding pursuant to U.S. federal securities laws, and the rules and regulations thereunder, arising out of, or relating to, ISE Mercury's activities.[81]
- All books and records of ISE Mercury containing confidential information pertaining to the self-regulatory function of ISE Mercury (including but not limited to confidential information regarding disciplinary matters, trading data, trading practices and audit information) will be subject to confidentiality restrictions.[82]
- The books and records of ISE Mercury and ISE Holdings must be maintained in the United States[83] and, to the extent they are related to the operation or administration of ISE Mercury, ISE Holdings books and records will be subject at all times to inspection and copying by the Commission.[84]
- Furthermore, to the extent that they are related to the activities of ISE Mercury, the books, records, premises, officers, directors, and employees of ISE Holdings will be deemed to be the books, records, premises, officers, directors, and employees of ISE Mercury, for purposes of, and subject to oversight pursuant to, the Act.[85]
- ISE Holdings will take necessary steps to cause its officers, directors, and employees, prior to accepting a position as an officer, director, or employee (as applicable) to consent in writing to the applicability of provisions regarding books and records, confidentiality, jurisdiction, and regulatory obligations, with respect to their activities related to ISE Mercury.[86]
- ISE Holdings Certificate and ISE Holdings Bylaws require that, so long as ISE Holdings controls ISE Mercury, any changes to those documents be submitted to the ISE Mercury Board, and, if required, to be filed with, and as applicable approved by, the Commission pursuant to Section 19 of the Act and the rules thereunder before they may be effective.[87]

b. Upstream Owners

Although the Upstream Owners will not carry out any regulatory functions, the activities of each of the Upstream Owners with respect to the operation of ISE Mercury must be consistent with, and not interfere with, the self-regulatory obligations of ISE Mercury. The 2007 Resolutions, as supplemented by the supplemental Resolutions for ISE Mercury, the U.S. Exchange Holdings Certificate, and the U.S. Exchange Holdings Bylaws include certain provisions that are designed to maintain the independence of the self-regulatory function of ISE Mercury, enable ISE Mercury to operate in a manner that complies with the U.S. federal securities laws, including the objectives and requirements of Sections 6(b) and 19(g)

[74] *See supra* notes 65–66, and accompanying text.

[75] 15 U.S.C. 78f(b)(1).

[76] In addition, the ISE Trust Agreement is consistent with the provisions that other entities that directly or indirectly own or control an SRO have instituted and that have been approved by the Commission. *See, e.g.,* Securities Exchange Act Release No. 55293 (February 14, 2007), 72 FR 8033 (February 22, 2007) (File No. SR–NYSE–2006–120) (order relating to the combination between NYSE Group, Inc. and Euronext N.V.). *See also* Eurex Acquisition Order, *supra* note 13, at 72 FR 71986 n.111.

[77] *See, e.g.,* ISE Gemini Order, *supra* note 27; and BOX Order, *supra* note 37.

[78] *See, e.g.,* ISE Gemini Order, *supra* note 27; BOX Order, *supra* note 37; MIAX Order, *supra* note 28.

[79] *See* ISE Holdings Bylaws, Article I, Section 1.5. Similarly, Article V, Section 5.1(b) of the ISE Mercury LLC Agreement requires each ISE Mercury Board director to take into consideration the effect that his or her actions would have on the ability of ISE Mercury to carry out its responsibilities under the Act and on the ability of ISE Mercury to engage in conduct that fosters and does not interfere with ISE Mercury's ability to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system; and in general to protect investors and the public interest.

[80] *See* ISE Holdings Certificate, Article TENTH. ISE Holdings also shall take reasonable steps necessary to cause its agents to cooperate with ISE Mercury and the Commission pursuant to their respective regulatory authority. ISE Holdings Certificate, Article THIRTEENTH.

[81] *See* ISE Holdings Bylaws, Article I, Section 1.4.

[82] *See* ISE Holdings Certificate, Article ELEVENTH. Additionally, pursuant to the ISE Mercury LLC Agreement, books and records of ISE Mercury containing confidential information pertaining to the self-regulatory function of ISE Mercury (including but not limited to confidential information regarding disciplinary matters, trading data, trading practices and audit information) shall be retained in confidence by ISE Mercury and its officers, directors, employees and agents and will not be used by ISE Mercury for any non-regulatory purpose and shall not be made available to persons other than those officers, directors, employees and agents that have a reasonable need to know the contents thereof. *See* ISE Mercury LLC Agreement, Article VI, Section 4.1(b). The requirement to keep such information confidential shall not limit or impede the Commission's ability to access and examine such information or limit or impede the ability of officers, directors, employees, or agents of ISE Holdings to disclose such information to the Commission. *See* ISE Holdings Certificate, Article ELEVENTH and ISE Mercury LLC Agreement, Article VI, Section 4.1(b).

[83] *See* ISE Mercury LLC Agreement, Article IV, Section 4.1 and ISE Holdings Bylaws, Article I, Section 1.3.

[84] *See* ISE Holdings Certificate, Article TWELFTH.

[85] *See id.*

[86] *See* ISE Holdings Bylaws, Article I, Section 1.6.

[87] *See* ISE Holdings Certificate, Article FOURTEENTH; and ISE Holdings Bylaws, Article X; *see also supra* notes 63–64 and accompanying text discussing a similar provision for ISE Mercury.

of the Act,[88] and facilitate the ability of ISE Mercury and the Commission to fulfill their regulatory and oversight obligations under the Act. Specifically:

- Each Upstream Owner and each board member, officer, and employee of the Upstream Owners will comply with the U.S. federal securities laws and the rules and regulations thereunder and cooperate with the Commission and ISE Mercury.[89]
- In discharging his or her responsibilities as a board member of an Upstream Owner, each such member must take into consideration the effect that the actions of the Upstream Owner will have on the ability of ISE Mercury to carry out its responsibilities under the Act.[90]
- The Upstream Owners, and their board members, officers, and employees, must give due regard to the preservation of the independence of the self-regulatory function of ISE Mercury.[91]
- The Upstream Owners, and their respective board members, officers, and employees agree to keep confidential information pertaining to the self-regulatory function of ISE Mercury, including, but not limited to, confidential information regarding disciplinary matters, trading data, trading practices, and audit information, contained in the books and records of ISE Mercury and not use such information for any non-regulatory purposes.[92]
- The books and records of the Upstream Owners related to the activities of ISE Mercury must at all times be made available for, and the books and records of U.S. Exchange Holdings must be subject at all times to, inspection and copying by the Commission and ISE Mercury.[93]
- The books, records, officers, directors, and employees of each of the Upstream Owners will be deemed to be the books, records, officers, directors, and employees of ISE Mercury, to the extent that such books and records are related to, or such officers, directors (or equivalent in the case of Eurex Frankfurt and Deutsche Börse) and employees are involved in, the activities of ISE Mercury,[94] and the premises of U.S. Exchange Holdings will be deemed to be the premises of ISE Mercury.[95]
- To the extent involved in the activities of ISE Mercury, the Upstream Owners, and their board members, officers, and employees, irrevocably submit to the jurisdiction of the U.S. federal courts and the Commission.[96]
- Any change to the governing documents that would have the effect of amending or repealing the ISE Mercury Resolutions or the 2007 Resolutions must be submitted to the ISE Mercury Board,[97] and, if required, filed with the Commission pursuant to Section 19 of the Act [98] and the rules thereunder before it may be effective.[99]

The ISE Trust Agreement, in addition to enforcing the ownership and voting limits,[100] also serves to effectuate compliance with the other commitments made under the ISE Mercury Resolutions, which incorporate the 2007 Resolutions. To accomplish that purpose, the ISE Trust would determine whether a Material Compliance Event [101] has occurred or is continuing. The ISE Trust would determine whether the occurrence and continuation of a Material Compliance Event requires the exercise of the Call Option.[102] The ISE Trust holds a Call Option over the capital stock of ISE Holdings that may be exercised if a Material Compliance Event has occurred and continues to be in effect. Upon exercise of the Call Option, the Trust Beneficiary [103] and ISE Holdings, as applicable, will take such actions as are necessary to transfer, or cause the transfer to the ISE Trust of a majority of the Voting Shares then outstanding.[104] The ISE Trust will transfer Deposited Shares from the ISE Trust back to the Trust Beneficiary, as provided in Section 4.2(h) of the ISE Trust Agreement, only if no Material Compliance Event is continuing or, notwithstanding its continuation, the Trustees determine that the retention of the Deposited Shares could not reasonably be expected to address the continuing Material Compliance Event, provided that the determination is filed with, or filed with and approved by, the Commission.[105]

The Commission believes that the provisions discussed above, which are designed to help maintain the independence of ISE Mercury's regulatory function and help facilitate the ability of ISE Mercury to carry out its regulatory responsibilities and operate in a manner consistent with the Act, are appropriate and consistent with the requirements of the Act, particularly with Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.[106] Whether ISE Mercury operates in compliance with the Act, however, depends on how it and ISE Holdings in practice implement

[88] 15 U.S.C. 78f(b) and 15 U.S.C. 78s(g).

[89] *See, e.g.,* Form of German Parent Corporate Resolutions (2007 Resolution Sections (1), (7)(a) and (8)(a) and ISE Mercury Resolution Sections (2)(a), (2)(b) and (2)(c)); and U.S. Exchange Holdings Certificate, Articles TENTH and ELEVENTH. The Resolutions also provide that Eurex Frankfurt and Deutsche Börse will each take reasonable steps necessary to cause each person who subsequently becomes a board member of Eurex Frankfurt or Deutsche Börse to agree in writing to certain matters included in the Resolutions. *See, e.g.,* Form of German Parent Corporate Resolutions (2007 Resolution Section (7) and ISE Mercury Resolution Section (2)(b)).

[90] *See, e.g.,* Form of German Parent Corporate Resolutions (2007 Resolution Section (7)(f) and ISE Mercury Resolution Section (2)(b)); and U.S. Exchange Holdings Certificate, Article TENTH.

[91] *See, e.g.,* Form of German Parent Corporate Resolutions (2007 Resolution Sections (5), (7)(d), and (8)(d) and ISE Mercury Resolution Section (2)); and U.S. Exchange Holdings Certificate, Article TWELFTH.

[92] *See, e.g.,* Form of German Parent Corporate Resolutions (2007 Resolution Sections (6), (7)(e) and (8)(e) and ISE Mercury Resolution Sections (1) and (2)); and U.S. Exchange Holdings Certificate, Article FOURTEENTH.

[93] *See, e.g.,* Form of German Parent Corporate Resolutions (2007 Resolution Section (3) and ISE Mercury Resolution Section (2)(a)); and U.S. Exchange Holdings Certificate, Article FIFTEENTH. Additionally, the books and records of U.S. Exchange Holdings related to the activities of ISE Mercury will be maintained within the United States. *See* U.S. Exchange Holdings Certificate, Article FIFTEENTH.

[94] *See, e.g.,* Form of German Parent Corporate Resolutions (2007 Resolution Sections (3) and (8)(c) and ISE Mercury Resolution Sections (2)(a) and (2)(c)); and U.S. Exchange Holdings Certificate, Article FIFTEENTH.

[95] *See* U.S. Exchange Holdings Certificate, Article FIFTEENTH.

[96] *See, e.g.,* Form of German Parent Corporate Resolutions (2007 Resolution Sections (2), (7)(b), and (8)(b) and ISE Mercury Resolution Section (2)). *See also* U.S. Exchange Holdings Bylaws, Article VI, Section 16.

[97] *See, e.g.,* Form of German Parent Corporate Resolutions (ISE Mercury Resolution Section (3)); U.S. Exchange Holdings Certificate, Article SIXTEENTH; and U.S. Exchange Holdings Bylaws, Article VI, Section 9.

[98] 15 U.S.C. 78s.

[99] *See, e.g.,* Form of German Parent Corporate Resolutions (ISE Mercury Resolution Section (3)); U.S. Exchange Holdings Certificate, Article SIXTEENTH; and U.S. Exchange Holdings Bylaws, Article VI, Section 9. The requirement to submit changes to the ISE Mercury Board endures for as long as U.S. Exchange Holdings directly or indirectly controls ISE Mercury. *See* U.S. Exchange Holdings Bylaws, Article VI, Section 9.

[100] *See supra* notes 59–61 and 68–71 and accompanying text for a discussion of the ownership and voting limits.

[101] Under the ISE Trust Agreement, a ''Material Compliance Event'' is any state of facts, development, event, circumstance, condition, occurrence, or effect that results in the failure of any of the Affected Affiliates (as defined therein) to adhere to its respective commitments under the Resolutions in any material respect. *See* ISE Trust Agreement, Article I, Section 1.1.

[102] *See supra* note 68.

[103] Under the ISE Trust, the term ''Trust Beneficiary'' means U.S. Exchange Holdings.

[104] *See* ISE Trust Agreement, Article IV, Section 4.2. Specifically, if a Material Compliance Event occurs and continues to be in effect, the Trustees must take certain actions, including, after a specified cure period, the exercise of a Call Option for a transfer of the majority of capital stock of ISE Holdings that has the right by its terms to vote in the election of the ISE Holdings Board or on other matters.

[105] *See* ISE Trust Agreement, Article IV, Section 4.2.

[106] 15 U.S.C. 78f(b)(1).

the governance and other provisions that are the subject of this order. Accordingly, Section 19(h)(1) of the Act [107] provides the Commission with the authority ''to suspend for a period not exceeding twelve months or revoke the registration of [an SRO], or to censure or impose limitations upon the activities, functions, and operations of [an SRO], if [the Commission] finds, on the record after notice and opportunity for hearing, that [the SRO] has violated or is unable to comply with any provision of [the Act], the rules or regulations thereunder, or its own rules or without reasonable justification or excuse has failed to enforce compliance'' with any such provision by its members (including associated persons thereof).[108] If Commission were to find, or become aware of, through staff review and inspection or otherwise, facts indicating any violations of the Act, including without limitation Sections 6(b)(1) [109] and 19(g)(1),[110] these matters could provide the basis for a disciplinary proceeding under Section 19(h)(1) of the Act.[111]

Moreover, under Section 20(a) of the Act,[112] any person who, directly or indirectly, controls ISE Mercury would be jointly and severally liable with and to the same extent that ISE Mercury is liable under any provision of the Act, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action. In addition, Section 20(e) of the Act [113] creates aiding and abetting liability for any person who knowingly or recklessly provides substantial assistance to another person in violation of any provision of the Act or rule thereunder. Further, Section 21C of the Act authorizes the Commission to enter a cease-and-desist order against any person who has been ''a cause of'' a violation of any provision of the Act through an act or omission that the person knew or should have known would contribute to the violation.[114] These provisions are applicable to all entities controlling ISE Mercury, including the ISE Trust, ISE Holdings, and the Upstream Owners.

3. Regulation of ISE Mercury

As a prerequisite to the Commission's granting of an exchange's application for registration, an exchange must be so organized and have the capacity to carry out the purposes of the Act.[115] Specifically, an exchange must be able to enforce compliance by its members, and persons associated with its members, with the Act and the rules and regulations thereunder and the rules of the exchange.[116] The discussion below summarizes how ISE Mercury proposes to structure and conduct its regulatory operations.

a. Corporate Governance Committee and Finance and Audit Committee

ISE Mercury will have a Chief Regulatory Officer (''CRO'') with general responsibility for supervision of the regulatory operations of ISE Mercury.[117] The CRO will report to the Corporate Governance Committee [118] and to the President/Chief Executive Officer, although the ISE Mercury Board would retain the power to call the CRO to report directly to the Board as needed. The CRO also may call special meetings of the Board, as necessary.[119] The Corporate Governance Committee will meet regularly with the CRO to review regulatory matters.[120]

The Corporate Governance Committee will monitor the regulatory program for sufficiency, effectiveness, and independence, and will oversee trade practices and market surveillance, audits, examinations, and other regulatory responsibilities with respect to members and the conduct of investigations.[121] The Corporate Governance Committee also will supervise the CRO; will receive an annual report from the CRO assessing ISE Mercury's self-regulatory program for the Board; will recommend changes that would ensure fair and effective regulation; and will review regulatory proposals and advise the Board as to whether and how such changes may impact regulation.[122] The Corporate Governance Committee will review annually the regulatory budget and specifically inquire into the adequacy of the resources available in the budget for regulatory activities.[123] The Corporate Governance Committee will authorize unbudgeted expenditures for necessary regulatory expenses.[124] In addition, the Finance and Audit Committee will provide oversight over the systems of internal controls established by management and the Board and the Exchange's regulatory and compliance process.[125]

The Compensation Committee will set compensation for the CRO.[126] The Corporate Governance Committee, in its sole discretion, will make hiring and termination decisions with respect to the CRO, in each case taking into consideration any recommendations made by the President.[127] The Corporate Governance Committee will be informed about the compensation of the CRO, including factors affecting changes thereto.[128]

b. Regulatory Funding

To help ensure the Commission that it has and will continue to have adequate funding to be able to meet its responsibilities under the Act, ISE Mercury represents in its Form 1 Application that, prior to commencing operations as a national securities exchange, ISE Holdings will provide sufficient funding to ISE Mercury for the exchange to carry out its responsibilities under the Act.[129] Specifically, ISE Mercury represents that ISE Holdings has made a cash contribution to ISE Mercury of $5 million, in addition to previously provided ''in-kind'' contributions of legal, regulatory and infrastructure-related services to ISE Mercury.[130] ISE Mercury represents that the cash and in-kind contributions to ISE Mercury will be adequate to operate ISE Mercury, including its regulatory program.[131]

ISE Mercury also represents in its Form 1 Application that there is a written agreement between ISE Mercury and ISE Holdings that requires ISE

[107] *See* 15 U.S.C. 78s(h)(1).

[108] *See id.*

[109] *See* 15 U.S.C. 78f(b)(1).

[110] *See* 15 U.S.C. 78s(g)(1).

[111] *See* 15 U.S.C. 78s(h)(1).

[112] *See* 15 U.S.C. 78t(a).

[113] *See* 15 U.S.C. 78t(e).

[114] *See* 15 U.S.C. 78u–3(a).

[115] *See* Section 6(b)(1) of the Act, 15 U.S.C. 78f(b)(1).

[116] *See id. See also* Section 19(g) of the Act, 15 U.S.C. 78s(g).

[117] *See* Exhibit L to the Form 1 Application.

[118] The Corporate Governance Committee will consist of at least three directors, all of whom must be Non-Industry Directors. *See* ISE Mercury Constitution, Article V, Section 5.4.

[119] *See* Exhibit L to the Form 1 Application.

[120] *See id.*

[121] *See id.*

[122] *See id.*

[123] *See id.*

[124] *See id.*

[125] *See id.*

[126] *See id.*

[127] *See id.*

[128] *See id.*

[129] *See* Exhibit I to the Form 1 Application.

[130] Other applicants for registration as a national securities exchange have noted in their Form 1 applications similar funding commitments and representations. In ISE Gemini, ISE Holdings represented that it would make a capital contribution of $5 million to ISE Gemini. *See* ISE Gemini Order, *supra* note 27. BOX represented that, prior to launch, BOX Group LLC would allocate sufficient operational assets, including regulatory infrastructure and industry and regulatory memberships, along with a $1,000,000 loan to BOX. *See* BOX Order, *supra* note 37. In MIAX, the exchange represented that Miami International Holdings, Inc. would allocate sufficient operational assets and make a capital contribution of not less than $2,000,000 into MIAX capital account prior to launching operations. *See* MIAX Order, *supra* note 28.

[131] *See* Exhibit I to the Form 1 Application.

Holdings to provide adequate funding for ISE Mercury's operation, including the regulation of ISE Mercury.[132] This agreement further provides that ISE Holdings will reimburse ISE Mercury for its costs and expenses to the extent ISE Mercury's assets are insufficient to meet its costs and expenses.[133] Excess funds, as solely determined by ISE Mercury, will be remitted to ISE Holdings.[134] Further, ISE Mercury will receive all fees, including regulatory fees and trading fees, payable by ISE Mercury's members, as well as any funds received from any applicable market data fees and OPRA tape revenue.[135] Regulatory Funds will not be used for non-regulatory purposes and will be used to fund the legal, regulatory and surveillance operations of ISE Mercury.[136]

c. Rule 17d–2 Agreements; Regulatory Contracts With FINRA and ISE

Unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act, Section 19(g)(1) of the Act,[137] among other things, requires every SRO registered as a national securities exchange, absent reasonable justification or excuse, to enforce compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules.[138] Rule 17d–2 of the Act [139] permits SROs to propose joint plans to allocate regulatory responsibilities among themselves for their common rules with respect to their common members.[140] These agreements, which must be filed with and declared effective by the Commission, generally cover areas where each SRO's rules substantively overlap, including such regulatory functions as personnel registration and sales practices. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO. Such regulatory duplication would add unnecessary expenses for common members and their SROs. A 17d–2 plan that is declared effective by the Commission relieves the specified SRO of those regulatory responsibilities allocated by the plan to another SRO.[141] Many SROs have entered into Rule 17d–2 agreements.[142]

ISE Mercury represents to the Commission that it will enter into the following allocation of regulatory responsibilities pursuant to Rule 17d–2 of the Act (''17d–2 Plans''),[143] including the two existing multiparty plans applicable to options trading:

- Multiparty 17d–2 Plan for the Allocation of Regulatory Responsibility for Options Sales Practice Matters; [144]
- Multiparty 17d–2 Plan for the Allocation of Regulatory Responsibility for Options Related Market Surveillance Matters; [145] and
- Bilateral 17d–2 Plan with FINRA that would cover, among other things, general inspection, examination, and enforcement activity.[146]

If the Commission declares effective the amendments to the multilateral 17d–2 Plans and the new bilateral 17d–2 Plan, another SRO (often FINRA) would assume certain regulatory responsibility for members of ISE Mercury that are also members of the SRO that assumes the regulatory responsibilities. This regulatory structure would be consistent with that of other exchanges, including ISE.[147]

In addition, ISE Mercury represents that it will enter into a third-party Regulatory Service Agreement (''RSA'') with FINRA.[148] Under the RSA, FINRA [149] will carry out certain specified regulatory activities on behalf of ISE Mercury. For example, FINRA, in its capacity as service provider to ISE Mercury, will provide member operation services, including membership application review, conducting market surveillance investigation services, conducting routine and cause examination services, assisting ISE Mercury with disciplinary proceedings pursuant to ISE Mercury's rules including conducting hearings, and providing dispute resolution services to ISE Mercury members on behalf of ISE Mercury.[150] ISE Mercury, as an SRO, however, has the ultimate legal responsibility for the regulation of its members and market. This regulatory

[132] *See* Exhibit I to the Form 1 Application. ISE Gemini, BOX and MIAX also represented in their Form 1 applications that there would be explicit agreements with their respective holding companies to provide adequate funding for the exchanges' operations, including regulation.

[133] *See id.*

[134] *See id.*

[135] *See id.*

[136] *See* ISE Mercury LLC Agreement, Article III, Section 3.3. The ISE Mercury LLC Agreement defines ''Regulatory Funds'' as fees, fines or penalties derived from the regulatory operations of ISE Mercury, provided that Regulatory Funds shall not include revenues derived from listing fees, market data revenues, transaction revenues or any other aspect of the commercial operations of ISE Mercury or a facility of ISE Mercury, even if a portion of such revenues are used to pay costs associated with the regulatory operations of ISE Mercury. *Id.* This definition is consistent with the rules of other SROs. *See, e.g.,* MIAX Second Amended and Restated LLC Agreement, Section 16; and MIAX Amended and Restated By-Laws, Article IX, Section 9.4.

[137] 15 U.S.C. 78s(g)(1).

[138] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[139] *See* Section 17(d)(1) of the Act and Rule 17d–2 thereunder, 15 U.S.C. 78q(d)(1) and 17 CFR 240.17d–2. Section 17(d)(1) of the Act allows the Commission to relieve an SRO of certain responsibilities with respect to members of the SRO who are also members of another SRO. Specifically, Section 17(d)(1) allows the Commission to relieve an SRO of its responsibilities to: (i) Receive regulatory reports from such members; (ii) examine such members for compliance with the Act and the rules and regulations thereunder, and the rules of the SRO; or (iii) carry out other specified regulatory responsibilities with respect to such members.

[140] 17 CFR 240.17d–2. Section 19(g)(1) of the Act requires every SRO to examine its members and persons associated with its members and to enforce compliance with the federal securities laws and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) of the Act. Section 17(d) was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication with respect to Common Members. *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[141] *See id.*

[142] *See, e.g.,* Securities Exchange Act Release Nos. 73641 (November 19, 2014), 79 FR 70230 (November 25, 2014) (File No. 4–678) (Financial Industry Regulatory Authority, Inc. (''FINRA'')/MIAX); 70053 (July 26, 2013), 78 FR 46656 (August 1, 2013) (File No. 4–663) (FINRA/ISE Gemini) (''ISE Gemini Bilateral 17d–2 Plan''); 59218 (January 8, 2009), 74 FR 2143 (January 14, 2009) (File No. 4–575) (FINRA/Boston Stock Exchange, Inc.); 58818 (October 20, 2008), 73 FR 63752 (October 27, 2008) (File No. 4–569) (FINRA/BATS Exchange, Inc.); 55755 (May 14, 2007), 72 FR 28087 (May 18, 2007) (File No. 4–536) (National Association of Securities Dealers, Inc. (''NASD'') (n/k/a FINRA) and Chicago Board of Options Exchange, Inc. (''CBOE'') concerning the CBOE Stock Exchange, LLC); 55367 (February 27, 2007), 72 FR 9983 (March 6, 2007) (File No. 4–529) (NASD/ISE); and 54136 (July 12, 2006), 71 FR 40759 (July 18, 2006) (File No. 4–517) (NASD/The Nasdaq Stock Market LLC).

[143] Rule 17d–2 under the Act permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members (*i.e.,* 17d–2 plans).

[144] *See* Exhibit L to the Form 1 Application. *See also* Securities Exchange Act Release No. 68363 (December 5, 2012), 77 FR 73711 (December 11, 2012) (File No. S7–966) (notice of filing and order approving and declaring effective an amendment to the multiparty 17d–2 plan concerning options-related sales practice matters).

[145] *See* Exhibit L to the Form 1 Application. *See also* Securities Exchange Act Release No. 68362 (December 5, 2012), 77 FR 73719 (December 11, 2012) (File No. 4–551) (notice of filing and order approving and declaring effective an amendment to the multiparty 17d–2 plan concerning options-related market surveillance).

[146] *See* Exhibit L of Amendment No. 2 to the Form 1 Application. *See also* ISE Gemini Bilateral 17d–2 Plan, *supra* note 142.

[147] Amendments to the multilateral 17d–2 Plans and the new bilateral 17d–2 Plan are not before the Commission as part of this order and, therefore, the Commission is not acting on them at this time.

[148] *See, e.g.,* Exhibit L to the Form 1 Application.

[149] FINRA executed a single RSA with both ISE and ISE Mercury as signatories. The single RSA, however, has two separate statements of work. The first statement of work describes the specified regulatory activities that FINRA will carry out on behalf of ISE. The second statement of work describes the specified regulatory activities that FINRA will carry out on behalf of ISE Mercury.

[150] *See* Exhibit L to the Form 1 Application.

structure would be consistent with that of other exchanges.[151]

ISE Mercury also represents that it will enter into a facilities management agreement (''FMA'') with ISE.[152] Pursuant to the proposed FMA, ISE intends to provide to ISE Mercury certain services, including, for example, business management services, facilities management services, IT services, fiscal services, as well as other regulatory compliance services and other legal services, such as surveillance programs, legal programs, systems and other operational services.[153] ISE Mercury, however, will retain ultimate legal responsibility for the regulation of its members and market.

The Commission believes that it is consistent with the Act for ISE Mercury to contract with other SROs to perform certain examination, enforcement, and disciplinary functions.[154] These functions are fundamental elements of a regulatory program, and constitute core self-regulatory functions. The Commission believes that both FINRA, as an SRO that provides contractual services to other SROs, and ISE, as an SRO that currently operates an options exchange, should have the capacity to perform these functions for ISE Mercury.[155] However, ISE Mercury, unless relieved by the Commission of its responsibility,[156] bears the ultimate responsibility for self-regulatory responsibilities and primary liability for self-regulatory failures, not the SRO retained to perform regulatory functions on ISE Mercury's behalf. In performing these regulatory functions, however, the SRO retained to perform specified regulatory functions may nonetheless bear liability for causing or aiding and abetting the failure of ISE Mercury to perform its regulatory functions.[157] Accordingly, although FINRA and ISE will not act on their own behalves under their respective SRO responsibilities in carrying out the above mentioned regulatory services for ISE Mercury, as the SROs retained to perform regulatory functions, FINRA and ISE may have secondary liability if, for example, the Commission finds that the contracted functions are being performed so inadequately as to cause a violation of the federal securities laws by ISE Mercury.

As part of its FMA with ISE, ISE Mercury proposes to use dual employees to staff its regulatory services program. In other words, current ISE employees will also serve in a similar capacity for ISE Mercury under the FMA. ISE Mercury represents that the FMA will contain an obligation on the part of ISE Mercury and ISE to preserve the other party's information and materials which are confidential, proprietary, and/or trade secrets and prevent unauthorized use or disclosure to third parties.[158]

The Commission believes that the use of ISE employees by ISE Mercury is appropriate, as the operations, rules, and management of ISE and ISE Mercury will overlap to a considerable degree such that ISE Mercury should benefit by leveraging the experience of current ISE staff. The Commission has approved such arrangements in a similar context.[159] However, the Commission expects ISE and ISE Mercury to monitor the workload of their shared employees and supplement their staffs, if necessary, so that ISE Mercury maintains sufficient personnel to allow it to carry out the purposes of the Act and enforce compliance with the rules of ISE Mercury and the federal securities laws.

D. Trading System

1. Access to ISE Mercury

Access to ISE Mercury will be through the use of Exchange Rights.[160] Through an application process, organizations will be approved to become members of ISE Mercury and to exercise trading rights.[161] Exchange Rights will not convey any ownership rights, but will provide for voting rights for representation on the ISE Mercury Board and will confer the ability to transact on ISE Mercury.[162] Exchange Rights may not be leased and are not transferable except in the event of a change in control of a member or corporate reorganization involving a member.[163] There is no limit on the number of Exchange Rights issued by ISE Mercury.[164]

Membership in ISE Mercury will be open to any broker-dealer registered under Section 15(b) of the Act that meets the standards for membership set forth in the rules of ISE Mercury.[165] The Exchange's denials from, and impositions of conditions upon, becoming or continuing to be a member may be appealed pursuant to rules governing hearing and review, described in Section II.E below.[166] In addition to its regular membership application process, ISE Mercury also will provide a process whereby a current member of ISE or ISE Gemini in good standing that is a registered broker-dealer can submit an abbreviated ''waive-in'' application to ISE Mercury.[167] This waive-in process is similar to arrangements in place at other exchanges.[168]

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[151] For example, ISE Gemini, ISE, EDGA Exchange, Inc., EDGX Exchange Inc., and BATS have entered into 17d–2 Plans and RSAs with FINRA.

[152] *See, e.g.,* Exhibit L to the Form 1 Application. The FMA with ISE provides, in part, for the provision of legal and other regulatory compliance services.

[153] *See id.*

[154] *See, e.g.,* Regulation ATS Release, *supra* note 28. *See also* Securities Exchange Act Release Nos. 50122 (July 29, 2004), 69 FR 47962 (August 6, 2004) (SR–Amex–2004–32) (order approving rule that allowed Amex to contract with another SRO for regulatory services) (''American Stock Exchange (''Amex'') Regulatory Services Approval Order''); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (''NOM Approval Order''); Nasdaq Order, *supra* note 27; and BATS Order, *supra* note 27.

[155] *See, e.g.,* Amex Regulatory Services Approval Order, *supra* note 154; NOM Approval Order, *supra* note 154; and Nasdaq Order, *supra* note 27. The Commission notes that the RSA and FMA are not before the Commission and, therefore, the Commission is not acting on them.

[156] *See supra* note 139.

[157] For example, if failings by the SRO retained to perform regulatory functions have the effect of leaving an exchange in violation of any aspect of the exchange's self-regulatory obligations, the exchange will bear direct liability for the violation, while the SRO retained to perform regulatory functions may bear liability for causing or aiding and abetting the violation. *See, e.g.,* ISE Gemini Order, *supra* note 27; MIAX Order, *supra* note 28; BOX Order, *supra* note 37; and Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) (File No. 10–127) (order granting the exchange registration of ISE) (''ISE Order'').

[158] *See* Exhibit L to the Form 1 Application.

[159] *See, e.g.,* ISE Gemini Order, *supra* note 27; Securities Exchange Act Release No. 61152 (December 10, 2009), 74 FR 66699 (December 16, 2009) (File No. 10–191) (order granting registration to C2 Options Exchange) (''C2 Order'').

[160] *See supra* note 19.

[161] The term ''Member'' means an organization that has been approved to exercise trading rights associated with Exchange Rights, and the term ''Membership'' refers to the trading privileges associated with Exchange Rights. *See* ISE Mercury Rules 100(a)(23) and 100(a)(24). Under ISE Mercury Rules 300 and 302(c), ISE Mercury shall issue memberships that confer the ability to transact on ISE Mercury, although no rights shall be conferred upon a member except those set forth in the ISE Mercury LLC Agreement or ISE Mercury Rules as amended from time to time. A membership shall not convey any ownership interest in the Exchange. *See* ISE Mercury Rules 300 and 302(c).

[162] *See* ISE Mercury Rules 300 and 302(c); *see also* ISE Mercury LLC Agreement, Article VI, Sections 6.1 and 6.3.

[163] *See* ISE Mercury Rule 302(c). In such case, member status may be transferred to a qualified affiliate or successor upon written notice to ISE Mercury. *Id.*

[164] *See* ISE Mercury Rule 300; *see also* ISE Mercury LLC Agreement, Article VI, Section 6.1.

[165] *See* ISE Mercury Rule 301.

[166] *See* ISE Mercury Rule 1700 Series, which incorporates by reference ISE Rule 1700 Series.

[167] *See* ISE Mercury Rule 302(a).

[168] *See, e.g.,* C2 Options Exchange, Inc. Rule 3.1(c)(1) (containing a similar expedited waive-in membership process for members of CBOE).

ISE Mercury will have three classes of membership: (1) PMMs; (2) CMMs; and (3) EAMs.[169] PMM and CMMs may seek appointment to become market makers in one or more options classes traded on the Exchange.[170] ISE Mercury proposes to allow firms that register as market makers to receive special privileges or rights over non-market maker members, such as participation entitlements for PMMs, if they satisfy certain affirmative and negative market making obligations on the Exchange.[171] This is similar to arrangements in place at other exchanges, such as ISE and ISE Gemini.[172]

The Commission finds that ISE Mercury's proposed membership rules are consistent with the Act, including Section 6(b)(2) of the Act,[173] which requires the rules of an exchange to provide that any registered broker or dealer or natural person associated with a registered broker or dealer may become a member of such exchange and any person may become associated with a member thereof. ISE Mercury's proposed rules with respect to exchange membership are substantively similar to the rules of other exchanges.[174]

The Commission notes that pursuant to Section 6(c) of the Act,[175] an exchange must deny membership to any person, other than a natural person, that is not a registered broker or dealer, any natural person that is not, or is not associated with, a registered broker or dealer, and registered broker-dealers that do not satisfy certain standards, such as financial responsibility or operational capacity. As a registered exchange, ISE Mercury must independently determine if an applicant satisfies the standards set forth in the Act, regardless of whether an applicant is a member of another SRO.[176]

In addition, ISE Mercury also will allow non-members to access ISE Mercury as ''sponsored customers'' of an ISE Mercury member, subject to certain rules.[177] The sponsoring member will be responsible for implementing policies and procedures to supervise and monitor the trading of its sponsored users to ensure compliance with all applicable federal securities laws and rules and ISE Mercury rules.[178] ISE Mercury's proposed sponsored access rules are similar to the rules of other exchanges that provide for sponsored access [179] and are consistent with Rule 15c3–5 under the Act.[180]

2. Linkage

ISE Mercury intends to become a participant in the Plan Relating to Options Order Protection and Locked/Crossed Markets or any successor plan (''Linkage Plan'').[181] If admitted as a participant to the Linkage Plan, other plan participants will be able to send orders to ISE Mercury in accordance with the terms of the plan as applied to ISE Mercury.

ISE Mercury rules include relevant definitions; establish the conditions pursuant to which members may enter orders in accordance with the Linkage Plan; impose obligations on ISE Mercury regarding how it must process incoming orders; establish a general standard that members and ISE Mercury should avoid trade-throughs; establish potential regulatory liability for members that engage in a pattern or practice of trading through other exchanges; and establish obligations with respect to locked and crossed markets.

The Commission believes that ISE Mercury has proposed rules that are designed to comply with the requirements of the Linkage Plan.[182] Further, as provided below, before ISE Mercury can commence operations as an exchange, it must become a participant in the Linkage Plan.

3. Market Makers

a. Registration of Market Makers

Members of ISE Mercury may apply to become one of two types of market maker: PMMs or CMMs (collectively, ''Market Makers''). Market Makers are entitled to receive certain benefits and privileges in exchange for fulfilling certain affirmative and negative market-making obligations.[183] Each class of Market Maker will receive a specific level of benefits and privileges in exchange for a specific level of obligation from such Market Maker.

To begin the process of registering as a PMM or CMM, a member will be required to file a written application with ISE Mercury.[184] In reviewing a member's application for membership, ISE Mercury will consider, among other things, the applicant's market making ability.[185] To qualify for registration as a Market Maker, a member of ISE Mercury must meet the requirements established in Rule 15c3–1 under the Act [186] and the general requirements set forth in ISE Mercury Rule 800 series, including the minimum financial requirements of ISE Mercury Rule 809.[187] All members who are approved to become Market Makers will be designated as specialists on ISE Mercury for all purposes under the Act and rules thereunder.[188] ISE Mercury will not limit the number of qualifying entities that may become Market Makers.[189]

In addition, all ISE and ISE Gemini market makers in good standing will be eligible for an Exchange Right in the same membership category in which they operate on ISE and ISE Gemini, respectively, to trade on ISE Mercury.[190] For example, a CMM in good standing on ISE will be eligible to become a CMM on ISE Mercury, through the submission and approval of an ISE Mercury Waive-In Membership Application.[191]

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[169] *See* ISE Mercury Rule 301(c).

[170] *See* ISE Mercury Rule 800 Series.

[171] *See* ISE Mercury Rules 713, 802 and 803. *See infra* Section II.D.3.b. for further discussion of market maker privileges and obligations.

[172] *See, e.g.,* ISE Rules 713, 802 and 803, and ISE Gemini Rules 713, 802 and 803 (containing similar rights and obligations for market makers on ISE and ISE Gemini, respectively). ISE Mercury's approach is consistent with the rules of other exchanges that have no limit on the number of exchange rights, or their functional equivalent, that may be issued by the exchange. *See, e.g.,* C2 Order, *supra* note 159.

[173] 15 U.S.C. 78f(b)(2).

[174] *See, e.g.,* ISE Gemini Rule 300 Series (''Membership''); MIAX Rule 200 Series (''Access'').

[175] 15 U.S.C. 78f(c).

[176] *See, e.g.,* ISE Gemini Order, *supra* note 27, at 78 FR 46633; MIAX Order, *supra* note 28, at 77 FR 73074; BOX Order, *supra* note 37, at 77 FR 26337; BATS Order, *supra* note 27, at 73 FR 49502; and Nasdaq Order, *supra* note 27, at 71 FR 3555.

[177] *See* ISE Mercury Rule 706, Supplementary Material .01.

[178] *See* ISE Mercury Rule 706. *See also* 17 CFR 240.15c3–5.

[179] *See, e.g.,* ISE Rule 706; *see also* ISE Gemini Rule 706; MIAX Rule 210.

[180] 17 CFR 240.15c3–5.

[181] *See* Exhibit E to the Form 1 Application, Section B for a discussion of the Linkage Plan; and Exhibit L to the Form 1 Application. *See also* Securities Exchange Act Release No. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009) (File No. 4–546) (order approving the National Market System Plan Relating to Options Order Protection and Locked/Crossed Markets Submitted by the Chicago Board Options Exchange, Incorporated, International Securities Exchange, LLC, The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., NYSE Amex LLC, and NYSE Arca, Inc.).

[182] *See, e.g.,* ISE Mercury Rules relating to Intermarket Linkage in Rule 1900 Series, which incorporates by reference ISE Rule 1900 Series.

[183] Market Makers' benefits and obligations are discussed in greater detail in the following section.

[184] *See* ISE Mercury Rule 800(b).

[185] *See id.* The provision permitting ISE Mercury to consider ''such other factors as [it] deems appropriate'' must be applied in a manner that is consistent with the Act, including provisions that prohibit an exchange from acting in an unfairly discriminatory manner. *See* 15 U.S.C. 78f(b)(5); *see also* ISE Gemini Order, *supra* note 27, at 78 FR 46634 n. 195; MIAX Order, *supra* note 28, at 77 FR 73074 n.149.

[186] 17 CFR 240.15c3–1.

[187] *See* ISE Mercury Rule 800 Series. *See also* ISE Mercury Rule 1300 Series relating to Net Capital Requirements, which incorporates by reference ISE Rule 1300 Series.

[188] *See* ISE Mercury Rule 800(a).

[189] *See* ISE Mercury Rule 300. *See also* Exhibit E to the Form 1 Application, Section 1.

[190] *See* ISE Mercury Rule 302(a).

[191] *See id. See also* Exhibit F to the Form 1 Application.

Once approved, a Market Maker may seek appointment to make markets in one or more options classes traded on the ISE Mercury.[192] Further, ISE Mercury will provide non-ISE and ISE Gemini members with at least sixty days advance written notice of the date upon which the Exchange will allocate options classes and appoint market makers in order to ensure that non-ISE and ISE Gemini members have a reasonable opportunity to participate in those processes.[193] A market participant must have completed a membership application to be eligible to participate in the appointment and allocation processes.[194]

Either the ISE Mercury Board or a committee thereof[195] will appoint classes of options contracts traded on ISE Mercury to Market Makers, taking into consideration: (1) The financial resources available to the Market Maker; (2) the Market Maker's experience and expertise in market making or options trading; and (3) the maintenance and enhancement of competition among Market Makers in each option class to which they are appointed.[196] No appointment of a Market Maker will be without the Market Maker's consent to such appointment, provided that refusal to accept an appointment may be deemed sufficient cause for termination or suspension of a market maker's registration.[197] ISE Mercury will appoint a PMM to each options class traded on ISE Mercury.[198] Once appointed, ISE Mercury will surveil a Market Maker's activity for continued compliance with all applicable rules and requirements, which are discussed in more detail below.[199]

The Commission finds that ISE Mercury's proposed rules for the registration and appointment of Market Makers are consistent with the Act. In particular, ISE Mercury's rules provide an objective process by which a member could become a Market Maker on ISE Mercury and provide for oversight by ISE Mercury to monitor for continued compliance by Market Makers with the terms of their application for such status. The Commission notes that ISE Mercury's proposed Market Maker registration and appointment requirements are similar to those of other options exchanges.[200]

b. Market Maker Obligations

Pursuant to ISE Mercury rules, Market Makers will be subject to a number of general obligations. In particular, the transactions of a Market Maker should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market and a Marker Maker should not make bids or offers or enter into transactions that are inconsistent with such a course of dealings.[201] A Market Maker has a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular options contract, or a temporary distortion of the price relationships between options contracts of the same class.[202] For all series of option classes which the Market Maker is appointed, the Market Maker is expected to: (1) Compete with other Market Makers to improve the market; (2) make markets that, absent changed market conditions, will be honored for the number of contracts entered into the ISE Mercury's system; (3) update market quotations in response to changed market conditions; (4) price options contracts fairly by, among other things, bidding and offering so as to create the prescribed bid/ask differentials.[203] These provisions are similar to arrangements in place at other options exchanges.[204]

Further, Market Makers must maintain minimum net capital in accordance with ISE Mercury rules, including the minimum financial requirement pursuant to ISE Mercury Rule 809, in addition to the Act and rules and regulations thereunder.[205]

ISE Mercury's rules governing Market Maker quoting obligations also are tailored to the specific class of Market Maker (*i.e.,* PMM or CMM).[206] Specifically, a PMM will be subject to the highest standard applicable on ISE Mercury. On a daily basis, PMMs must enter continuous two-sided quotations and enter into any resulting transactions in all of the series listed on the ISE Mercury of the options classes to which they are appointed.[207] PMMs are also required to participate in the opening rotation.[208] Although a CMM is not required to enter quotations in the options classes to which it is appointed, whenever a CMM does enter a quote in an options class to which it is appointed, the CMM must then provide continuous quotations in that class for 60% of the time the options class is open for trading on ISE Mercury.[209] Further, whenever in the judgment of an ISE Mercury official it is necessary in the interest of fair and orderly markets to do so, CMMs may be called upon to submit a single quote or maintain continuous quotes in one or more series of options class to which the CMM is appointed.[210] For purposes of meeting the continuous quoting obligations discussed herein, a Market Maker's quote must meet the bid/ask differential requirements of ISE Mercury Rule 803(b)(4).[211]

In options classes other than to which it is appointed, ISE Mercury's rules provide that a Market Maker should not engage in transactions in an account in which it has an interest that are disproportionate in relation to, or in derogation of, the performance of its

[192] *See* ISE Mercury Rule 802(a).

[193] A non-ISE and ISE-Gemini member must have a completed a membership application to be eligible to participate in the processes. *See* ISE Mercury Rule 302(b).

[194] *See* Exhibit E to the Form 1 Application, Section A (''Introduction'').

[195] *See* ISE Mercury Rule 802(a). ISE Mercury Rule 1700 Series provides the process for hearings, review, and arbitration of claims by persons economically aggrieved by ISE Mercury action, which would include denial of registration as a Market Maker.

[196] *See id.*

[197] *See id.*

[198] *See* ISE Mercury Rule 802(b).

[199] *See* ISE Mercury Rule 802(e).

[200] *See, e.g.,* ISE Rules 800 and 801, ISE Gemini Rules 800 and 801, and MIAX Rule 600 (registration); ISE Rule 802, ISE Gemini Rule 802, and MIAX Rule 602 (appointment).

[201] *See* ISE Mercury Rule 803(a).

[202] *See* ISE Mercury Rule 803(b).

[203] *See* ISE Mercury Rule 803(b)(1)–(4). Specifically, under ISE Mercury Rule 803(b)(4), following the opening rotation, Market Makers must create differences of no more than $5 between the bid and offer. Prior to the opening rotation, spread differentials shall be no more than $.25 between the bid and offer for each options contract for which the bid is less than $2, no more than $.40 where the bid is at least $2 but does not exceed $5, no more than $.50 where the bid is more than $5 but does not exceed $10, no more than $.80 where the bid is more than $10 but does not exceed $20, and no more than $1 where the bid is $20 or greater, provided that the ISE Mercury may establish differences other than the above for one or more options series. These differentials do not apply to in-the-money options series where the underlying securities market is wider than the differentials.

[204] *See, e.g.,* ISE Gemini Rules 802 and 803 (containing similar rights and obligations for market makers on ISE Gemini).

[205] *See* ISE Mercury Rule 1300 Series, which incorporates by reference ISE Rule 1300 Series; *see also* ISE Mercury Rule 809.

[206] *See* ISE Mercury Rule 804.

[207] *See* ISE Mercury Rule 804(e)(1); *see also* ISE Mercury Rule 804(c). A PMM shall be deemed to have provided continuous quotes pursuant to paragraph (e)(1) of Rule 804 if it provides two-sided quotes for 90% of the time that an options class is open for trading on the ISE Mercury. *See* ISE Mercury Rule 804, Supplementary Material .01.

[208] *See* ISE Mercury Rule 701(b)(1).

[209] *See* ISE Mercury Rule 804(e)(2). A CMM must maintain continuous quotations for at least 90% of the time the options class for which it receives Preferenced Orders is open for trading on the ISE Mercury. *See* ISE Mercury Rule 804(e)(2)(iii); *see also* ISE Mercury Rule 713, Supplementary Material .03 regarding Preferenced Orders.

[210] *See* ISE Mercury Rule 804(e)(2)(iv).

[211] *See* ISE Mercury Rule 804(e)(1)–(2). *See also supra* note 203.

market making obligations.[212] Further, the total number of contracts executed during a quarter by a CMM in options classes to which it is not appointed may not exceed 25% of the total number of contracts traded by such CMMs in classes to which it is appointed and with respect to which it was quoting pursuant to ISE Mercury Rule 804(e)(2).[213] Similarly, the total number of contracts executed during a quarter by a PMM in options classes to which it is not appointed may not exceed 10% of the total number of contracts traded per each PMM membership.[214]

If ISE Mercury finds any failure by a Market Maker to properly perform as a market maker, such Market Maker may be subject to suspension or termination.[215] ISE Mercury may suspend or terminate any appointment of a Market Maker under ISE Mercury Rule 802 and may make additional appointments whenever, in ISE Mercury's judgment, the interests of a fair and orderly market are best served by such action.[216]

Although Market Makers have a number of obligations, Market Makers also receive certain benefits for carrying out their responsibilities.[217] For example, a broker-dealer or other lender may extend ''good faith'' credit to a member of a national securities exchange or registered broker-dealer to finance its activities as a market maker or specialist.[218] PMMs are also entitled to certain participation entitlements.[219] In addition, market makers are excepted from the prohibition in Section 11(a) of the Act.[220]

The Commission believes that a market maker must be subject to sufficient and commensurate affirmative obligations, including the obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis, to justify favorable treatment.[221] The Commission further believes that the rules of all U.S. options markets need not provide the same standards for market maker participation, so long as they impose affirmative obligations that are consistent with the Act.[222] The Commission believes that ISE Mercury's Market Maker participation requirements impose appropriate affirmative obligations on ISE Mercury's Market Makers that are commensurate with the benefits afforded to such participants, as discussed above, and, accordingly, are consistent with the Act. The Commission believes that the specific levels of benefits conferred on the different classes of Market Makers are appropriately balanced by the obligations imposed by ISE Mercury's rules. The Commission further believes that ISE Mercury's market maker requirements,[223] which are identical to those of ISE and ISE Gemini[224] and similar to other options exchanges' rules,[225] impose sufficient appropriate obligations that are consistent with the Act. Finally, the Commission believes that the Act does not mandate a particular market model for exchanges, and while Market Makers may become an important source of liquidity on ISE Mercury, they will likely not be the only source as ISE Mercury is designed to match buying and selling interest of all ISE Mercury participants.

4. Order Display, Execution, and Priority

ISE Mercury proposes to operate a fully automated electronic options trading platform to buy or sell securities with a continuous, automated matching function.[226] Liquidity will be derived from ISE Mercury members acting as principal or as agent electronically submitting quotes as well as market and various types of limit orders to buy or to sell.[227] Non-members also may access ISE Mercury pursuant to ISE Mercury rules governing ''sponsored access.''[228] All electronic submissions of quotes and orders to ISE Mercury will be from remote locations, as there will be no trading floor.[229] ISE Mercury's system generally will automatically execute incoming orders.[230] Non-opening trades will occur when a buy order/quote and a sell order/quote match on the ISE Mercury's order book.[231] All options will be traded in decimals on ISE Mercury and will be consistent with the Penny Pilot.[232]

All orders submitted to ISE Mercury's trading platform must have a designated price and size (limit orders)[233] or must be orders to buy or sell a stated amount of a security at the national best bid or offer when the order reaches ISE Mercury (market orders).[234] Members may submit the following orders to ISE Mercury: Market Orders; Limit Orders (including Marketable Limit, Fill-or-Kill, Immediate or Cancel, Non-Displayed Penny Order, Sweep, Intermarket Sweep, and Stopped Orders);[235] or Contingency Orders

[212] *See* ISE Mercury Rule 803(d). Among other things, a Market Maker should not effect purchases or sales on the ISE Mercury except in a reasonable and orderly manner. *See id.*

[213] *See* ISE Mercury Rule 805(b)(2).

[214] *See* ISE Mercury Rule 805(b)(3).

[215] *See* ISE Mercury Rule 800(c).

[216] *See* ISE Mercury Rule 802(d).

[217] *See, e.g.,* ISE Gemini Order, *supra* note 27; MIAX Order, *supra* note 28 (discussing the benefits and obligations of market makers).

[218] *See* 12 CFR 221.5 and 12 CFR 220.7; *see also* 17 CFR 240.15c3–1(a)(6) (capital requirements for market makers).

[219] *See* ISE Mercury Rule 713, Supplementary Material .01(b)–(c). *See also infra* notes 248–255 and accompanying text (describing the PMM participation entitlements).

[220] 15 U.S.C. 78k(a).

[221] *See* ISE Gemini Order, *supra* note 27, at 78 FR 46635; MIAX Order, *supra* note 28, at 77 FR 73076; BOX Order *supra* note 37.

[222] *See id.*

[223] *See* ISE Mercury Rule 803.

[224] *See, e.g.,* ISE Rule 800 Series; ISE Gemini Rule 800 Series.

[225] *See, e.g.,* ISE Gemini Order, *supra* note 27; MIAX Order, *supra* note 28; BOX Order, *supra* note 37.

[226] *See* Exhibit E to the Form 1 Application.

[227] *See id.*

[228] *See id.*

[229] *See id.*

[230] *See* ISE Mercury Rule 714.

[231] *See* Exhibit E to the Form 1 Application.

[232] *See* ISE Mercury Rule 710 and Supplementary Material .01. The Commission has approved exchange rules on a pilot basis that permit an exchange to quote series with premiums under $3 in pennies and series with premiums of $3 and over in nickels in approximately 360 options classes (''Penny Pilot''). In addition, these rules allow all series in QQQQs, IWM, and SPY to be quoted in pennies. *See, e.g.,* Securities Exchange Act Release Nos. 60711 (September 23, 2009), 74 FR 49419 (September 28, 2009); 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (File No. SR–NYSEArca–2009–44) (approving Penny Pilot program expansions for NYSE Arca). Proposed Supplementary Material .01 to Rule 710 would permit ISE Mercury to operate a pilot to permit certain options classes to be quoted and traded in increments as low as $0.01, consistent with these previously approved rules. Specifically, this pilot is consistent with the penny pilot on ISE Gemini, which was last extended on June 26, 2015 and is scheduled to expire on June 30, 2016. *See* Securities Exchange Act Release No. 75315 (June 26, 2015), 80 FR 38243 (July 2, 2015) (File No. SR–ISE Gemini–2015–12). Similar to ISE Gemini, ISE Mercury has further agreed to submit to the Commission such reports regarding the Penny Pilot as the Commission may request. *See* Exhibit B to the Form 1 Application.

[233] A limit order is an order to buy or sell a stated number of options contracts at a specified price or better. ISE Mercury Rule 715(b).

[234] A market order is an order to buy or sell a stated number of options contracts that is to be executed at the best price obtainable when the order reaches ISE Mercury. ISE Mercury Rule 715(a).

[235] *See* ISE Mercury Rule 715. A Marketable Limit Order is a limit order to buy (sell) at or above (below) the best offer (bid) on the ISE Mercury. A Fill-or-Kill Order is a limit order that is to be executed in its entirety as soon as it is received and, if not so executed, treated as cancelled. An Immediate-or-Cancel Order is a limit order that is to be executed in whole or in part upon receipt and any portion not so executed is to be treated as cancelled. A Non-Displayed Penny Order is a limit order that specifies a one-cent price increment in a security that has a minimum trading increment pursuant to ISE Mercury Rule 710 that is larger than one-cent. A Sweep Order is a limit order that is executed in whole or in part on the exchange with the portion not executed routed pursuant to Supplementary Material .05 to ISE Mercury Rule 1901, which incorporates by reference ISE Rule 1901. An Intermarket Sweep Order is a limit order that meets the requirements of ISE Mercury Rule 1900(h), which incorporates by reference ISE Rule 1900(h). A Stopped Order is a limit order that meets the requirements of ISE Mercury Rule 1901(b)(8),

(including All-Or-None, Stop, Stop Limit, Customer Participation, Reserve, Attributable, Customer Cross, Qualified Contingent Cross, Minimum Quantity, Do-Not-Route, Add Liquidity, Opening Only, and Good-Till-Date Orders).[236] Like ISE, ISE Mercury also will permit flash mechanisms. Accordingly, certain orders will first be exposed at the National Best Bid or Offer (''NBBO'') to all ISE Mercury members for execution at the NBBO before an unaffiliated broker, under contract with ISE Mercury, routes the order to another market for execution.[237]

Quotes entered by PMMs and CMMs must, like Limit Orders, be priced and have a designated size.[238] Orders will be accepted for any security traded on ISE Mercury, whether submitted by a member on a proprietary or agency basis in any size,[239] whereas quotes for any security traded on ISE Mercury may only be submitted by PMMs and CMMs and only in the options classes to which the market makers are appointed.[240] ISE Mercury will be required to maintain a full audit trail of every incoming and outgoing message (including all orders and quotes) submitted to the ISE Mercury's system.[241] Members may receive status reports regarding orders submitted to ISE Mercury or change or cancel an order at any time before that order is executed on ISE Mercury, except as otherwise specified in ISE Mercury Rule 723 (Price Improvement Mechanism for Crossing Transactions).[242]

All orders and quotes submitted to ISE Mercury will be displayed unless designated otherwise by the member submitting the order.[243] Displayed orders and quotes will be displayed on an anonymous basis (except for Attributable Orders,[244] which will allow voluntary disclosure of firm identification information) at a member's specified price. Non-Displayed Orders (the non-displayed portion of a Reserve Order or a Non-Displayed Penny Order) will not be displayed to anyone and will not have time priority over displayed orders at the same price.[245]

ISE Mercury will utilize a pro-rata priority scheme with a Priority Customer preference.[246] This scheme is the same as what the Commission has approved for ISE and ISE Gemini.[247]

In addition, under ISE Mercury rules, PMMs are granted certain participation entitlements. For example, PMMs will be entitled to a participation entitlement with respect to each incoming order if they have a quote at the NBBO.[248] The PMM participation entitlement will apply only to any remaining balance after any Priority Customer[249] orders have first been satisfied.[250] The PMM will not be allocated a total quantity greater than the quantity it is quoting at the execution price, and it will not receive any further allocation of an order if it receives a participation entitlement.[251] Moreover, if the PMM has a quote at the NBBO, small size orders (*i.e.,* five or fewer contracts) will be allocated in full to the PMM.[252]

These participation entitlements for PMMs are consistent with provisions that the Commission has approved for other exchanges.[253] The Commission believes that these entitlements are appropriately balanced by the obligations imposed on these classes of market makers, as discussed in detail above.[254] In particular, PMMs are subject to higher quoting obligations than other Market Makers who are not eligible to receive the aforementioned participation entitlements.[255] Therefore,

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which incorporates by reference ISE Rule 1901(b)(8). To execute Stopped Orders, members must enter them into the Facilitation Mechanism or Solicited Order Mechanism pursuant to ISE Mercury Rule 716.

[236] *See* ISE Mercury Rule 715. An All-or-None Order is a limit or market order that is to be executed in its entirety or not at all. A Stop Order is an order that becomes a market order when the stop price is elected. A Stop Limit Order is an order that becomes a limit order when the stop price is elected. A Customer Participation Order is a limit order on behalf of a Public Customer (as defined in ISE Mercury Rule 100(a)(38)) that, in addition to the limit order price in standard increments according to ISE Mercury Rule 710, includes a price stated in one-cent increments at which the Public Customer wishes to participate in trades executed in the same options series in penny increments through the Price Improvement Mechanism pursuant to ISE Mercury Rule 723. A Reserve Order is a limit order that contains both a displayed portion and a non-displayed portion. An Attributable Order is a market or limit order which displays the user firm ID for purposes of electronic trading on ISE Mercury. A Customer Cross Order is comprised of a Priority Customer Order (as defined in ISE Mercury Rule 100(a)(37B) to buy and a Priority Customer Order to sell at the same price and for the same quantity. A Qualified Contingent Cross order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade (as defined in ISE Mercury Rule 715, Supplementary Material .02) coupled with a contra-side order to buy or sell an equal number of contracts. A Minimum Quantity Order is an order that is initially available for partial execution only for a specified number of contracts or greater. A Do-Not-Route Order is a market or limit order that is to be executed in whole or in part on ISE Mercury only. An Add Liquidity Order is a limit order that is to be executed in whole or in part on ISE Mercury (i) only after being displayed on ISE Mercury's limit order book; and (ii) without routing any portion of the order to another market center. An Opening Only Order is a limit order that can be entered for the opening rotation only. A Good-Till-Date Order is a limit order to buy or sell which, if not executed, will be cancelled at the sooner of the end of the expiration date assigned to the order, or the expiration of the series. These order types are the same order types that are available on ISE, except that ISE also includes several complex order types that are not proposed for ISE Mercury. *See* ISE Mercury Rule 715; ISE Rules 715 and 722; *see also* Exhibit B to the Form 1 Application.

[237] *See* ISE Mercury Rule 1901, Supplementary Material .02 (which incorporates by reference ISE Rule 1901, Supplementary Material .02).

[238] *See* ISE Mercury Rule 804(b).

[239] *See* ISE Mercury Rule 713(a).

[240] *See* ISE Mercury Rule 804(a).

[241] *See* 17 CFR 240.17a–5. *See also* Exhibit E to the Form 1 Application, Section C.

[242] *See* Exhibit E to the Form 1 Application, Section C.

[243] *See* ISE Mercury Rule 704.

[244] An Attributable Order is a market or limit order which displays the user firm's ID for purposes of trading on the ISE Mercury. *See* ISE Mercury Rule 715(h). Use of Attributable Orders would be voluntary. This order type is consistent with similar order types on other exchanges. *See, e.g.,* ISE Gemini Rule 715(h); CBOE Rule 6.53(o) (attributable order type).

[245] *See* ISE Mercury Rules 715(b)(4) and 715(g).

[246] *See* ISE Mercury Rule 713, Supplementary Material .01. Under this priority methodology, the highest bid and lowest offer will have priority except that Priority Customer Orders will have priority over professional interest and all market maker interest at the same price. Subject to certain limits, Professional Orders and market maker quotes at the best price receive allocations based upon the percentage of the total number of contracts available at the best price that is represented by the size of the Professional Order or quote. If there were two or more Priority Customer Orders for the same options series at the same price, priority will be afforded based on the sequence in which such orders were received. ISE Mercury rules will define ''Priority Customer'' as a person or entity that is not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts. ''Professional Orders,'' *i.e.,* orders for the account of a person or entity that is not a Priority Customer, will be subordinate to Priority Customer Orders for priority and fee purposes. Professional Orders will include orders of broker-dealers and orders of those Public Customers that are not Priority Customers. *See* ISE Mercury Rules 100(a)(37A)–(37C) for definitions of Priority Customer, Priority Customer Order and Professional Order, respectively.

[247] *See, e.g.,* ISE Rule 713; ISE Gemini Rule 713 (Priority of Quotes and Orders).

[248] *See* ISE Mercury Rule 713, Supplementary Material .01. Specifically, the PMM's participation entitlement will be equal to the greater of: (i) The proportion of the total size at the best price represented by the size of its quote, or (ii) 60% of the contracts to be allocated if there is only one other Market Maker quotation at the NBBO or 40% if there are two or more other Market Maker quotes at the NBBO. *See* ISE Mercury Rule 713, Supplementary Material .01(b).

[249] *See supra* note 246 for the definition of Priority Customer.

[250] *See* ISE Mercury Rule 713, Supplementary Material .01.

[251] *See id.*

[252] *See* ISE Mercury Rule 713, Supplementary Material .01(c). The rule provides that ISE Mercury will review the functioning of this provision quarterly to make sure that small size orders do not account for more than 40% of the volume executed on ISE Mercury. *Id.*

[253] *See, e.g.,* ISE Gemini Order, *supra* note 27; MIAX Order, *supra* note 28.

[254] *See supra* Section II.D.3.b (discussing market maker obligations).

[255] For example, as discussed above, *supra* Section II.D.3.b., PMMs must provide continuous two-sided quotes in each appointed option class.

the Commission believes that the proposed rules regarding participation entitlements are consistent with the Act, including Section 6(b)(5),[256] in that they are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

ISE Mercury proposes to make available certain additional order processing and matching features, largely based on features available on ISE.[257] Mechanisms that will be utilized by ISE Mercury include: A Price Improvement Mechanism (which affords the opportunity for price improvement after an auction for eligible orders above the NBBO); [258] a Facilitation Mechanism (which affords members an opportunity to cross orders after an auction and provides the facilitating member the opportunity to receive 40% of the agency order); [259] and a Solicited Order Mechanism (which allows members representing agency orders the opportunity to cross large size solicited orders after an auction).[260] These mechanisms are consistent with substantially similar mechanisms currently existing on other options exchanges, including identical mechanisms on ISE and ISE Gemini.[261]

Members will be able to access ISE Mercury through a variety of electronic systems, and non-members will be able to access ISE Mercury pursuant to sponsored access arrangements with ISE Mercury members, pursuant to ISE Mercury rules.[262] As noted above and provided further below, prior to commencing operations, ISE Mercury also must become a participant in the Linkage Plan.[263] The manner in which ISE Mercury proposes to comply with the Linkage Plan is identical to the manner in which ISE and ISE Gemini comply with the Linkage Plan. Specifically, to comply with the Linkage Plan, ISE Mercury, among other things, will prohibit its members from effecting a transaction at a price that is inferior to the NBBO, unless an exception applies.[264] ISE Mercury will provide a centralized process for sending intermarket sweep orders to other exchanges on behalf of Public Customer Orders.[265] ISE Mercury will contract with one or more unaffiliated brokers to route orders to other exchanges when necessary to comply with the Linkage Plan. In circumstances where marketable orders are received when ISE Mercury is not at the NBBO or orders are received that would lock or cross another market, they will be exposed to ISE Mercury members for up to one second.[266] If, after an order is exposed, such order cannot be executed in full on ISE Mercury at the then-current NBBO or better and is marketable, the lesser of the full displayed size of the protected bid(s) or protected offer(s) that are priced better than the ISE Mercury's quote or the balance of the order will be sent to a contracted unaffiliated broker, and any additional balance of the order that is not marketable against the then-current NBBO will be placed on the ISE Mercury book.[267]

The Commission believes that ISE Mercury's proposed display, execution, and priority rules are consistent with the Act. In particular, the Commission finds that the proposed rules are consistent with Section 6(b)(5) of the Act,[268] which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and to not permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rules are consistent with Section 6(b)(8) of the Act,[269] which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The trading rules of ISE Mercury are substantially similar to the current ISE and ISE Gemini trading rules, which were approved at the time each of ISE and ISE Gemini's registration as a national securities exchange was granted [270] or filed with and approved by the Commission (or otherwise became effective) pursuant to Section 19(b) of the Act.[271]

5. Section 11(a) of the Act

Section 11(a)(1) of the Act [272] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, ''covered accounts''), unless an exception applies. The Exchange has represented that it has analyzed its rules proposed hereunder, and believes that they are consistent with Section 11(a) of the Act and rules thereunder.[273] For the reasons set forth below, based on ISE Mercury's representations, the Commission believes that ISE Mercury's order execution algorithm, including the Facilitation, Solicitation, Price Improvement Mechanism, and Customer Cross processes, will allow members to meet the requirements of Rule 11a2–2(T) for executions on ISE Mercury.

Rule 11a2–2(T) under the Act,[274] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) May not be associated with the executing member; (ii) must transmit the order from off the exchange floor; (iii) may not participate in the execution of the transaction once it has been transmitted to the member

[256] 15 U.S.C. 78f(b)(5).

[257] The primary difference between ISE Mercury's order processing and matching features and those of ISE previously approved by the Commission will be that ISE Mercury will not accept complex orders.

[258] *See* ISE Mercury Rule 723. ISE Mercury will operate a pilot program whereby there will be no minimum size requirements for orders to be eligible for the PIM. *See* Exhibit B to the Form 1 Application; *see also* ISE Mercury Rule 723, Supplementary Material .03.

[259] *See* ISE Mercury Rule 716(d).

[260] *See* ISE Mercury Rule 716(e).

[261] *See* ISE Rules 716 and 723; ISE Gemini Rules 716 and 723.

[262] *See, e.g.,* ISE Mercury Rule 706, Supplementary Material .01.

[263] *See* ISE Mercury Rule 1900 Series, which incorporates by reference ISE Rule 1900 Series.

[264] *See* ISE Mercury Rule 714(a); *see also* ISE Rule 714(a); ISE Gemini Rule 714(a).

[265] *See* ISE Mercury Rule 1901, which incorporates by reference ISE Rule 1901.

[266] *See* ISE Mercury Rule 1901, Supplementary Material .02, which incorporates by reference ISE Rule 1901, Supplementary Material .02.

[267] *See id.* Any additional balance of the order will be executed on ISE Mercury if it is marketable.

[268] 15 U.S.C. 78f(b)(5).

[269] 15 U.S.C. 78f(b)(8).

[270] *See* ISE Order, *supra* note 157; ISE Gemini Order, *supra* note 27.

[271] The Commission notes, however, that some of ISE Mercury's rules differ in some respects from the rules of ISE and ISE Gemini. For example, ISE Mercury is not proposing to incorporate ISE's rules relating to the trading of equity securities or to incorporate any rules concerning the trading of complex or multi-legged orders at this time.

[272] 15 U.S.C. 78k(a)(1).

[273] *See* Letter from Michael Simon, General Counsel, Secretary and Chief Regulatory Officer, ISE Mercury, to Brent J. Fields, Secretary, Commission, dated January 7, 2016 (''Exchange 11(a) Request Letter'').

[274] 17 CFR 240.11a2–2(T).

performing the execution; [275] and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.

In a letter to the Commission,[276] ISE Mercury requested that the Commission concur with its conclusion that ISE Mercury members that enter orders through the ISE Mercury system, including the Facilitation, Solicitation, Price Improvement Mechanism, and Customer Cross processes, satisfy the requirements of Rule 11a2–2(T). For the reasons set forth below, the Commission believes that ISE Mercury members that enter orders through the ISE Mercury system, including through these processes, will satisfy the conditions of Rule 11a2–2(T).

Rule 11a2–2(T)'s first condition is that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that the requirement is satisfied when automated exchange facilities are used, such as the ISE Mercury system, as long as the design of these systems ensures that members do not possess any special or unique trading advantages over non-members in handling their orders after transmitting them to the Exchange.[277] ISE Mercury has represented that the design of the ISE Mercury system ensures that no member has any special or unique trading advantage in the handling of its orders after transmitting its orders to ISE Mercury.[278] Based on the Exchange's representation, the Commission believes that the ISE Mercury system is designed to enable its members to satisfy this requirement.

Second, Rule 11a2–2(T) requires orders for covered accounts to be transmitted from off the exchange floor. ISE Mercury will not have a physical trading floor, and like other automated systems, will receive orders electronically through remote terminals or computer-to-computer interfaces. In the context of other automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[279] Orders sent to ISE Mercury, regardless of where it executes within the ISE Mercury system, will be transmitted from remote terminals directly to ISE Mercury by electronic means. Since the ISE Mercury trading system receives all orders electronically, the Commission believes that the ISE Mercury system will satisfy the off-floor transmission requirement.

Third, Rule 11a2–2(T) requires that the member and any associated person not participate in the execution of its order once it has been transmitted to the member performing the execution.[280] ISE Mercury represents that at no time following the submission of an order is a member able to acquire control or influence over the result or timing of an order's execution. According to ISE Mercury, orders submitted through ISE Mercury systems meet the non-participation requirement. Trades on ISE Mercury will execute when orders or quotations on ISE Mercury match one another based on their priority. Execution will not depend on the participant, but rather upon what other orders are entered into the system at or around the same time as the subject order, what orders are on ISE Mercury, or submitted as responses, and where the order is ranked based on priority ranking algorithm.[281] Accordingly, the Commission believes that the non-participation requirement will be met when orders are executed automatically through use of the ISE Mercury system.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T).[282] ISE Mercury members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption.[283]

E. Discipline and Oversight of Members

As noted above, one prerequisite for the Commission's grant of an exchange's application for registration is that a proposed exchange must be so organized and have the capacity to be able to carry out the purposes of the Act.[284] Specifically, an exchange must be able to enforce compliance by its members and persons associated with its members with the Act and the rules and regulations thereunder and the rules of the exchange.[285]

[275] This prohibition also applies to associated persons. *See* 15 U.S.C. 78f(b)(8). The member may, however, participate in clearing and settling the transaction. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (regarding the NYSE's Designated Order Turnaround System) (''1978 Release'').

[276] *See* Exchange 11(a) Request Letter, *supra* note 273.

[277] In considering the operation of automated execution systems operated by an exchange, the Commission noted that while there is no independent executing exchange member, the execution of an order is automatic once it has been transmitted into each system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* Securities Exchange Act Release No. 15533 (January 29, 1979), 44 FR 6084, 6086 n.25 (January 31, 1979) (File No. S7–613) (regarding the Amex Post Execution Reporting System, the Amex Switching System, the Intermarket Trading System, the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange, the PCX Communications and Execution System, and the Philadelphia Stock Exchange Automated Communications and Execution System (''1979 Release'')).

[278] *See* Exchange 11(a) Request Letter, *supra* note 273.

[279] *See, e.g.,* Securities Exchange Act Release Nos. 59154 (December 23, 2008) 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (order approving proposed rules of BX); 49068, (January 13, 2004), 69 FR 2775 (January 20, 2004) (SR–BSE–2002–15) (establishing, among other things, BOX as an options trading facility of BSE); 44983, (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving the PCX's use of the Archipelago Exchange as its equity trading facility); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (regarding NYSE's Off-Hours Trading Facility). *See* 1978 Release, *supra* note 275. *See also* 1979 Release, *supra* note 277.

[280] The member may cancel or modify the order, or modify the instructions for executing the order, but only from off the Exchange floor. *See* 1978 Release, *supra* note 275, at 43 FR 11547. The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as such modifications or cancellations are also transmitted from off the floor. *See id.* (stating that the ''non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

[281] *See* Exchange 11(a) Request Letter, *supra* note 273.

[282] 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated person thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 275, at 43 FR 11548 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[283] *See* Exchange 11(a) Request Letter, *supra* note 273.

[284] *See* 15 U.S.C. 78f(b)(1).

[285] *See id.*

ISE Mercury rules codify ISE Mercury's disciplinary jurisdiction over its members, thereby facilitating its ability to enforce its members' compliance with its rules and the federal securities laws.[286] ISE Mercury's rules permit it to sanction members for violations of the Act and the rules and regulation thereunder and ISE Mercury's rules by, among other things, expelling or suspending members; limiting members' activities, functions, or operations; fining or censuring members; suspending or barring a person from being associated with a member; or any other fitting sanction in accordance with ISE Mercury rules.[287]

ISE Mercury's disciplinary and oversight functions will be administered in accordance with Chapter 16 of the ISE Mercury rules, which incorporates by reference Chapter 16 of ISE rules, governing disciplinary jurisdiction. Unless delegated to another SRO pursuant to the terms of an effective 17d–2 Plan,[288] ISE Mercury regulatory staff (including regulatory staff of another SRO that may be acting on ISE Mercury's behalf pursuant to a regulatory services agreement) will, among other things, investigate potential securities laws violations and initiate charges pursuant to ISE Mercury rules.[289]

Upon a finding of probable cause of a violation within the disciplinary jurisdiction of ISE Mercury and where further proceedings are warranted,[290] ISE Mercury will conduct a hearing on disciplinary matters before a professional hearing officer[291] and two members of the Business Conduct Committee[292] (''Panel'').[293] The ISE Mercury member (or its associated person) or the ISE Mercury regulatory staff may petition for review of the Panel's decision by the ISE Mercury Board.[294] Any review will be conducted by the ISE Mercury Board or a committee thereof composed of at least three of its directors (whose decision must be ratified by the ISE Mercury Board).[295] In addition, the ISE Mercury Board on its own motion may order review of a disciplinary decision.[296] The ISE Mercury Board may affirm, reverse, or modify, in whole or in part, the Panel's decision.[297] The decision of the ISE Mercury Board will be in writing and will be final.[298]

Appeals from any determination that impacts access to ISE Mercury, such as termination or suspension of membership, will be instituted under, and governed by, the provisions in Chapter 17 of the ISE Mercury rules, which incorporate by reference the provisions in Chapter 17 of ISE rules. ISE Mercury's Chapter 17 applies to persons economically aggrieved by any of the following actions of ISE Mercury including, but not limited to: (a) Denial of an application to become a member; (b) barring a person from becoming associated with a member; and (c) limiting or prohibiting services provided by the ISE Mercury or services of any exchange member.[299]

Any person aggrieved by an action of ISE Mercury within the scope of the Chapter 17 may file a written application to be heard within thirty days[300] after such action has been taken.[301] Applications for hearing and review will be referred to the Business Conduct Committee, which will appoint a hearing panel of no less than three members of such Committee.[302] The decision of the hearing panel made pursuant to Chapter17 of the ISE Mercury rules is subject to review by the ISE Mercury Board, either on its own motion, or upon written request submitted by the applicant or the President of ISE Mercury.[303] The review will be conducted by the ISE Mercury Board or a committee of the ISE Mercury Board composed of at least three directors.[304]

The Commission finds that ISE Mercury's proposed disciplinary and oversight rules and structure, as well as its proposed process for persons economically aggrieved by certain ISE Mercury actions, are consistent with the requirements of Sections 6(b)(6) and 6(b)(7) of the Act[305] in that they provide fair procedures for the disciplining of members and persons associated with members. The Commission further finds that the proposed ISE Mercury rules, which incorporate by reference ISE rules, are designed to provide ISE

[286] *See* ISE Mercury Rule 1600(a) (which incorporates by reference ISE Rule 1600(a)).

[287] *See id. See also* ISE Gemini Rule 1600(a); MIAX Rule 1000; BOX Exchange Rule 12000 Series (containing identical provisions).

[288] *See supra* notes 144–146 and accompanying text (concerning the multiparty 17d–2 Plans to which ISE Mercury has committed to join).

[289] *See* ISE Mercury Rule 1602 (which incorporates by reference ISE Rule 1602). As noted above, ISE Mercury has entered into an RSA with FINRA and a FMA with ISE under which FINRA and ISE, respectively, will perform certain regulatory functions on behalf of ISE Mercury. *See* ISE Mercury Rule 1615 (which incorporates by reference ISE Rule 1615).

[290] *See* ISE Mercury Rule 1604 (which incorporates by reference ISE Rule 1604). If there is probable cause for finding a violation, ISE Mercury's regulatory staff will prepare a statement of charges including the allegations and specifying the provisions of the Act and the rules and regulations promulgated thereunder, provisions of the ISE Mercury Constitution or rules, or interpretations or resolutions of which such acts are in violation. The CRO must approve the statement of charges.

[291] *See* ISE Mercury Rule 1606 (which incorporates by reference ISE Rule 1606); *see also* ISE Mercury Rule 1615, Supplemental Material .01 (which incorporates by reference ISE Rule 1615, Supplemental Material .01).

[292] Pursuant to a Resolution of the ISE Mercury Board, the President and CEO shall establish ISE Mercury's Business Conduct Committee, pursuant to a charter. The Committee shall consist of no more than 21 persons, all of whom are employees of members of ISE Mercury, representing members as follows: At least three persons shall represent PMMs; at least three persons shall represent CMMs that are not also PMMs; and at least four persons shall represent EAMs that neither are, nor are affiliated with, a PMM or CMM. *See* Exhibit L to the Form 1 Application.

[293] *See* ISE Mercury Rule 1606 (which incorporates by reference ISE Rule 1606). A Panel may make a determination without a hearing and may impose a penalty as to violations that the member or associated person has admitted or has failed to answer or that otherwise do not appear to be in dispute. *See* ISE Mercury Rule 1608 (which incorporates by reference ISE Rule 1608). A member or associated person alleged to have committed a disciplinary violation may submit a written offer of settlement to the Panel, or CRO if a Panel is not yet been appointed, which the Panel or CRO may accept or reject. *See* ISE Mercury Rule 1609 (which incorporates by reference ISE Rule 1609). If the second offer of settlement is rejected (such decision is not subject to review), a hearing will proceed in accordance with ISE Mercury Rule 1606 (which incorporates by reference ISE Rule 1606). *See also* ISE Mercury Rule 1609 (which incorporates by reference ISE Rule 1609).

[294] *See* ISE Mercury Rule 1610 (which incorporates by reference ISE Rule 1610).

[295] *See id.*

[296] *See id.*

[297] *See id.*

[298] *See id.*

[299] *See* ISE Mercury Rule 1700 (which incorporates by reference ISE Rule 1700). As noted above, ISE Mercury has entered into an RSA with FINRA and a FMA with ISE under which FINRA and ISE, respectively, will perform certain regulatory functions on behalf of ISE Mercury. For example, FINRA may perform some or all of the functions specified in Chapter 17 of ISE Mercury rules. *See supra* notes 148–149 and accompanying text. *See also* ISE Mercury Rule 1706 (which incorporates by reference ISE Rule 1706).

[300] An applicant may file for an extension of time within thirty days of ISE Mercury's action. An application for such an extension will be ruled upon by the Chairman of the Business Conduct Committee and is not subject to appeal. *See* ISE Mercury Rule 1701 (which incorporates by reference ISE Rule 1701).

[301] *See* ISE Mercury Rule 1701 (which incorporates by reference ISE Rule 1701).

[302] *See* ISE Mercury Rule 1702 (which incorporates by reference ISE Rule 1702).

[303] *See* ISE Mercury Rule 1704 (which incorporates by reference ISE Rule 1704). The ISE Mercury Board, or a committee of the ISE Mercury Board, will have sole discretion to grant or deny either request. *See id.*

[304] *See* ISE Mercury Rule 1704 (which incorporates by reference ISE Rule 1704). The ISE Mercury Board or its designated committee may affirm, reverse, or modify in whole or in part, the decision of the hearing panel. The decision of the ISE Mercury Board or its designated committee will be in writing and will be final. *See* ISE Mercury Rule 1704 (which incorporates by reference ISE Rule 1704).

[305] 15 U.S.C. 78f(b)(6) and (b)(7), respectively.

Mercury with the ability to comply, and with the authority to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of ISE Mercury.[306] The Commission notes that ISE Mercury's proposed disciplinary and oversight rules and structures are similar to the rules of other exchanges.[307]

F. Listing Requirements

ISE Mercury does not intend to offer original listings when it commences operations. Instead, ISE Mercury will list and trade only standardized option contracts that are listed on other national securities exchanges and cleared by the Options Clearing Corporation.[308] ISE Mercury's listing rules, including the criteria for the underlying securities of the options to be traded, incorporate by reference all of the listing rules of ISE.[309]

The Commission finds that ISE Mercury's proposed initial and continued listing rules are consistent with the Act, including Section 6(b)(5),[310] in that they are designed to protect investors and the public interest, prevent fraudulent and manipulative acts and practices, and promote just and equitable principles of trade. Before beginning operation, ISE Mercury will need to become a participant in the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Act (''OLPP'').[311] In addition, before beginning operation, ISE Mercury will need to become a participant in the Options Clearing Corporation.

G. Limitation on Liability

ISE Mercury proposes to adopt a rule providing that, in general, ISE Mercury will not be liable for any losses arising from the use of exchange facilities, systems, or equipment.[312] The rule also states that ISE Mercury may compensate its members for certain identified losses resulting directly from the malfunction of ISE Mercury's physical equipment, devices and/or programming.[313] Under the rule, ISE Mercury's aggregated payments for all claims on a single trading day would not exceed $250,000, and this amount will be allocated proportionally among all claims if the claims arising on a single trading day exceeded $250,000.

The Commission finds that ISE Mercury's proposed rule regarding limitation of liability is consistent with the requirements of Section 6(b)(5) [314] of the Act in that it is designed to promote just and equitable principles of trade and to not permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission notes that ISE Mercury's proposed limitation of liability is similar to the limitations of other exchanges, including ISE and ISE Gemini.[315]

H. Comment

As noted above, the Commission received one comment letter regarding the Form 1 Application. In its letter, Wolverine recommends that the Commission disapprove the Form 1 Application.[316] In particular, Wolverine asserts that an approval of a new options exchange would further fragment existing options liquidity and hinder best execution for market participants.[317] Additionally, Wolverine argues that the creation of another options exchange would impose additional costs on the industry without providing a sufficient benefit.[318] For example, Wolverine states that approval of a new options exchange would impose additional cost on the industry through the assessment of Options Regulatory Fees (''ORFs'').[319]

In response, ISE Mercury provides that the ''comment letter does not raise any new issues unique to the creation of ISE Mercury.'' [320] The Exchange asserts that new options exchanges are necessary ''to provide customers with additional choices related to fees and market structure.'' [321] The Exchange also highlighted that ''there are much fewer options exchanges in comparison to the many registered equity exchanges, ECNs, and ATSs, and this is partly why there continues to be an influx of new options exchanges.'' [322] Finally, ISE Mercury notes that ORFs are applied consistently across the options industry (not specific to ISE Mercury) and are designed to make options regulatory structure stronger.[323] The Exchange also emphasizes that if ISE Mercury determines to propose an ORF for its market, Wolverine and all other market participants will have an opportunity to comment on such proposal at that time.[324]

The Commission believes that ISE Mercury has sufficiently addressed the principal concerns raised by the commenter. The Commission acknowledges the concerns that were raised by the commenter regarding possible impacts resulting from potential market fragmentation that may result from the approval of the Form 1 Application. However, the Commission also notes that the commenter did not identify any specific Exchange Act provision or rule or regulation thereunder that would be inconsistent with the approval of the Form 1 Application. Although the Commission continuously considers issues related to market structure—including the issues raised by the commenter—pursuant to Sections 6 and 19 of the Exchange Act, the Commission must grant an application for registration as a national securities exchange if it finds that the requirements of the Exchange Act and the rules and regulations thereunder with respect to the applicant are satisfied.[325] For the reasons discussed throughout the order, the Commission believes that these requirements have been met. Finally, the Commission also notes that the commenter's concern regarding an increased ORF is not ripe for consideration until ISE Mercury proposes such a separate fee.

III. Exemption From Section 19(b) of the Act With Regard to ISE, CBOE, New York Stock Exchange LLC (''NYSE''), and FINRA Rules Incorporated by Reference

ISE Mercury proposes to incorporate by reference certain ISE, CBOE, NYSE and FINRA rules.[326] Thus, for certain

[306] *See* Section 6(b)(1) of the Act, 15 U.S.C. 78f(b)(1).

[307] *See, e.g.,* ISE Gemini Order, *supra* note 27; MIAX Order, *supra* note 28; and BOX Order, *supra* note 37.

[308] *See* Exhibit H to the Form 1 Application.

[309] *See* ISE Mercury Rule 500 Series (which incorporates by reference ISE Rule 500 Series) (Securities Traded on the Exchange). *See also* ISE Gemini Rule 500 Series; MIAX Rule 400 Series; and BOX Rule 5000 Series.

[310] 15 U.S.C. 78f(b)(5).

[311] 15 U.S.C. 78k–1(a)(3)(B).

[312] *See* proposed Rules of ISE Mercury, Chapter 7, Rule 705, Exhibit B.

[313] NASDAQ and NYSE Arca also provide that the exchanges may compensate their members for certain identified losses resulting from the malfunction of their respective systems. *See* NASDAQ Rule 4626; NYSE Arca (Options) Rule 14.2.

[314] 15 U.S.C. 78f(b)(5).

[315] The proposed rule is identical to ISE Rule 705 and ISE Gemini Rule 705. *See also* Securities Exchange Act Release No. 57675 (April 17, 2008), 73 FR 21996 (April 23, 2008) (noting that the approved ISE rule, as approved, was generally similar to NASDAQ Rule 4626(b) and NYSE Arca Rules 14.2(b) and (c)).

[316] *See* Wolverine Letter, *supra* note 5.

[317] *See id.*

[318] *See id.*

[319] *See id.*

[320] *See* ISE Mercury Response Letter, *supra* note 6.

[321] *See id.*

[322] *See id.*

[323] *See id.*

[324] *See id.*

[325] *See* 15 U.S.C. 78f(b); 15 U.S.C. 78s(a)(1).

[326] Specifically, ISE Mercury proposes to incorporate by reference the following ISE Rules:

Continued

ISE Mercury rules, ISE Mercury members will comply with an ISE Mercury rule by complying with the referenced ISE, CBOE, NYSE or FINRA rule.

In connection with the proposal to incorporate ISE, CBOE, NYSE and FINRA rules by reference, ISE Mercury requests, pursuant to Rule 240.0–12 under the Act,[327] an exemption under Section 36 of the Act from the rule filing requirements of Section 19(b) of the Act for changes to the ISE Mercury rules that are effected solely by virtue of a change to a cross-referenced ISE, CBOE, NYSE or FINRA rule.[328] ISE Mercury proposes to incorporate by reference categories of rules, rather than individual rules within a category, that are not trading rules. In addition, ISE Mercury agrees to provide written notice to its members whenever FINRA, ISE, CBOE or NYSE proposes a change to a cross-referenced rule [329] and whenever any such proposed changes are approved by the Commission or otherwise become effective.[330]

Using the authority under Section 36 of the Act, the Commission previously exempted certain SROs from the requirement to file proposed rule changes under Section 19(b) of the Act.[331] The Commission is hereby granting ISE Mercury's request for exemption, pursuant to Section 36 of the Act, from the rule filing requirements of Section 19(b) of the Act with respect to the rules that ISE Mercury proposes to incorporate by reference. The exemption is conditioned upon ISE Mercury providing written notice to ISE Mercury members whenever FINRA, ISE, CBOE or NYSE proposes to change an incorporated by reference rule and when the Commission approves any such changes. The Commission believes that the exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of Commission's and SROs' resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought to be implemented by more than one SRO.

IV. Conclusion

IT IS ORDERED that the application of ISE Mercury for registration as a national securities exchange be, and it hereby is, granted.

IT IS FURTHERED ORDERED that operation of ISE Mercury is conditioned on the satisfaction of the requirements below:

A. *Participation in National Market System Plans Relating to Options Trading.* ISE Mercury must join: (1) The Plan for the Reporting of Consolidated Options Last Sale Reports and Quotation Information (Options Price Reporting Authority); (2) the OLPP; (3) the Linkage Plan; and (4) the Plan of the Options Regulatory Surveillance Authority.

B. *Participation in Multiparty Rule 17d–2 Plans.* ISE Mercury must become a party to the multiparty Rule 17d–2 agreements concerning options sales practice regulation and market surveillance.

C. *Participation in the Options Clearing Corporation.* ISE Mercury must become an Options Clearing Corporation participant exchange.

D. *Participation in the Intermarket Surveillance Group.* ISE Mercury must join the Intermarket Surveillance Group.

It is further ordered, pursuant to Section 36 of the Act,[332] that ISE Mercury shall be exempted from the rule filing requirements of Section 19(b) of the Act with respect to the FINRA, ISE, CBOE and NYSE rules that ISE Mercury proposes to incorporate by reference, subject to the conditions specified in this order that ISE Mercury provide written notice to ISE Mercury members whenever FINRA, ISE, CBOE or NYSE propose to change an incorporated by reference rule and when the Commission approves any such changes.

By the Commission.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02061 Filed 2–3–16; 8:45 am]

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Chapter 4 (Business Conduct), Chapter 5 (Securities Traded on the Exchange), Chapter 6 (Doing Business with the Public), Chapter 10 (Closing Transactions), Chapter 11 (Exercises and Deliveries), Chapter 12 (Margins), Chapter 13 (Net Capital Requirements), Chapter 14 (Records, Reports and Audits), Chapter 15 (Summary Suspension), Chapter 16 (Discipline), Chapter 17 (Hearings and Review), Chapter 18 (Arbitration), Chapter 19 (Order Protection; Locked and Crossed Markets), Chapter 20 (Index Rules), Chapter 22 (Rate-Modified Foreign Currency Options Rules). The following rules are cross-referenced in the ISE rules: ISE Rule 1202 (Margin Requirements) cross-references the same CBOE and NYSE rules that may be in effect from time to time; ISE Rule 1615 (Disciplinary Functions) cross-references the FINRA Code of Procedure and ISE Rule 1800 cross-references the 12000 and 13000 Series of the FINRA Manual and FINRA Rule 2268.

[327] 17 CFR 240.0–12.

[328] *See* Letter from Michael Simon, General Counsel, Secretary and Chief Regulatory Officer, ISE Mercury, to Brent J. Fields, Secretary, Commission, dated June 26, 2015.

[329] *See id.*

[330] ISE Mercury will provide such notice through a posting on the same Web site location where ISE Mercury posts its own rule filings pursuant to Rule 19b–4 under the Act, within the required time frame. The Web site posting will include a link to the location on the FINRA, ISE, CBOE or NYSE Web site where FINRA, ISE, CBOE or NYSE's proposed rule change is posted. *See id.*

[331] *See, e.g.,* BATS Order, *supra* note 27, C2 Order, *supra* note 159, Nasdaq Order, *supra* note 27, and NOM Approval Order, *supra* note 154.

[332] 15 U.S.C. 78mm.

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31974]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

January 29, 2016.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of January 2016. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 23, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Jessica Shin, Law Clerk, at (202) 551–5921 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE., Washington, DC 20549–8010.

GAI Mesirow Insight Fund, LLC [File No. 811–22221]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an

investment company. Applicant has transferred its assets to GAI Corbin Multi-Strategy Fund, LLC and, on December 31, 2015, made a final distribution to its shareholders based on net asset value. Expenses of $150,231 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Dates: The application was filed on January 6, 2016, and amended on January 7, 2016.

Applicant's Address: 401 South Tryon Street, Charlotte, North Carolina 28202.

Federated Enhanced Treasury Income Fund [File No. 811–22098]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Federated Enhanced Treasury Income Fund, a portfolio of Federated Income Securities Trust, and, on October 23, 2015, made a final distribution to its shareholders based on net asset value. Expenses of $161,790 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Dates: The application was filed on January 21, 2016.

Applicant's Address: 4000 Ericsson Drive, Warrendale, Pennsylvania 15086.

Nuveen New York Dividend Advantage Municipal Fund 2 [811–10253]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Nuveen New York Dividend Advantage Municipal Fund and, on May 26, 2015, made a final distribution to its shareholders based on net asset value. Expenses of $620,000 incurred in connection with the reorganization were paid by applicant and $285,000 were paid by the acquiring fund.

Filing Dates: The application was filed on January 22, 2016.

Applicant's Address: 333 West Wacker Drive, Chicago, Illinois 60606.

EGA Frontier Diversified Core Fund [811–22782]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 16, 2015, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $14,813 incurred in connection with the liquidation were paid by the applicant's investment adviser.

Filing Dates: The application was filed on January 27, 2016.

Applicant's Address: 155 West 19th Street, New York, New York 10011.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02064 Filed 2–3–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77000; File No. SR–NYSEARCA–2016–22]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services

January 29, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 28, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change the fees and credits for Cross Asset Tier 2 in the Fee Schedule. Specifically, for securities with a per share price $1.00 or above, the Exchange proposes to: (1) Replace the numeric benchmark needed to be eligible for the tier with a benchmark based on a percentage of options contract volume, and (2) provide a second way to qualify for the Cross Asset Tier 2 credits for orders that provide liquidity to the Exchange. The Exchange proposes to implement the fee changes effective January 28, 2016.[4]

Currently, Cross Asset Tier 2 fees and credits apply to ETP Holders and Market Makers that (a) provide liquidity an average daily volume share per month of 0.30% or more of the US Consolidated Average Daily Volume (''CADV''), and (b) are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions for the account of a market maker in Penny Pilot issues on NYSE Arca Options (excluding mini options) of at least 90,000 contracts. Such ETP Holders and Market Makers receive a credit of $0.0031 per share for orders that provide liquidity to the order book in Tape A Securities; a credit of $0.0030 per share for providing liquidity to the order book and a fee of $0.0028 per share for taking liquidity from the order book in Tape B Securities; and a credit of $0.0033 per share for providing liquidity to the order book and a fee of $0.0029 per share for taking liquidity from the order book in Tape C Securities.

The Exchange proposes to replace the current fixed 90,000 contract requirement with a variable requirement of at least 0.75% of total Customer equity and exchange-traded fund (''ETF'') option ADV, as reported by the Options Clearing Corporation (''OCC'').[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Fee Schedule on January 4, 2016 (SR–NYSEArca–2016–05) and withdrew such filing on January 14, 2016. The Exchange subsequently filed to amend the Fee Schedule on January 14, 2016 (SR–NYSEArca–2016–12) and withdrew such filing on January 28, 2016.

[5] The OCC provides volume information in two product categories: Equity and ETF volume and index volume, and the information can be filtered to show only Customer, firm, or market maker account type. Equity and ETF Customer volume numbers are available directly from the OCC each

Continued

The Exchange is proposing these changes to the Cross-Asset Tier 2 in order to make the eligibility requirement consistent with the Exchange's other variable eligibility requirements that are based on percentage of volume. The Exchange believes that using an eligibility requirement based on percentage of volume would better reflect fluctuations in trading volumes. The proposed change would thus eliminate the need to modify a fixed number requirement because a threshold based on volume would automatically make the necessary adjustments.

The Exchange proposes to make a clarifying amendment to the text of the Fee Schedule to more accurately reflect the application of the Cross Asset Tier 2. Specifically, the Exchange proposes to delete the potentially confusing phrase ''(including all account types)'' following ''electronic posted executions'' and before ''in Penny Pilot issues on NYSE Arca Options'' in current clause (b) of the Fee Schedule consistent with the filing adopting the Cross Asset Tier 2.[6] The Exchange also proposes to move the phrase ''for the account of a market maker'' from the end of current clause (b) to after ''electronic posted executions'' to add greater clarity to the Fee Schedule.

The Exchange also proposes to permit ETP Holders, including Market Makers, to alternatively qualify for the Cross Asset Tier 2 credits if they (1) provide liquidity an ADV share per month of 0.40% or more of the CADV, and (2) are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions for the account of a market maker in Penny Pilot issues on NYSE Arca Options (again, excluding mini options) of at least 0.65% of total Customer equity and ETF option ADV, as reported by OCC.

The Exchange does not propose any other changes to the fees and credits currently applicable to Cross Asset Tier 2.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. In addition, the Exchange believes the proposal is consistent with the requirement under Section 6(b)(5)[9] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes the proposal to amend Cross Asset Tier 2 to replace the current fixed benchmark needed to be eligible for the tier with a variable benchmark based on a percentage of volume is reasonable because it would make the eligibility requirement consistent with the Exchange's other variable eligibility requirements that also are based on percentage of volume. In addition, the Exchange believes that expanding the basis for the Cross-Asset Tier 2 to include all Customer equity and ETF options ADV would better reflect the correlation between options trading and the underlying securities, which trade at the Exchange, including ETFs. In this respect, the Exchange notes that Equity and ETF Customer volume is a widely followed benchmark of industry volume and is indicative of industry market share.[10] The Exchange further believes that the proposed amendment is equitable and not unfairly discriminatory because it would be available to all similarly situated ETP Holders and Market Makers on an equal basis and would provide credits that are reasonably related to the value of an exchange's market quality associated with higher volumes.

The Exchange believes that the proposal to amend Cross Asset Tier 2 is reasonable because it provides ETP Holders and Market Makers affiliated with an NYSE Arca Options OTP Holder or OTP Firm with an additional way to qualify for the Cross Asset Tier 2 rebates through equity and option orders. The Exchange believes that the proposed alternative to qualify for the tier utilizing a higher equity volume requirement (0.40%) and a lower options volume requirement (0.65%) is reasonable because the proposal provides firms with greater flexibility to reach volume tiers across asset classes, thereby creating an added incentive for ETP Holders to bring additional order flow to a public market.

The Exchange believes that the proposal is equitable and not unfairly discriminatory because all ETP Holders would be subject to the same fee structure and be offered the same alternative to qualifying for the Cross-Asset Tier 2 credit. Moreover, the Cross-Asset Tier 2 credit is available for all ETP Holders to satisfy, except for those ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm. ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm are still eligible for fees and credits by means other than the Cross Asset Tier. NASDAQ similarly charges certain fees based on both equity and options volume.[11]

Further, the Exchange believes that the proposal is reasonable and would continue to directly relate to the activity of an ETP Holder and the activity of an affiliated OTP Holder or OTP Firm on NYSE Arca Options, thereby encouraging increased trading activity on both the NYSE Arca equity and option markets. In this regard, the proposal is designed to bring additional posted order flow to NYSE Arca Options, so as to provide additional opportunities for all OTP Holders and OTP Firms to trade on NYSE Arca Options. Furthermore, similar to the revised Cross Asset Tier, the NYSE Arca Options Fee Schedule includes a credit for OTP Holders and OTP Firms that is based on both equity and options volume.

The Exchange believes that deleting the phrase ''(including all account types)'' in current clause (b) of the Fee Schedule consistent with the filing

morning, or may be transmitted, upon request, free of charge from the Exchange. Total Industry Customer equity and ETF option ADV is comprised of those equity and ETF option contracts that clear in the customer account type at OCC, including Exchange-Traded Fund Shares, Trust Issued Receipts, Partnership Units, and Index-Linked Securities such as Exchange-Traded Notes (*see* NYSE Arca Options Rule 5.3(g)–(j)), and does not include contracts that clear in either the firm or market maker account type at OCC or contracts overlying a security other than an equity or ETF security. The Exchange currently makes this data publicly available on a T+1 basis from a link at *http://www.nyxdata.com/factbook.*

[6] *See* Securities Exchange Act Release No. 76084 (October 6, 2015), 80 FR 61529, 61531 (October 13, 2015) (SR–NYSEArca–2015–87) (the Cross Asset Tier 2 applies to ''ETP Holders and Market Makers that (a) provide liquidity an average daily volume share per month of 0.30% or more of the US CADV and (b) are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions for the account of a market maker in Penny Pilot issues on NYSE Arca Options (excluding mini options) of at least 90,000 contracts.'').

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* note 5, *supra.*

[11] *See* NASDAQ Rule 7018.

adopting the Cross Asset Tier 2 [12] removes impediments to and perfects the mechanism of a free and open market by reducing potential confusion that may result from having extraneous material in the Exchange's rulebook, thereby adding transparency and clarity to the Exchange's rules. The Exchange also believes that eliminating this extraneous material would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. The Exchange also believes that moving the phrase ''for the account of a market maker'' from the end of current clause (b) to after ''electronic posted executions'' removes impediments to and perfects the mechanism of a free and open market by adding clarity to the Exchange's rules. The Exchange believes its proposal to amend the text of the Fee Schedule to clarify the applicability of the Cross Asset Tier 2 is both reasonable and equitable because ETP Holders and Market Makers would benefit from clear guidance in the rule text describing the manner in which the Exchange would assess Cross Asset Tier 2 fees and rebates.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[13] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders and Market Makers. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

Further, the proposal to amend the requirements to qualify for Cross Asset Tier 2 and add another way to qualify for the Cross-Asset Tier 2 credits will not place an undue burden on competition because the tier would remain available for all ETP Holders to satisfy except those ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm. ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm are eligible for fees and credits by other means than the Cross Asset Tier 2. ETP Holders would be subject to the same fee structure and be offered the same alternatives to qualifying for the Cross-Asset Tier 2 credit.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of ETP Holders or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [14] of the Act and subparagraph (f)(2) of Rule 19b–4 [15] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2016–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2016–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

[12] *See* note 6, *supra.*

[13] 15 U.S.C. 78f(b)(8).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(2).

[16] 15 U.S.C. 78s(b)(2)(B).

available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2016–22 and should be submitted on or before February 25, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02063 Filed 2–3–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Monday, February 8, 2016, at 1:00 p.m., in the Auditorium (L–002) at the Commission's headquarters building, to hear oral argument in an appeal from an initial decision of an administrative law judge by the Respondent, Bernerd Young (''Young''), former chief compliance officer of Stanford Group Company (''SGC''). The law judge found that Young was a cause of violations by SGC of the antifraud provisions of Section 206(2) of the Investment Advisers Act of 1940 through false and misleading statements and omissions in marketing materials for ''certificates of deposit'' issued by Stanford International Bank Ltd., an affiliate of SGC. In addition, the law judge found that Young violated Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder in connection with statements designed to ''attack'' concerns raised about the certificates of deposit and to ''forestall redemptions and continue sales.'' The law judge further found that Young aided and abetted and caused violations of Exchange Act Section 10(b) and Rule 10b–5, Exchange Act Section 15(c)(1), and Advisers Act Sections 206(1) and (2) in connection with these misrepresentations and omissions.

Based on her findings, the law judge issued a cease-and-desist order against Young; barred him from associating with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and prohibited him from serving or acting in certain capacities with respect to an investment company. The law judge also ordered Young to pay $591,992.46 in disgorgement, with prejudgment interest, and assessed a third-tier civil penalty of $260,000.

Young appealed the law judge's findings of violation and the sanctions imposed. The issues likely to be considered at oral argument include, among other things, whether Young violated the antifraud provisions as alleged and, if so, the extent to which he should be sanctioned for those violations.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: February 1, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02221 Filed 2–2–16; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76999; File No. SR–MSRB–2016–01]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change Consisting of Proposed Amendments to Rule A–3, on Membership on the Board

January 29, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 15, 2016, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB filed with the Commission a proposed rule change consisting of proposed amendments to Rule A–3, on membership on the Board, to lengthen the term of Board member service, change the number and size of Board classes, limit the number of consecutive terms a Board member can serve, eliminate the requirement that there be at least one municipal advisor representative per class that is not associated with a dealer (''non-dealer municipal advisor''), delete an obsolete transition provision and provide a technical update to the name of a Board committee (collectively, the ''proposed rule change''). The MSRB requests that the proposed rule change be effective on the date of Commission approval.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2016-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The MSRB is the self-regulatory organization (''SRO'') created by Congress to establish regulation for the $3.7 trillion municipal securities market, including rules governing the municipal securities activities of dealers and the municipal advisory activities of municipal advisors. The MSRB's mission is to protect municipal entities, obligated persons, investors and the public interest, and to promote a fair and efficient municipal securities market. The Board is comprised of 21

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(i).

[2] 17 CFR 240.19b–4.

members [3] who, collectively, govern the MSRB to carry out its mission primarily by regulating dealers and municipal advisors, providing market transparency through its Electronic Municipal Market Access (EMMA®) Web site [4] and conducting market leadership, outreach and education. The MSRB believes that increasing the term length for Board membership from three years to four years will improve the Board's ability to fulfill this purpose.

Many general, and some more detailed, aspects of the Board's composition are set forth in the Exchange Act.[5] It categorizes the members of the Board into two broad groups: Individuals who must be associated with a broker, dealer or municipal securities dealer (''dealer'') or municipal advisor (collectively, ''Regulated Representatives''), and individuals who must be independent of any dealer or municipal advisor (''Public Representatives'').[6] The Act then specifies that the number of Public Representatives must at all times exceed the number of Regulated Representatives,[7] and sets minimum requirements for certain types of individuals to serve in the two groups.[8]

At the same time, Congress delegated authority to the MSRB to determine many aspects of Board composition by rule, including such important aspects as the size of the Board and the length of the term of Board member service.[9] Currently, the Board is divided into three seven-member classes that serve staggered, three-year terms.[10] Under this framework, total Board tenure typically is no more than three years because Board members may only serve consecutive terms under two limited scenarios: (1) By invitation from, and due to special circumstances as determined by, the Board; or (2) having filled a vacancy and, therefore, having served only a partial term.[11]

In June 2015, the MSRB published a request for comment on several Board governance matters, including whether the MSRB should consider, at a conceptual level, proposing amendments to modify the length of Board member service.[12] In response, the MSRB received nine comment letters that specifically addressed that issue.[13] Most of the commenters generally supported the MSRB's consideration of modifying the length of Board member service, but they offered varying perspectives and approaches to the modification.

The MSRB carefully considered all of the comments received in response to the First Request for Comment and determined to publish a second request for comment on draft amendments to lengthen the term of Board member service from three years to four years.[14] In response to the Second Request for Comment, the MSRB received five comment letters, all of which supported the increase.[15] After carefully considering all of the comments received in response to both requests for comment, the MSRB determined to file this proposed rule change to increase Board member term length from three years to four years.

The optimal term length for members of an organization depends to a great extent upon the particular characteristics of the organization, including the nature of its mission and its activities. It is necessarily a balance among numerous competing interests, such as the interests in continuity, institutional knowledge and membership experience, on the one hand, and the interest in the addition of new perspectives, on the other. To date, the MSRB has aimed to achieve this balance using a Board member term of three years, but it now believes that the desired balance could be better achieved using an incrementally longer Board member term of four years.

Based on its experience and the views repeatedly expressed by former Board members, the MSRB believes that members are capable of making significantly increasing contributions with each year that they become more fully acclimated to the role and work of the MSRB.[16] The existence of such a multi-year ''learning curve'' is consistent with views expressed in a survey conducted by the Society of Corporate Secretaries and Governance Professionals of board members across a range of industries.[17] A number of studies suggest that longer board member tenures—to a point—are associated with superior governance.[18] Overall, based on its experience and expertise regarding its mission and activities, the MSRB believes that having members serve on the Board for a fourth year would improve the continuity and institutional knowledge of the Board from year to year, as well as its overall efficiency and effectiveness due to the collective value of retaining several members who possess additional knowledge and experience from their service as MSRB Board members.

Greater continuity and institutional knowledge is very important for the MSRB rulemaking process. This process, particularly for rules that are complex or address unique problems, frequently spans multiple years from conception to full implementation.[19] Even for rulemaking initiatives that can be completed in relatively less time, Board members have noted frequently that they are often able to engage more fully and effectively in the process after they have gained experience with the organization and have deeper knowledge of other, related rulemaking activities.

The MSRB believes that the proposed rule change would ensure greater continuity and institutional knowledge from year to year, particularly through

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[3] *See* MSRB Rule A–3(a).

[4] EMMA® is a registered trademark of the MSRB.

[5] *See* 15 U.S.C. 78*o*–4(b)(1). Rule A–3 further establishes the Board's composition.

[6] *See* 15 U.S.C. 78*o*–4(b)(1); MSRB Rule A–3(a)(i)–(ii).

[7] *See* 15 U.S.C. 78*o*–4(b)(2)(B)(i).

[8] *See* 15 U.S.C. 78*o*–4(b)(1); MSRB Rule A–3(a).

[9] The Act provides that ''[t]he members of the Board shall serve as members for a term of 3 years or for such other terms as specified by rules of the Board,'' and that the rules of the Board ''specify the length or lengths of terms members shall serve.'' 15 U.S.C. 78*o*–4 (b)(1), (b)(2)(B)(ii).

[10] *See* MSRB Rule A–3(b)(i).

[11] *Id.*

[12] MSRB Notice 2015–08 (Jun. 11, 2015) (''First Request for Comment'').

[13] *See infra* note 28.

[14] MSRB Notice 2015–18 (Oct. 5, 2015) (''Second Request for Comment'').

[15] *See infra* note 29.

[16] The current, standard three-year term of Board member service is significantly shorter than the average tenure of over eight years that studies have shown for members of other boards. *See* Spencer Stuart Board Index 2014, 5, *available at https://www.spencerstuart.com/~/media/pdf%20files/research%20and%20insight%20pdfs/ssbi2014web14nov2014.pdf%20target;* Governance Minutes by the Society of Corporate Secretaries and Governance Professionals—Director Tenure (February 26, 2014), *available at http://main.governanceprofessionals.org/governanceprofessionals/memberresources/resources/viewdocument/?DocumentKey=37b09de5-7404-4eab-bc70-10741cbf7138* (stating that average board member tenure is eight to ten years and that board members typically experience a three to four year learning curve) (''Governance Minutes''). Although this research focuses on corporate boards, the MSRB believes the learning curve and evolution of an individual director's participation on and contributions to a corporate board are analogous to the experience of MSRB Board members as they gain more tenure.

[17] *See* Governance Minutes, *supra* note 16.

[18] *See, e.g.,* Nikos Vafeas, *Length of Board Tenure and Outside Director Independence,* 30 J. of Bus. Fin. & Acct. 1043 (2003); Lucian Arye Bebchuck, Jesse M. Fried, and David I. Walker, *Managerial Power and Rent Extraction in the Design of Executive Compensation,* 69 U. of Chi. L. Rev. 751 (2002).

[19] For example, the MSRB began its current rulemaking initiative for Rule G–42, to establish core standards and duties for municipal advisors, in the fall of 2013, and will not be fully implemented until June of 2016. The MSRB's initiative for Rule G–18, to establish the first best-execution rule for transactions in municipal securities, began as early as the spring of 2013 and will continue to be in an implementation period until March of 2016.

the rulemaking process, and increase overall efficiency, while maintaining the benefits of having a significant number of new Board members join the organization each year.

Proposed Amendments to Rule A–3

The proposed rule change would lengthen the term of Board member service from three years to four years, and it would facilitate the new, longer term length by increasing the number of Board classes and adjusting their sizes. Additionally, the proposed rule change would limit the number of consecutive terms a Board member can serve to two, and would eliminate the requirement that there be at least one non-dealer municipal advisor per Board class. Finally, the proposed amendments would delete an obsolete provision from the rule.

All of the amendments included in the proposed rule change are to Rule A–3(b)(i). First, they would increase the Board member term length from three years to four years and the number of Board classes from three to four—one class comprised of six members and three classes of five. The changes in the number of classes and their sizes would ensure that the MSRB nominates and elects new members every year, maintains classes that are as evenly distributed in size as possible, and has a Board composition that always satisfies the statutorily-required position allocations,[20] while resulting in a consistent and manageable rate of turnover from year to year. As required by the Exchange Act and Rule A–3(a) and (b)(i), the classes would continue to be as evenly divided in number as possible between Public Representatives and Regulated Representatives, while also being majority public.

Second, no Board member could serve more than two consecutive terms—eight years in total—which could only occur under the special circumstances exception. This added provision would ensure that the special circumstances exception is not overused, mitigate some commenters' concerns of Board members becoming too dominant and unduly influential,[21] assure appropriate turnover of Board membership and help maintain a robust pool of applicants for Board service. The MSRB believes this modification will reflect good corporate governance as applied to the particular characteristics of the MSRB.

Third, the proposed rule change would eliminate the requirement that there be at least one non-dealer municipal advisor.[22] Because the draft amendments would result in four classes, not eliminating this requirement would create an unintended obligation that the Board always include four non-dealer municipal advisors, thus potentially diminishing representation of other regulated entities. The proposed rule change would not affect the existing requirement in Rule A–3(a)(ii)(3) that, for the Board as a whole, ''at least one, and not less than 30 percent of the total number of [R]egulated [R]epresentatives, shall be associated with and representative of municipal advisors and shall not be associated with a broker, dealer or municipal securities dealer.'' Therefore, nothing in this change would reduce the minimum required representation of municipal advisors nor would it prohibit the MSRB from deciding to include more than three non-dealer municipal advisors on the Board. All other provisions in Rule A–3(b)(i) would remain unchanged.

To effectuate the changes in term length and the number and size of classes, the MSRB would implement a transition plan, under which each Board member, who was elected prior to, and whose term ends on or after the end of, the MSRB's fiscal year 2016,[23] could be considered for a term extension not exceeding one year. This process would occur over fiscal years 2017, 2018 and 2019. The transition would proceed as follows: (1) For fiscal year 2017, one Public Representative from the Board class of 2016 (*i.e.,* members who began a three-year term on October 1, 2013) would receive a one-year extension and six new members would join the Board; (2) for fiscal year 2018, one Public and two Regulated Representatives from the Board class of 2017 (*i.e.,* members who began a three-year term on October 1, 2014) each would receive a one-year extension and five new members would join the Board; and (3) for fiscal year 2019, three Public and two Regulated Representatives from the Board class of 2018 (*i.e.,* members who began a three-year term on October 1, 2015) each would receive a one-year extension and five new members would join the Board. The full Board would vote by ballot on all members eligible for term extensions to determine who receives them. The selection of Board members whose terms would be extended would be in compliance with the statutorily-required compositional requirements of the Board, and the Board would continue to consist of 21 members with a majority of Public Representatives.[24] In fiscal year 2020, no further extensions would be required and five new members would join the Board, completing the transition to four classes. From that point forward, the Board would repeatedly nominate and elect classes in the sequence of six, five, five, and five members. While there are numerous possible combinations of the number of Board classes and the number of members in each class, the MSRB believes this specific combination would achieve the transition expeditiously and efficiently while minimizing any disruption from the changes.

MSRB Rule A–3(h) currently describes the transition process the MSRB used to increase its Board size from 15 to 21 members during its fiscal years 2013 and 2014, and to be in compliance with new requirements established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.[25] The proposed rule change would delete this provision from Rule A–3 because that process has been completed and the provision is, therefore, obsolete.[26]

Finally, MSRB Rule A–3(g)(ii) makes reference to the ''Nominating Committee,'' which is now called the ''Nominating and Governance Committee.'' Accordingly, the proposed rule change would update the reference to the current name of the committee.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(B) of the Act, which provides that the MSRB's rules shall:

> establish fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections of [P]ublic [R]epresentatives, broker dealer representatives, bank representatives, and advisor representatives. Such rules—
>
> (i) shall provide that the number of [P]ublic [R]epresentatives of the Board shall at all times exceed the total number of [R]egulated

[20] *See supra* notes 6–8.

[21] *See infra* Section C, Increase in Term Length—Limits.

[22] *See* MSRB Rule A–3(b)(i).

[23] The MSRB's fiscal year commences on October 1 of a given year and ends on September 30 of the following year.

[24] *See supra* notes 3 and 6–8.

[25] *See* Public Law 111–203, 124 Stat. 1376; Exchange Act Rel. No. 65424 (Sept. 28, 2011), 76 FR 61407 (Oct. 4, 2011) (SR–MSRB–2011–11) (approving the MSRB's establishment of a Board structure of 21 Board members divided into three classes, each class being comprised of seven members who would serve staggered three-year terms).

[26] In the Second Request for Comment, the MSRB included draft amendments to MSRB Rule A–3(h)(i) to include the transition plan. Since that plan is fully described herein and the inclusion of rule text that duplicates that description would become obsolete and eventually require a proposed rule change to be removed from the rulebook, the MSRB does not believe it should be included.

[R]epresentatives and that the membership shall at all times be as evenly divided in number as possible between [P]ublic [R]epresentatives and [R]egulated [R]epresentatives;

(ii) shall specify the length or lengths of terms members shall serve;

(iii) may increase the number of members which shall constitute the whole Board, provided that such number is an odd number; and

(iv) shall establish requirements regarding the independence of public representatives.

Specifically, the MSRB believes the increase of the term length from three to four years, the change in the number and size of Board classes from three classes of seven members to one class of six and three classes of five, and the elimination of the requirement that there be one non-dealer municipal advisor per class are consistent with the Exchange Act in that the composition of the Board would continue to satisfy all of the statutory requirements.[27] In particular, the number of Public Representatives would continue to exceed the total number of Regulated Representatives and the classes would continue to be as evenly divided in number as possible between Public and Regulated Representatives. Further, the proposed rule change specifies the length of term that Board members would serve—four years, which, for the reasons discussed earlier, the MSRB believes will improve the effectiveness and efficiency of the Board.

The MSRB also believes the limitation of consecutive terms to two, totaling a maximum of eight years of consecutive service, is consistent with the Exchange Act in that it specifies the length of term that Board members can serve when the MSRB invokes the special circumstances exception.

Further, the MSRB believes the proposed deletion of the transition process described in MSRB Rule A–3(h) is consistent with the Exchange Act because removing the obsolete provision would improve the clarity and readability of the rule. The MSRB also believes the proposed update to the reference to the ''Nominating and Governance Committee'' in MSRB Rule A–3(g)(ii) is consistent with the Act because it promotes the accuracy of the rule in regard to a reference to a component of the Board's governance structure.

Finally, none of the amendments in the proposed rule change alters the number of members that constitutes the whole Board or the requirements regarding the independence of Public Representatives.

[27] *See supra* notes 5–8.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Act requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The MSRB does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because it is concerned solely with the administration of the SRO.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The MSRB received nine comment letters specifically addressing the issue of whether to modify the length of Board member service in the First Request for Comment [28] and five comment letters in response to the Second Request for Comment.[29] The comment letters are summarized below by topic.

Increase in Term Length—General

As noted above, all of the comments in response to the Second Request for Comment supported increasing the length of Board member service from three years to four years.[30] Notably, the SEC Investor Advocate agreed with the MSRB that lengthening the term would improve continuity and institutional knowledge of the Board from year to year, while retaining the benefits of the regular addition of new members, and that the amendments proposed are a reasonable approach to achieving that goal. More specifically, he noted that the increased term length would give Board members, particularly Public Representatives,[31] more time to develop the institutional knowledge and experience required for fully engaged and effective oversight of the MSRB, which he believes would be in the best interest of investors because it may lessen what he considered to be the Board's natural dependence upon Regulated Representatives,[32] who he presumed have greater experience on certain issues. To this point, Heaney, a former Board member who served for four years due to the Board's transition from 15 to 21 members, believes the MSRB would benefit significantly from the added stability and continuity, as he believes his extra year enabled him to contribute more than he would have otherwise been able to in a three-year term. BDA believes that a four-year term is an acceptable balance and that having an extra year to serve on the Board would promote continuity of knowledge and ensure appropriate overlap among those working on rule proposals and other changes that affect how the municipal securities market operates. Finally, the SEC Investor Advocate believes the proposed term length of four years is appropriate when compared to the structure of similar organizations with a mission to protect investors, all with board member terms in the range of three to five years.[33]

Increase in Term Length—Limits

SIFMA supported the increase in term length from three to four years and believes the change would improve continuity and institutional knowledge of the Board from year to year. However,

[28] *See* letters from: Jerry Gold (''Gold''), dated July 17, 2015; Dustin McDonald, Director, Federal Liaison Center, Government Finance Officers Association (''GFOA''), dated July 20, 2015; Dorothy Donohue, Deputy General Counsel—Securities Regulation, Investment Company Institute (''ICI''), dated July 13, 2015; Bob Lamb (''Lamb''), President, Lamont Financial Services Corporation, dated July 7, 2015; Terri Heaton, President, National Association of Municipal Advisors (''NAMA''), dated July 13, 2015; Lisa S. Good, Executive Director, National Federation of Municipal Analysts (''NFMA''), dated July 13, 2015; Benjamin S. Thompson (''Thompson''), Managing Principal and Chief Executive Officer, Samson Capital Advisors, dated July 7, 2015; Rick A. Fleming, Investor Advocate, SEC (''SEC Investor Advocate''), dated July 13, 2015; and Michael Decker, Managing Director, Securities Industry and Financial Markets Association (''SIFMA''), dated July 13, 2015. Lamb and Thompson are former Board members.

[29] *See* letters from: Michael Nicholas, Chief Executive Officer, Bond Dealers of America (BDA), dated November 19, 2015; Stephen Heaney (''Heaney''), dated November 10, 2015; NAMA, dated November 19, 2015; SEC Investor Advocate, dated October 29, 2015; and SIFMA, dated November 19, 2015. Heaney is a former Board member, who served a four-year term under a previous transition period between October 1, 2009, and September 30, 2013.

[30] In response to the First Request for Comment, Thompson believed that a longer Board member term could allow the Board to leverage accumulated knowledge more effectively than the current three-year term length. Gold was generally opposed to the lengthening of Board member service, and GFOA stated that the current single three-year terms ensure consistent turnover and the introduction of new perspectives on the Board. Neither Gold nor GFOA commented in response to the Second Request for Comment, which contained the specific draft amendments to increase the term length from three years to four years.

[31] *See* MSRB Rule A–3(a)(i) (defining a Public Representative as an individual ''independent of any municipal securities broker, municipal securities dealer, or municipal advisor'').

[32] *See* MSRB Rule A–3(a)(ii) (defining a Regulated Representative as an individual ''associated with a broker, dealer, municipal securities dealer, or municipal advisor'').

[33] The SEC Investor Advocate made the comparison to the term lengths of members of the Financial Industry Regulatory Authority (''FINRA''), the Public Company Accounting and Oversight Board (''PCAOB''), the SEC, and the SEC's Investor Advisory Committee.

SIFMA is concerned that serving more than one term could create an environment in which one or more Board members with multiple terms of service could become too dominant in Board deliberations and have undue influence, particularly considering that the Board has a majority of Public Representatives, who SIFMA suggested may not have significant market or industry experience. Accordingly, SIFMA urged the Board to consider further specifying or limiting the circumstances under which a Board member may serve more than four years by: (1) More explicitly defining the special circumstances exception allowing consecutive terms; [34] (2) imposing a maximum lifetime limit on Board service; [35] or (3) specifying that when a Board member, who has already served a full term is retained or recalled to fill a sudden vacancy, that the member's extended term be temporary for only as long as necessary to recruit a qualified, permanent new member to fill the vacancy.

First, the MSRB does not believe it should more explicitly define the special circumstances exception, which the Commission approved in January 2011.[36] In its filing, the MSRB noted a Board member possessing special expertise needed by the Board that is not possessed by other Board members or generally by persons in the pool of potential candidates for Board membership as an example of how the exception would be applied. Given that the Commission found the current provision to be consistent with the Exchange Act, and that the MSRB has only applied it twice for the purpose of maintaining the special expertise of a member, with the use for that purpose being consistent with the MSRB's explanation in the filing, the MSRB does not believe any additional specificity is needed in the rule.[37]

Second, the MSRB does not believe it is appropriate to impose a maximum lifetime limit on Board service, as it would limit the pool of applicants to serve on the Board from year to year. The pool of applicants from which the MSRB can consider and select new Board members is already limited by the statutory requirement that each Board member be ''knowledgeable of matters related to the municipal securities markets,'' [38] and, as recognized by the SEC Investor Advocate in response to the First Request for Comment, it can be a challenge to find talented and qualified people who are willing to devote time and energy to serve on the Board. Given those constraints, a lifetime cap, particularly one of only four years (*i.e.,* one term) as SIFMA has suggested, may hinder the MSRB's ability to select from a robust pool of applicants. This problem could be exacerbated over time as additional Board members reach the end of their service and lose future eligibility under such a cap. The MSRB believes that former Board members may be highly qualified to serve on the Board with the benefit of their prior service, and they should not be precluded from consideration because of it. Additionally, several organizations with analogous investor-protection missions have no maximum lifetime limit on member service (*e.g.,* FINRA governors, PCAOB members, SEC commissioners, and the SEC Investor Advisory Committee members). In light of all of the above, the MSRB is not including a lifetime cap on service in the proposed amendments as suggested by SIFMA.

Finally, the MSRB does not believe it should specify that, when a Board member, who has already served a full term is retained or recalled to fill a sudden vacancy, the member's extended term be temporary for only as long as necessary to recruit a qualified, permanent new member to fill the vacancy. Since a Board member can only be retained under the special circumstances exception, the first part of SIFMA's suggestion is more of a critique of that exception and/or the MSRB's use of it. As noted above, however, the special circumstances exception has been approved by the Commission. Further, depending on the nature and timing of a vacancy on the Board, it may be more efficient for the MSRB to recall a former Board member. In particular, for vacancies that occur in the middle of a fiscal year or in the middle to end of a vacating Board member's term, the amount of time and resources required to find, select and onboard a new member typically would be significantly greater than the time and resources required to do the same for a former Board member. This disparity in efficiency would be even greater when compared to a two-part process in which a former Board member is temporarily seated and, after a short period, replaced by a new Board member. Additionally, the temporary status of the former Board member could potentially limit his or her effectiveness on the Board. Accordingly, the MSRB believes it is in the best interest of the organization to continue to have the flexibility to select from among former Board members, as well as from among all other sources, to fill a vacancy for the remainder of a vacating Board member's term.

While the MSRB does not support specifying or limiting the circumstances under which a Board member may serve more than four years in any of the ways SIFMA suggested, the proposed rule change would limit the number of consecutive terms a Board member can serve to two, which could only occur when the MSRB invokes the special circumstances exception, to address the general concern among commenters about unduly long tenures. There is empirical evidence to suggest very long board tenures are associated with weaker corporate governance and less favorable organizational performance.[39] Additionally, in response to the First Request for Comment, several commenters expressed concerns similar to SIFMA's. Specifically, GFOA opposed two consecutive three-year terms, NFMA was concerned that a six-year or longer term would limit the opportunity to bring ''fresh ideas'' to the Board, and ICI stated that it would support consecutive three-year terms if there was no longer a special circumstances exception that could create a term greater than six years.[40]

To address these concerns, the MSRB believes that Board members should be limited to two consecutive terms when the special circumstances exception is invoked. By doing this, under the proposed rule change, no Board member could serve more than eight years consecutively. This added provision would ensure that the special circumstances exception is not overused, mitigate the concern of Board members becoming too dominant and unduly influential, assure appropriate turnover of Board membership and help maintain a robust pool of applicants for Board service. As noted, the MSRB believes this modification reflects good corporate governance as applied to the particular characteristics of the MSRB.

[34] *See* MSRB Rule A–3(b)(i) (''A member may not serve consecutive terms, unless special circumstances warrant that the member be nominated for a successive term or because the member served only a partial term as a result of filling a vacancy pursuant to section (d) of this rule.'').

[35] In response to the First Request for Comment, SIFMA stated that there should be a lifetime cap of four years of Board service, limiting any member to one term only.

[36] *See* Exchange Act Release No. 63764 (Jan. 25, 2011), 76 FR 5417 (Jan. 31, 2011) (SR–MSRB–2010–17) (approving amendments to MSRB Rule A–3, including the special circumstances exception).

[37] The MSRB notes that no other commenters raised this issue.

[38] *See* 15 U.S.C. 78*o*–4(b)(1).

[39] *See supra* note 18.

[40] The MSRB notes that, in response to the First Request for Comment, the SEC Investor Advocate and Lamb supported consecutive three-year terms without any qualification.

Increase in Term Length—Training

However, BDA encouraged the MSRB to consider instituting a robust, formalized training program for all incoming Board members in their first year of service to maximize the benefits of the proposed fourth year of service. Similarly, in a comment letter in response to the First Request for Comment, NAMA, which ''does not object'' to the increase in term length, suggested that the MSRB could devote extensive staff time and other resources to expedite the learning curve for Board members. These comments address internal MSRB matters and do not suggest any revision to the language of the amendments in the proposed rule change. Additionally, the MSRB already allocates significant resources to educating new Board members as part of a robust and dedicated orientation process that begins prior to the commencement of their terms and focuses on organizational and other substantive matters, including, but not limited to, rulemaking and other large initiatives. The MSRB also already routinely revises and improves this process with the benefit of each successive experience orienting new Board members.

Number and Size of Board Classes

In response to the Second Request for Comment, none of the commenters specifically addressed the proposed change from three classes of seven Board members to one class of six members and three classes of five. In response to the First Request for Comment, SIFMA suggested the same structure. The MSRB continues to believe the proposed rule change is appropriate and, in light of the absence of any concern among the commenters, is not making any revision to the proposal in this respect.

Elimination of the Requirement That There Be at Least One Non-Dealer Municipal Advisor Representative per Board Class

In response to the Second Request for Comment, only BDA commented on the proposed elimination of the requirement that there be at least one non-dealer municipal advisor representative per Board class. BDA supported this adjustment because it is its preference to ensure the number of dealer-affiliated regulated entities on the Board is as robust as possible. Given that no commenter opposed the change and that it would neither reduce the representation of municipal advisors nor preclude the MSRB from deciding to include more than three non-dealer municipal advisor representatives on the Board, the MSRB is not making any change to the proposal in this regard.

Transition Plan

BDA supported the transition plan to the new term lengths proposed by the MSRB in the Second Request for Comment. In particular, it supported the part of the plan under which a special nominating committee comprised only of Board members not being considered for extensions would nominate the Board members who would receive one-year extensions to be voted on by the full Board. BDA believes that approach to be fair in that members on the special committee providing nominations for term extensions would not be eligible for a longer term, and that it would reduce any potential for self-dealing. SIFMA supported the plan because no existing Board member would serve for more than four years under the transition plan.

After considering this part of the plan further, the MSRB believes it is a better approach to have the full Board vote by ballot on all members eligible for extensions. First, given that 18 of the 21 Board members would be eligible for an extension, it would be difficult for the MSRB to constitute a special committee that is a fair representation of the entire Board. Additionally, despite the change in the process, the ultimate authority of the full Board to determine who would receive an extension is unchanged—under the special committee nomination process, the Board could vote down every nomination until the member, whom the Board would support for an extended term, was nominated. Finally, the MSRB believes that any concerns BDA might have with the potential for conflicts of interest and/or self-dealing under the new process are mitigated because the size of the Board—21 members—and the large number of members eligible for an extension make it more difficult for any one member to inappropriately affect the outcome of the election.

Miscellaneous

In response to both requests for comment, NAMA stated that the MSRB should consider returning the size of the Board to 15 members. Additionally, NAMA suggested that, if there are term extensions for Board members, the rule amendments should address term lengths for leadership positions and the point in a Board member's term at which he or she becomes eligible for such positions. In response to the First Request for Comment, SIFMA suggested that making a Board member eligible to serve as vice chair in the third year of a four-year term, and as chair in the fourth year, would strengthen the leadership of the Board, as those individuals would be oriented fully to MSRB issues and processes at those points in their tenures. Lastly, Thompson believed the MSRB should consider reviewing the single-year term of the chair. Lamb believed the single-year term of the chair should remain unchanged.

The recommendations regarding Board size, and term lengths and eligibility for leadership positions on the Board, are beyond the scope of the issues presented in both requests for comment. Therefore, the MSRB is not considering such matters at this time.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period of up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MSRB–2016–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2016–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2016–01 and should be submitted on or before February 25, 2016.

For the Commission, pursuant to delegated authority.[41]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02062 Filed 2–3–16; 8:45 am]

BILLING CODE 8011–01–P

[41] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day Notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before March 7, 2016.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: Form 857 is used by SBA examiners to obtain information about financing provided by small business investment companies (SBICs). This information, which is collected directly from the financed small business, provides independent confirmation of information reported to SBA by SBICs, as well as additional information not reported by SBICs.

Solicitation of Public Comments

Title: Small Business Investment Companies.

Description of Respondents: Small Business Investment Companies.

Form Number: SBA Form 857.

Estimated Annual Responses: 2,250.

Estimated Annual Hour Burden: 2,250.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2016–02202 Filed 2–3–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14603 and #14604]

Missouri Disaster #MO–00078

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of MISSOURI (FEMA–4250–DR), dated 01/21/2016.

Incident: Severe Storms, Tornadoes, Straight-line Winds & Flooding.

Incident Period: 12/23/2015 through 01/09/2016.

Effective Date: 01/21/2016.

Physical Loan Application Deadline Date: 03/21/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 10/21/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 01/21/2016, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans)

BARRY, BARTON, CAMDEN, CAPE GIRARDEAU, COLE, CRAWFORD, FRANKLIN, GASCONADE, GREENE, HICKORY, JASPER, JEFFERSON, LACLEDE, LAWRENCE, LINCOLN, MARIES, MCDONALD, MORGAN, NEWTON, OSAGE, PHELPS, POLK, PULASKI, SAINT CHARLES, SAINT FRANCOIS, SAINT LOUIS, SAINTE GENEVIEVE, SCOTT, STONE, TANEY, TEXAS, WEBSTER, WRIGHT.

Contiguous Counties (Economic Injury Loans Only)

MISSOURI: BENTON, BOLLINGER, BOONE, CALLAWAY, CEDAR, CHRISTIAN, COOPER, DADE, DALLAS, DENT, DOUGLAS, HOWELL, IRON, MADISON, MILLER, MISSISSIPPI, MONITEAU, MONTGOMERY, NEW MADRID, OZARK, PERRY, PETTIS, PIKE, SAINT CLAIR, SAINT LOUIS CITY, SHANNON, STODDARD, VERNON, WARREN, WASHINGTON.

ARKANSAS: BENTON, BOONE, CARROLL, MARION.

ILLINOIS: ALEXANDER, CALHOUN, JERSEY, MADISON, MONROE, RANDOLPH, SAINT CLAIR, UNION.

KANSAS: CHEROKEE, CRAWFORD.

OKLAHOMA: DELAWARE, OTTAWA.

The Interest Rates are:

For Physical Damage

	Percent
Homeowners with Credit Available Elsewhere	3.625
Homeowners without Credit Available Elsewhere	1.813
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.625
Non-Profit Organizations without Credit Available Elsewhere	2.625

For Economic Injury

	Percent
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14603B and for economic injury is 146040.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–02154 Filed 2–3–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14605 and #14606]

Washington Disaster #WA–00063

AGENCY: U.S. Small Business Administration

ACTION: Notice

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Washington dated 01/28/2016.

Incident: Severe Winter Storms, Straight-line Winds, Flooding, Landslides, Mudslides and Tornado.

Incident Period: 12/01/2015 through 12/14/2015.

DATES: *Effective Date:* 01/28/2016.

Physical Loan Application Deadline Date: 03/28/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 10/28/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Cowlitz

Contiguous Counties:

Washington: Clark, Lewis, Skamania, Wahkiakum

Oregon: Columbia

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.625
Homeowners Without Credit Available Elsewhere	1.813
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625
The number assigned to this disaster for physical damage is 14605 B and for economic injury is 14606 0.	
The States which received an EIDL Declaration # are Washington, Oregon.	

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: January 28, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–02194 Filed 2–3–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14587 and #14588]

Mississippi Disaster Number MS–00082

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–4248–DR), dated 01/04/2016 .

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 12/23/2015 through 12/28/2015.

Effective Date: 01/22/2016.

Physical Loan Application Deadline Date: 03/04/2016.

EIDL Loan Application Deadline Date: 10/04/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Mississippi, dated 01/04/2016 is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties: (*Physical Damage and Economic Injury Loans):

Monroe, Prentiss, Panola.

Contiguous Counties: (Economic Injury Loans Only):

Mississippi: Clay, Chickasaw, Lee, Lowndes, Itawamba, Tishomingo, Yalobusha.

Alabama: Lamar, Marion.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–02159 Filed 2–3–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14607 and #14608]

Alabama Disaster #AL–00060

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Alabama (FEMA–4251–DR), dated 01/21/2016.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 12/23/2015 through 12/31/2015.

Effective Date: 01/21/2016.

Physical Loan Application Deadline Date: 03/21/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 10/21/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 01/21/2016, Private Non-Profit organizations that provide essential

services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Autauga, Barbour, Blount, Bullock, Butler, Chambers, Cherokee, Clay Cleburne, Coffee, Colbert, Conecuh, Covington, Crenshaw, Cullman, Dale, De Kalb, Elmore, Escambia, Fayette, Franklin, Geneva, Henry, Houston, Jackson, Lamar, Lawrence, Lee, Lowndes, Macon, Marion, Marshall, Monroe, Perry, Pike, Russell, Saint Clair, Walker, Winston,

The Interest Rates are:

For Physical Damage:

	Percent
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625

For Economic Injury:

	Percent
Non-Profit Organizations Without Credit Available Elsewhere	2.625
The number assigned to this disaster for physical damage is 14607B and for economic injury is 14608B.	

(Catalog of Federal Domestic Assistance Numbers 59008)

Lisa Lopez-Suarez,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2016–02195 Filed 2–3–16; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 9433]

Culturally Significant Objects Imported for Exhibition Determinations: ''Edgar Degas: A Strange New Beauty'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Edgar Degas: A Strange New Beauty,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art, New York, New York, from on or about March 26, 2016, until on or about July 24, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: January 29, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–02262 Filed 2–3–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9432]

Culturally Significant Objects Imported for Exhibition Determinations: ''Every People Under Heaven: Jerusalem, 1000–1400'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Every People Under Heaven: Jerusalem, 1000–1400,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, New York, from on about September 20, 2016, until on or about January 8, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: January 29, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–02265 Filed 2–3–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: B4UFLY Smartphone App

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The FAA's B4UFLY smartphone app will provide situational awareness of flight restrictions—including locations of airports, restricted airspace, special use airspaces, and temporary flight restrictions—based on a user's current or planned flight location.

DATES: Written comments should be submitted by March 7, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_*

submission@omb.eop.gov, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 2120–0764.

Title: B4UFLY Smartphone App.

Form Numbers: There are no forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 24, 2015 (80 FR 73265). Public Law 112–95, Section 336 requires model aircraft operators to notify the airport operator and air traffic control tower (if one is located at the airport) prior to operating within 5 miles of an airport. The FAA's B4UFLY smartphone app will provide situational awareness of flight restrictions—including locations of airports, restricted airspace, special use airspaces, and temporary flight restrictions—based on a user's current or planned flight location. In order to maintain NAS safety in proximity to airports, air traffic control personnel would need certain basic information about a UAS operator's intended flight in order to assess whether the UAS may disrupt or endanger manned air traffic.

Respondents: Approximately 1000 beta testers.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: Approximately 2 minutes.

Estimated Total Annual Burden: 1,485 hours.

Issued in Washington, DC, on January 27, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–02162 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Dealer's Aircraft Registration Certificate Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to reinstate a previously discontinued information collection. AC Form 8050–5 is an application for a dealer's Aircraft Registration Certificate which, under 49 United States Code 1404, may be issued to a person engaged in manufacturing, distributing, or selling aircraft.

DATES: Written comments should be submitted by March 7, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0024.

Title: Dealer's Aircraft Registration Certificate Application.

Form Numbers: FAA Form 8050–5.

Type of Review: Reinstatement of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 24, 2015 (80 FR 73266). Federal Aviation Regulation Part 47 prescribes procedures that implement 103, which provides for the issuance of dealer's aircraft registration certificates and for their use in connection with aircraft eligible for registration under this Act by persons engaged in manufacturing, distributing or selling aircraft. Dealer's certificates enable such persons to fly aircraft for sale immediately without having to go through the paperwork and expense of applying for and securing a permanent Certificate of Aircraft Registration. It also provides a system of identification of aircraft dealers.

Respondents: Approximately 3,904 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 45 minutes.

Estimated Total Annual Burden: 2,928 hours.

Issued in Washington, DC, on January 27, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–02158 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Human Space Flight Requirements for Crew and Space Flight Participants

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA

invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. The FAA uses the information collected related to public safety to ensure that a launch or reentry operation involving a human on board a vehicle will meet the risk criteria and requirements with regard to ensuring public safety.

DATES: Written comments should be submitted by April 4, 2016.

ADDRESSES: Send comments to the FAA at the following address: Ronda Thompson, Room 441, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0720.

Title: Human Space Flight Requirements for Crew and Space Flight Participants.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The FAA has established requirements for human space flight of crew and space flight participants as required by the Commercial Space Launch Amendments Act of 2004. The information collected is used by the FAA, a licensee or permittee, a space flight participant, or a crew member. The FAA uses the information related to public safety to ensure that a launch or reentry operation involving a human on board a vehicle will meet the risk criteria and requirements with regard to ensuring public safety.

Respondents: Approximately 5 applicants annually.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 4 hours.

Estimated Total Annual Burden: 2,975 hours.

Issued in Washington, DC, on January 27, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2016–02156 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Great Falls International Airport, Great Falls, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Noise Exposure Map notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by the Great Falls International Airport Authority for the Great Falls International Airport under the provisions of 40 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR 150 are in compliance with applicable requirements.

DATES: *Effective Date:* The effective date of the FAA's determination on the Noise Exposure Maps is January 27, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Eaton at the Federal Aviation Administration, FAA Building, Ste. 2, 2725 Skyway Drive, Helena, Montana 59602–1213, Telephone 406–449–5291.

SUPPLEMENTARY INFORMATION: This Notice announces that the FAA finds that the Noise Exposure Maps submitted for Great Falls International Airport are in compliance with applicable requirements of Title 14 Code of Federal Regulations (CFR) Part 150, effective January 27, 2016. Under 49 U.S.C., Section 47503, Aviation Safety and Noise Abatement Act (the Act), an airport operator may submit to the FAA Noise Exposure Maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of the U.S. Code of Federal Regulations (CFR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the Noise Exposure Maps and accompanying documentation submitted by the Great Falls International Airport Authority. The documentation that constitutes the ''noise exposure maps'' as defined in CFR part 150 Section 150.7 includes: Part 150 Noise Exposure Map Update Report, Figure 1 Existing (2015) Airport Layout and Land Use Base Map, Figure 2 Forecast (2020) Airport layout and Land Use Base Map, Figure 5 Runway 3/21 Modeled Arrival and Departure Flight Tracks, Figure 6 Runway 3/21 Modeled Flight Pattern Tracks, Figure 7 Runway 16/34 Modeled Arrival and Departure Flight Tracks, Figure 8 Runway 16/34 Modeled Flight Pattern Tracks, Figure 9 Runway 7/25 Modeled Arrival and Departure Flight Tracks, Figure 10 Runway 7/25 Modeled Flight Pattern, Figure 11 Helicopter Modeled Arrival and Departure Flight Tracks, Figure 12 Existing Condition (2015) Noise Exposure Map, Figure 13 Forecast Condition (2020) Noise Exposure Map, Appendix F Forecast of Aircraft Operations at GTF 2015 and 2020, Appendix J Non-Standard Modeling Profiles Request Letter, Appendix K FAA Approval of Non-Standard Modeling Profiles, and Appendix L Public Consultation. The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on January 27, 2016.

The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of CFR part 150. Such determination does not constitute approval of the airport operator's data, information or plans, or a commitment to approve a Noise Compatibility Program or to fund implementation of that Program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a Noise Exposure Map submitted under Section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise exposure contours, or in interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by the

provisions of Section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or those public agencies and planning agencies with which consultation is required under Section 47503 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of part 150, that the statutorily required consultation has been accomplished.

Copies of the full Noise Exposure Map documentation are available for examination at the following locations:

Federal Aviation Administration Authority, Helena Airports District Office, FAA Building, Ste. 2, 2725 Skyway Drive, Helena, MT 59602.

Great Falls International Airport, 2800 Terminal Drive, Great Falls, MT 59404.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Renton, Washington, on January 27, 2016.

Randall Fiertz,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 2016–02020 Filed 2–3–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aviation Maintenance Technical Schools

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. The information collected is needed to determine applicant eligibility and compliance for certification of Civil Aviation mechanics and operation of aviation mechanic schools.

DATES: Written comments should be submitted by April 4, 2016.

ADDRESSES: Send comments to the FAA at the following address: Ronda Thompson, Room 441, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0040.

Title: Aviation Maintenance Technical Schools.

Form Numbers: FAA Form 8310–6.

Type of Review: Renewal of an information collection.

Background: The collection of information is necessary to ensure that Aviation Maintenance Technician Schools meet the minimum requirements for procedures and curriculum set forth by the FAA in FAR Part 147. Applicants submit FAA Form 8310–6, Aviation Maintenance Technician School certificate and Ratings Application, to the appropriate FAA district office for review. If the application (including supporting documentation) is satisfactory, an on-site inspection is conducted. When all FAR Part 147 requirements have been met, an aviation maintenance technician school certificate with appropriate ratings is issued.

Respondents: Approximately 174 representatives of aviation maintenance technical schools.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 3.17 hours.

Estimated Total Annual Burden: 66,134 hours.

Issued in Washington, DC, on January 27, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2016–02163 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of continuing a task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: The FAA assigned the Aviation Rulemaking Advisory Committee (ARAC) a continuation of a task to provide recommendations regarding standards, training guidance, test management, and reference materials for airman certification purposes. The FAA added the Aircraft Mechanic Certificate with Airframe and/or Powerplant ratings to the existing list of certificates and ratings for which the ARAC will provide recommendations. This notice informs the public of the continuing ARAC activity and solicits additional membership for the existing Airman Certification System Working Group (ACS WG).

FOR FURTHER INFORMATION CONTACT: Van L. Kerns, Manager, Regulatory Support Division, FAA Flight Standards Service, AFS 600, FAA Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; telephone (405) 954–4431, email *van.l.kerns@faa.gov.*

SUPPLEMENTARY INFORMATION:

ARAC Acceptance of Task

As a result of the December 17, 2015 ARAC meeting, the FAA assigned and ARAC accepted and designated this continuation of task to the ACS WG. The ACS WG continues to serve as staff to the ARAC and continues to provide advice and recommendations on the continued assigned task. The ARAC will review and accept the recommendation report and will submit it to the FAA.

Background

The FAA established the ARAC to provide information, advice, and recommendations on aviation related issues that could result in rulemaking to the FAA Administrator, through the Associate Administrator of Aviation Safety.

On December 19, 2013, ARAC accepted the FAA's assignment of a new task to establish an Airman Certification System Working Group (ACS WG) to assist in the development of standards, training guidance, test management, and reference materials for airman certification testing. The FAA announced the ARAC's acceptance of this task through a **Federal Register** Notice published on January 29, 2014 [79 FR 4800]. The original task focused on the Private Pilot, Commercial Pilot, Airline Transport Pilot, and Authorized Instructor certificates and the Instrument Rating. The ACS WG has made significant progress toward completion of this work. The FAA is now assigning ARAC to continue and expand the ACS WG's task to include development of recommended standards, training guidance, test management, and reference materials for the Aircraft Mechanic Certificate (AMC) with Airframe and/or Powerplant ratings and to add members with expertise in 14 CFR parts 65 and 147 to assist in this work. The addition of the AMC task arises from FAA and aviation industry recognition that the integrated Airman Certification Standards approach will address the compelling need to improve and update aircraft mechanic testing and training materials.

The Task

The ACS WG will provide advice and recommendations to the ARAC on the development of standards, training guidance, test management, and reference materials for the AMC with Airframe and/or Powerplant ratings.

1. In developing this report, the ACS WG, including its new members, shall familiarize itself with:

a. A report to the FAA from the Airman Testing Standards and Training Aviation Rulemaking Committee: Recommendations to Enhance Airman Knowledge Test Content and Its Processes and Methodologies for Training and Testing (*www.faa.gov/aircraft/draft_docs/arc*);

b. A report from the Airman Testing Standards and Training Working Group to the Aviation Rulemaking Advisory Committee;

c. Aeronautical knowledge and proficiency standards set forth in 14 CFR part 61, Certification: Pilots, Flight Instructors, and Ground Instructors; 14 CFR part 65 Certification: Airman Other Than Flight Crewmembers, subpart D, Mechanics, and Subpart E, Repairmen;

d. FAA Airman Knowledge Test Guides (FAA–G–8082–17E, FAA–G–8082–3A, FAA–G–8082–11C, FAA–G–8082–19);

e. Current Practical Test Standards documents for Private Pilot Airplane (FAA–S–8081–14B); Flight Instructor Airplane (FAA–S–8081–6C); Instrument Rating for Airplane, Helicopter, and Powered Lift (FAA–S–8081–4E);

f. Current Practical Test Standards documents for Aviation Mechanic General (FAA–S–8081–26A); Aviation Mechanic Airframe Practical Test Standards (FAA–S–8081–27A); and Aviation Mechanic Powerplant Practical Test Standards (FAA–S–8081–28A);

g. Current FAA guidance materials, to include the Pilot's Handbook of Aeronautical Knowledge (FAA–H–8083–25A); the Airplane Flying Handbook (FAA–H–8083–3A); the Aviation Instructor's Handbook (FAA–H–8083–9A); the Instrument Flying Handbook (FAA–H–8083–15A); the Instrument Procedures Handbook (FAA–H–8083–1A); the Aviation Maintenance Technician Handbook-General (FAA–H–8083–30), the Aviation Maintenance Technician Handbook Airframe (FAA–H–8083–31) Volumes 1 and 2; the Aviation Maintenance Technician Handbook Powerplant (FAA–H–8083–32) Volumes 1 and 2; the Aircraft Weight and Balance Handbook (FAA–H–8083–1A); and the appropriate FAA Airman Knowledge Testing Supplements (FAA–CT–8080 series documents).

2. FAA has specifically tasked the ACS WG to support the FAA's goal to enhance aviation safety by providing a means for the aviation industry to provide expert assistance and industry views to the FAA's Flight Standards Service (AFS) on the development, modification, and continued alignment of the major components of the airman certification system, which include:

a. The ACS for airman certificates and ratings (*i.e.* 8081-series documents);

b. Associated training guidance material (*e.g.,* H-series handbooks);

c. Test management (*e.g.,* test question development, test question boarding, test composition/test ''mapping,'' and CT–8080-series figures); and

d. Reference materials, to include AFS directives and Aviation Safety Inspector guidance; FAA Orders, Advisory Circulars (ACs), and other documents pertaining to the airman certification system.

3. Develop a report containing recommendations on the findings and results of the tasks explained above.

a. The recommendation report should document both majority and dissenting positions on the findings and the rationale for each position.

b. Any disagreements should be documented, including the rationale for each position and the reasons for the disagreement.

4. After the FAA accepts the recommendation report, the FAA may task the ARAC ACS WG to complete the following additional tasks:

a. Provide recommendations for regular industry review of standards, guidance, and test management for each airman certificate or rating included in this task;

b. Provide prioritized recommendations for applying the Airman Certification Standards framework to other airman certifications and ratings;

5. The ACS WG may be reinstated to assist the ARAC by responding to the FAA's questions or concerns after the recommendation report has been submitted.

Schedule

The recommendation report should be submitted to the FAA for review and acceptance no later than 30 months from the publication date in the **Federal Register**.

This tasking notice requires two recommendation reports.

- As tasked on December 19, 2013, published on January 29, 2014 [79 FR 4800], and amended at the ARAC's September 17, 2015 meeting, the ACS WG must submit an initial recommendation report covering the ARAC ACS Working Group's initial tasking for the Private Pilot, Commercial Pilot, Airline Transport Pilot, and Instructor certificates and the Instrument Rating to the FAA for review and acceptance no later than December, 2016.
- The addendum recommendation report on the new AMC task must be submitted to the FAA for review and acceptance no later than December, 2017.

Working Group Activity

The ACS WG must comply with the procedures adopted by the ARAC and are as follows:

1. Conduct a review and analysis of the assigned tasks and any other related materials or documents.

2. Draft and submit a work plan for completion of the task, including the rationale supporting such a plan, for consideration by the ARAC.

3. Provide a status report at each ARAC meeting.

4. Draft and submit the recommendation report based on the review and analysis of the assigned tasks.

5. Present the recommendation reports at the ARAC meeting.

Continued Participation in the Working Group/Addition of New Members

The existing ACS WG continues to be comprised of technical experts having an interest in the assigned task, and the FAA is now soliciting up to five new members with expertise in the aviation maintenance training and testing fields, specifically involving 14 CFR parts 65 and 147. The provisions of the August 13, 2014, Office of Management and Budget guidance, ''Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions'' (79 FR 47482), continues the ban on registered lobbyists participating on Agency Boards and Commissions if participating in their ''individual capacity.'' The revised guidance now allows registered lobbyists to participate on Agency Boards and Commissions in a ''representative capacity'' for the ''express purpose of providing a committee with the views of a nongovernmental entity, a recognizable group of persons or nongovernmental entities (an industry, sector, labor unions, or environmental groups, etc.) or state or local government.'' (For further information see Lobbying Disclosure Act of 1995 (LDA) as amended, 2 U.S.C. 1603, 1604, and 1605.)

If you wish to become a member of the ACS WG for the purpose of assisting with the new AMT task, write the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire. Describe your interest in the task and state the expertise you would bring to the working group. The FAA must receive all requests by March 7, 2016. The ARAC and the FAA will review the requests and advise you whether or not your request is approved.

The members of the Airman Certification System Working Group must actively participate, attend all meetings, and provide written comments when requested. The members must devote the resources necessary to support the working group in meeting any assigned deadlines. The members must keep management and those represented advised of the working group activities and decisions to ensure the proposed technical solutions do not conflict with the position of those represented.

The Secretary of Transportation determined the formation and use of the ARAC is necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

The ARAC meetings are open to the public. However, meetings of the ACS WG are not open to the public, except to the extent individuals with an interest and expertise are selected to participate. The FAA will make no public announcement of working group meetings.

Issued in Washington, DC, on January 28, 2016.

Lirio Liu,

Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2016–02046 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Pilot Schools—FAR 141

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. 49 U.S.C. Section 44707 empowers the Administrator of the Federal Aviation Administration (FAA) to provide for the examination and rating of civilian schools giving instruction in flying. This CFR prescribes the requirements for issuing pilot school certificates, provisional pilot school certificates and associated ratings to qualified applicants.

DATES: Written comments should be submitted by March 7, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0009.

Title: Pilot Schools—FAR 141.

Form Numbers: FAA Form 8420–8.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 25, 2015 (80 FR 73268). The information on FAA Form 8420–8, Application for Pilot School Certificates, is required from applicants who wish to be issued pilot school certificates and associated ratings. Pilot schools train private, commercial, flight instructor, and airline transport pilots, along with training for associated ratings in various types of aircraft. The form is also necessary to assure continuing compliance with Part 141, renewal of certificates every 24 months, and for any amendments to pilot school certificates, FAA approval of pilot school certificate amendments enables schools to provide new training courses not previously approved.

Respondents: Approximately 546 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 27 hours.

Estimated Total Annual Burden: 29,770 hours.

Issued in Washington, DC, on January 27, 2016.

Ronda Thompson.

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–02170 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Operating Requirements: Commuter and On-Demand Operation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. Title 49 U.S.C., Section 44702 authorizes issuance of air carrier operating certificates. 14 CFR part 135 prescribes requirement for Air Carrier/ Commercial Operators. The information collected shows compliance and applicant eligibility.

DATES: Written comments should be submitted by March 7, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_ submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0039.

Title: Operating Requirements: Commuter and On-Demand Operation.

Form Numbers: There are no forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 24, 2015 (80 FR 73267). Title 49 U.S.C., Section 44702 authorizes issuance of air carrier operating certificates. 14 CFR part 135 prescribes requirement for Air Carrier/ Commercial Operators. Each operator which seeks to obtain, or is in possession of, an air carrier or FAA operating certificate must comply with the requirements of 14 CFR part 135 in order to maintain data which is used to determine if the carrier is operating in accordance with minimum safety standards. Air carrier and commercial operator certification is completed in accordance with 14 CFR part 119. Part 135 contains operations and maintenance requirements.

Respondents: Approximately 2,426 operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 7.7 minutes.

Estimated Total Annual Burden: 1,154,674 hours.

Issued in Washington, DC, on January 27, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–02157 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Changes in Permissible Stage 2 Airplane Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This information will be used to issue special flight authorizations for non-revenue transports and non-transport jet operations of Stage 2 airplanes at U.S. airports. Only a minimal amount of data is requested to identify the affected parties and determine whether the purpose for the flight is one of those enumerated by law.

DATES: Written comments should be submitted by March 7, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_ submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0652.

Title: Changes in Permissible Stage 2 Airplane Operations.

Form Numbers: FAA Form 1050–8.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 10, 2015 (80 FR 69773). This collection is required under the Airport Noise and Capacity Act of 1990 (as amended by Pub. L. 106–113) and the FAA Modernization and Reform Act of 2012. This information is used by the FAA to issue special flight authorizations for nonrevenue operations of transports and non-transport jet Stage 2 airplanes at U.S. airports. Only minimal amount of data is requested to identify the affected parties and determine whether the purpose for the flight is one of the ones enumerated in the law.

Respondents: Approximately 50 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 15 minutes.

Estimated Total Annual Burden: 12.5 hours.

Issued in Washington, DC, on January 27, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–02160 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. DOT–NHTSA–2014–0050]

Notice and Request for Comments

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on May 9, 2014 FR NHTSA–2014–0050). No comments were received.

DATES: Comments must be submitted on or before March 7, 2016.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Glaceria Mason, National Highway Traffic Safety Administration, Room W52–211 Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Mason's telephone number is (202) 366–5876. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION:

Title: NHTSA: Drunk Driver Segmentation Research Survey.

OMB Control Number: 2127–XXXX.

Type of Request: Web-based Segmentation Research Survey.

Abstract: The purpose of NHTSA's Web-based At-Risk Drunk Drivers/Riders Segmentation Research Survey is to obtain information about the characteristics of drivers and motorcycle riders who are at most risk for driving/riding drunk. NHTSA will conduct segmentation analysis to classify ''at-risk'' drivers/riders based on common demographics, drinking behaviors, attitudes, lifestyle characteristics and media habits to better target and reach the intended audiences with communications methods and techniques to reduce the number of deaths, injuries and economic losses resulting from drunk driving crashes on our Nation's roadways.

Affected Public: At-Risk Drunk Drinkers/Riders ages 21–54 years old.

Estimated Number of Respondents: The number of respondents is estimated to be 10% of the 22,000 respondents; thereby determining 2,200 respondents being eligible to take the full survey.

Estimated Total Annual Burden Hours: 5,868.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Susan McMeen,

Office Director, Office of Consumer Information.

[FR Doc. 2016–02096 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0012; Notice No. 2016–01]

Hazardous Materials: Public Meeting Notice for the Research and Development Forum

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice is to inform the interested public that the Office of Hazardous Materials Safety (OHMS) of the Pipeline and Hazardous Materials Safety Administration (PHMSA) will conduct a public meeting for the Research and Development Forum to be held on March 23 and 24, 2016, in Washington, DC. The OHMS will host the forum to present the results of recently completed projects, brief on new project plans with stakeholders input, and discuss the direction of current and future research projects.

During the meeting OHMS will solicit comments related to new research topics that may be considered for inclusion in its future work. The OHMS will accept research needs statements from industry, academia, and other stakeholders. Some examples of particular interest to OHMS are the research gaps associated with energetic materials characterization and transport, safe transport of energy products (STEP), safe containment and transportation of compressed gasses, safe packaging and transportation of charge storage devices, etc. Identification of other research gaps related to the transportation of hazardous materials will be encouraged in an effort to meet the holistic needs of the transportation community and the DOT's goals: Safety, infrastructure repair, environmental responsibility, quality communities, and economic competitiveness.

Time and Location: The meeting will be held at the DOT Headquarters, West Building, Oklahoma Conference Room, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Wednesday, March 23, 2016; 9:00 a.m. to 4:30 p.m. EST.

Thursday, March 24, 2016; 9:00 a.m. to 12:00 p.m. EST.

Registration: The DOT requests that attendees pre-register for these meetings by completing the form at *https://www.surveymonkey.com/r/XPG67SN.* Failure to pre-register may delay your access into the DOT Headquarters

building. Additionally, if you are attending in-person, arrive early to allow time for security checks necessary to access the building.

Conference call-in and ''live meeting'' capability will be provided. Specific information about conference call-in and live meeting access will be posted when available at: *http://www.phmsa.dot.gov/hazmat/engineering-research/research-and-development* in the ''Products & Services'' section of the page, at the link to ''R&D Forum 2016.''

FOR FURTHER INFORMATION CONTACT: Dr. Veda Bharath or Tiffany Fossett, Office of Hazardous Materials Safety, Research and Development, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Washington, DC 20590. Telephone: (202) 366–0626 and (202) 366–4545. Email: *satyaveda.bharath@dot.gov* and *tiffany.fossett.ctr@dot.gov.*

Signed in Washington, DC, on February 1, 2016.

William S. Schoonover,

Deputy Associate Administrator.

[FR Doc. 2016–02146 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Elite Airways, LLC for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2016–1–12); Docket DOT–OST–2015–0095.

SUMMARY: The Department of Transportation is directing all interested parties to show cause why it should not issue an order finding Elite Airways, LLC fit, willing, and able, and awarding it a certificate of public convenience and necessity to conduct interstate scheduled air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than February 11, 2016.

ADDRESSES: Objections and answers to objections should be filed in Docket DOT–OST–2015–0095 and addressed to the U.S. Department of Transportation, Docket Operations, (M–30, Room W12–140), 1200 New Jersey Avenue SE., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Barbara Snoden, Air Carrier Fitness Division (X–56, Room W86–471), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–4834.

Dated: January 28, 2016.

Susan L. Kurland,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 2016–02106 Filed 2–3–16; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Proposed Collection; Comment Request for Persons Providing Remittance Forwarding Services to Cuba

AGENCY: Office of Foreign Assets Control, 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 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 Office of Foreign Assets Control (OFAC) within the Department of the Treasury is soliciting comments concerning OFAC's information collection requirements for persons providing remittance forwarding services to Cuba, which are contained within the Cuban Assets Control Regulations set forth at 31 CFR part 515.

DATES: Written comments must be submitted on or before April 4, 2016 to be assured of consideration.

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

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

Fax: Attn: Request for Comments (Persons Providing Remittance Forwarding Services to Cuba) 202–622–1657.

Mail: Attn: Request for Comments (Persons Providing Remittance Forwarding Services to Cuba), Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Instructions: All submissions received must include the agency name and the **Federal Register** Doc. number that appears at the end of this document. Comments received will be made available to the public via regulations.gov or upon request, without change and including any personal information provided.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Title: Persons Providing Remittance Forwarding Services to Cuba.

OMB Number: 1505–0167.

Abstract: The information is required of persons subject to the jurisdiction of the United States who make remittances to persons in Cuba pursuant to the general licenses in section 515.570 of the Cuban Assets Control Regulations, 31 CFR part 515 (CACR). The information will be used by OFAC to monitor compliance with regulations governing unlimited family and family inherited remittances, donative remittances, unlimited remittances to religious organizations, remittances to students in Cuba pursuant to an educational license, limited emigration remittances, and periodic remittances from blocked accounts.

Current Actions: As a result of policy changes, which were implemented in regulatory changes published by OFAC on January 16, 2015 (80 FR 2291) and on September 21, 2015 (80 FR 56915), OFAC modified the information collection requirements on Remittance Forwarders (RFs) and removed the suggested form TD F 90–22.52 (Cuban Remittance Affidavit) for the collection of that information as previously approved by OMB (No. 1505–0167). In addition, OFAC removed, among others, the monetary limits on donative remittances to Cuba. As to information collection requirements, OFAC previously required RFs to collect information showing compliance with relevant remittance provisions and/or provide a voluntary remittance affidavit form including, within the relevant category of authorized remittance, the name of the recipient (and if applicable, relation, date of birth, visa number/date) and the remitter's address, contact information, mother's maiden name, and date of birth. OFAC now requires only that persons subject to U.S. jurisdiction providing remittance forwarding services authorized pursuant to 31 CFR 515.570 retain for at least five

years from the date of the transaction a certification from each customer indicating the section of 31 CFR part 515 that authorizes the person to send the remittance to Cuba. In addition, banking institutions providing remittance forwarding services must maintain on file the names and addresses of individual remitters, the number and amount of each remittance, and the name and address of each recipient, as applicable.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals, households, businesses, banking institutions.

Estimated Number of Respondents: 4,000,000.

Estimated Time per Respondent: 1 minute.

Estimated Total Annual Burden Hours: 116,667.

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 Office of Management and Budget (OMB) control number. Books or records relating to a collection of information must be retained for five years.

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 has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–02091 Filed 2–3–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Orders 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the names of 2 individuals and 1 entity whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: OFAC's actions described in this notice are effective on January 28, 2016.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On January 28, 2016, OFAC blocked the property and interests in property of the following 2 individuals and 1 entity pursuant to E.O. 13224, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'':

Individuals

1. NOUREDDINE, Mohamad (a.k.a. NUR–AL–DIN, Muhammad Mustafa); DOB 23 Oct 1974; POB Beirut, Lebanon; nationality Lebanon; Gender Male; Passport RL0629138 (Lebanon) (individual) [SDGT] (Linked To: HIZBALLAH).

2. ZAHER EL DINE, Hamdi (a.k.a. ZAHREDDINE, Hamdi); DOB 20 Jul 1984; nationality Lebanon; Gender Male; Passport RL2146270 (Lebanon) (individual) [SDGT] (Linked To: HIZBALLAH).

Entity

1. TRADE POINT INTERNATIONAL S.A.R.L., 3rd Floor, Gulf Building, Block B, Hafez Al Asad Street, Airport Highway, Bir Hassan, Beirut, Lebanon; Gulf Building, 3rd Floor, Hafiz Al Asad Autostrade, Ghobeiri, Baabda, Lebanon; Registration ID 2020615 [SDGT] (Linked To: NOUREDDINE, Mohamad).

Dated: January 28, 2016.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–02038 Filed 2–3–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Health Services Research and Development Service, Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Health Services Research and Development Service Scientific Merit Review Board will conduct in-person and teleconference meetings of its seven Health Services Research (HSR) subcommittees on the dates below from 8:00 a.m. to approximately 5:00 p.m. (unless otherwise listed) at the Sheraton Suites Old Town, 801 North St. Asaph Street, Alexandria, VA 22314 (unless otherwise listed):

- HSR 1—Health Care and Clinical Management on March 1–2, 2016;
- HSR 2—Behavioral, Social, and Cultural Determinants of Health and Care on March 1–2, 2016;
- Nursing Research Initiative (NRI) from 8:00 a.m. to 12:00 p.m. on March 1, 2016 ;
- HSR 4—Mental and Behavioral Health on March 1–2, 2016;
- HSR 5—Health Care System Organization and Delivery on March 1–2, 2016;
- HSR 3—Healthcare Informatics on March 2–3, 2016;
- Career Development Award Meeting on March 2–3, 2016 at the American Association of Airport Executives (AAAE) Building at 601 Madison Street, Alexandria, VA 22314; and
- HSR 6—Post-acute and Long-term Care on March 3, 2016.

The purpose of the Board is to review health services research and development applications involving the measurement and evaluation of health care services; the testing of new methods of health care delivery and management; and nursing research. Applications are reviewed for scientific

and technical merit, mission relevance, and the protection of human and animal subjects. Recommendations regarding funding are submitted to the Chief Research and Development Officer.

Each subcommittee meeting of the Board will be open to the public the first day for approximately one half-hour at the start of the meeting on March 1–2 (HSR 1, 2, 4, 5 and NRI), March 2–3 (HSR 3 and CDA), and March 3 (HSR 6) to cover administrative matters and to discuss the general status of the program. Members of the public who wish to attend the open portion of the subcommittee meetings may dial 1 (800) 767–1750, participant code 10443.

The remaining portion of each subcommittee meeting will be closed for the discussion, examination, reference to, and oral review of the intramural research proposals and critiques. During the closed portion of each subcommittee meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

No oral or written comments will be accepted from the public for either portion of the meetings. Those who plan to participate during the open portion of a subcommittee meeting should contact Ms. Liza Catucci, Administrative Officer, Department of Veterans Affairs, Health Services Research and Development Service (10P9H), 810 Vermont Avenue NW., Washington, DC 20420, or by email at *Liza.Catucci@va.gov.* For further information, please call Ms. Catucci at (202) 443–5797.

Dated: January 27, 2016.

Rebecca Schiller,

Advisory Committee Management Officer.

[FR Doc. 2016–02090 Filed 2–3–16; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 81 Thursday,
No. 23 February 4, 2016

Part II

Federal Deposit Insurance Corporation

12 CFR Part 327
Assessments; Proposed Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AE37

Assessments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: On July 13, 2015, the FDIC published a notice of proposed rulemaking in the **Federal Register** proposing to amend 12 CFR part 327 to refine the deposit insurance assessment system for small insured depository institutions that have been federally insured for at least 5 years (established small banks). In response to comments received regarding the notice, the FDIC is issuing this revised notice of proposed rulemaking (revised NPR or revised proposal) that would: Use a brokered deposit ratio (that treats reciprocal deposits the same as under current regulations) as a measure in the financial ratios method for calculating assessment rates for established small banks instead of the previously proposed core deposit ratio; remove the existing brokered deposit adjustment for established small banks; and revise the previously proposed one-year asset growth measure.

The FDIC proposes that a final rule would take effect the quarter after the Deposit Insurance Fund (DIF) reserve ratio has reached 1.15 percent (or the first quarter after a final rule is adopted that the rule can take effect, whichever is later).

DATES: Comments must be received by the FDIC no later than March 7, 2016.

ADDRESSES: You may submit comments on the notice of proposed rulemaking using any of the following methods:

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the agency Web site.
- *Email: comments@fdic.gov.* Include RIN 3064–AE37 on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Public Inspection:* All comments received, including any personal information provided, will be posted generally without change to *http://www.fdic.gov/regulations/laws/federal.*

FOR FURTHER INFORMATION CONTACT: Munsell St. Clair, Chief, Banking and Regulatory Policy, Division of Insurance and Research, 202–898–8967; Ashley Mihalik, Senior Financial Economist, Division of Insurance and Research, 202–898–3793; Nefretete Smith, Senior Attorney, Legal Division, 202–898–6851; Thomas Hearn, Counsel, Legal Division, 202–898–6967.

SUPPLEMENTARY INFORMATION:

I. Background

The 2015 Notice of Proposed Rulemaking

On June 16, 2015, the FDIC's Board of Directors (Board) authorized publication of a notice of proposed rulemaking (the 2015 NPR) to refine the deposit insurance assessment system for established small banks (that is, small banks other than new small banks and insured branches of foreign banks).[1] The 2015 NPR was published in the **Federal Register** on July 13, 2015.[2] In the 2015 NPR, the FDIC proposed to improve the assessment system by: (1) Revising the financial ratios method so that it would be based on a statistical model estimating the probability of failure over three years; (2) updating the financial measures used in the financial ratios method consistent with the statistical model; and (3) eliminating risk categories for all established small banks and using the financial ratios method to determine assessment rates for all such banks. CAMELS composite ratings,[3] however, would be used to place a maximum on the assessment rates that CAMELS composite 1- and 2-rated banks can be charged and minimums on the assessment rates that CAMELS composite 3-, 4- and 5-rated banks can be charged.

The FDIC received a total of 484 comment letters in response to the 2015 NPR. Of these, 45 were from trade groups and 439 were from individuals or banks. The majority of commenters expressed concern regarding the proposed treatment of reciprocal deposits in the 2015 NPR.

The FDIC is issuing this revised NPR in response to comments received regarding the 2015 NPR. The broad outline of this revised NPR remains the same as the 2015 NPR, but this revised NPR revises the proposal by: (1) Using a brokered deposit ratio (that treats reciprocal deposits the same as under current regulations) as a measure in the financial ratios method for calculating assessment rates for established small banks instead of the previously proposed core deposit ratio; (2) removing the existing brokered deposit adjustment for established small banks; (3) revising the previously proposed one-year asset growth measure; (4) re-estimating the statistical model underlying the established small bank deposit insurance assessment system; (5) revising the uniform amount and pricing multipliers used in the financial ratios method; and (6) providing that any future changes to the statistical model underlying the established small bank deposit insurance assessment system would go through notice-and-comment rulemaking.

The FDIC also received comments on parts of the proposal in the 2015 NPR that have not changed in this revised NPR. These comments included suggestions to more heavily weight CAMELS supervisory ratings over various financial ratios and to tailor the loan mix index to individual banks, and assertions that the proposed minimum and maximum assessment rates are inappropriate. The FDIC will consider all comments submitted in response to the 2015 NPR, as well as comments submitted in response to this revised NPR, in developing a final rule. Thus, to reduce burden, those who submitted a comment on the 2015 NPR need not resubmit the comment for it to be considered by the FDIC in developing the final rule. Comments on any aspect of this revised NPR, however, are welcome.

Policy Objectives

The primary purpose of the proposed rule, like the 2015 NPR, is to improve the risk-based deposit insurance assessment system applicable to small banks to more accurately reflect risk.[4] Additional discussion of the policy objectives of the proposed rule can be found in the 2015 NPR.[5]

[1] Subject to exceptions, an established insured depository institution is one that has been federally insured for at least five years as of the last day of any quarter for which it is being assessed. 12 CFR 327.8(k).

[2] See 80 FR 40838 (July 13, 2015).

[3] A financial institution is assigned a CAMELS composite rating based on an evaluation and rating of six essential components of an institution's financial condition and operations. These component factors address the adequacy of capital (C), the quality of assets (A), the capability of management (M), the quality and level of earnings (E), the adequacy of liquidity (L), and the sensitivity to market risk (S).

[4] 12 U.S.C. 1817(b). A ''risk-based assessment system'' means a system for calculating an insured depository institution's assessment based on the institution's probability of causing a loss to the DIF due to the composition and concentration of the institution's assets and liabilities, the likely amount of any such loss, and the revenue needs of the DIF. See 12 U.S.C. 1817(b)(1)(C).

[5] See 80 FR at 40838 and 40842.

Risk-Based Deposit Insurance Assessments for Established Small Banks

Since 2007, assessment rates for established small banks have been determined by placing each bank into one of four risk categories, Risk Categories I, II, III, and IV.[6] These four risk categories are based on two criteria: Capital levels and supervisory ratings. The three capital groups—well capitalized, adequately capitalized, and undercapitalized—are based on the leverage ratio and three risk-based capital ratios used for regulatory capital purposes.[7] The three supervisory groups, termed A, B, and C, are based upon supervisory evaluations by the small bank's primary federal regulator, state regulator or the FDIC.[8] Group A consists of financially sound institutions with only a few minor weaknesses (generally, banks with CAMELS composite ratings of 1 or 2); Group B consists of institutions that demonstrate weaknesses that, if not corrected, could result in significant deterioration of the institution and increased risk of loss to the DIF (generally, banks with CAMELS composite ratings of 3); and Group C consists of institutions that pose a substantial probability of loss to the DIF unless effective corrective action is taken (generally, banks with CAMELS composite ratings of 4 or 5). An institution's capital group and supervisory group determine its risk category as set out in Table 1 below.

TABLE 1—DETERMINATION OF RISK CATEGORY

Capital group	Supervisory group		
	A CAMELS 1 or 2	B CAMELS 3	C CAMELS 4 or 5
Well Capitalized	Risk Category I.		
Adequately Capitalized	Risk Category II		Risk Category III.
Under Capitalized	Risk Category III		Risk Category IV.

To further differentiate risk within Risk Category I (which includes most small banks), the FDIC uses the *financial ratios method,* which combines a weighted average of supervisory CAMELS component ratings [9] with current financial ratios to determine a small Risk Category I bank's initial assessment rate.[10]

Within Risk Category I, those institutions that pose the least risk are charged a minimum initial assessment rate and those that pose the greatest risk are charged an initial assessment rate that is four basis points higher than the minimum. All other banks within Risk Category I are charged a rate that varies between these rates. In contrast, all banks in Risk Category II are charged the same initial assessment rate, which is higher than the maximum initial rate for Risk Category I. A single, higher, initial assessment rate applies to each bank in Risk Category III and another, higher, rate to each bank in Risk Category IV.[11]

To determine a Risk Category I bank's initial assessment rate, the weighted CAMELS components and financial ratios are multiplied by statistically derived pricing multipliers, the products are summed, and the sum is added to a uniform amount that applies to all Risk Category I banks. If, however, the rate is below the minimum initial assessment rate for Risk Category I, the bank will pay the minimum initial assessment rate; if the rate derived is above the maximum initial assessment rate for Risk Category I, then the bank will pay the maximum initial rate for the risk category.

The financial ratios used to determine rates come from a statistical model that predicts the probability that a Risk Category I institution will be downgraded from a composite CAMELS rating of 1 or 2 to a rating of 3 or worse within one year. The probability of a CAMELS downgrade is intended as a proxy for the bank's probability of failure. When the model was developed in 2006, the FDIC decided not to attempt to determine a bank's probability of failure because of the lack of bank failures in the years between the end of the bank and thrift crisis in the early 1990s and 2006.[12]

The financial ratios method does not apply to new small banks or to insured branches of foreign banks (insured branches).[13]

Assessment Rates Under Current Rules

In 2011, the FDIC adopted a schedule of assessment rates designed to ensure that the reserve ratio reaches 1.15

[6] On January 1, 2007, the FDIC instituted separate assessment systems for small and large banks. 71 FR 69282 (Nov. 30, 2006). See 12 U.S.C. 1817(b)(1)(D) (granting the Board the authority to establish separate risk-based assessment systems for large and small insured depository institutions).

As used in this revised proposal, the term ''bank'' is synonymous with the term ''insured depository institution'' as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C 1813(c)(2). As used in this revised proposal, the term ''small bank'' is synonymous with the term ''small institution'' as it is used in 12 CFR 327.8. In general, a ''small bank'' is one with less than $10 billion in total assets.

[7] The common equity tier 1 capital ratio, a new risk-based capital ratio, was incorporated into the deposit insurance assessment system effective January 1, 2015. 79 FR 70427 (November 26, 2014). Beginning January 1, 2018, a supplementary leverage ratio will also be used to determine whether an advanced approaches bank is: (a) Well capitalized, if the bank is subject to the enhanced supplementary leverage ratio standards under 12 CFR 6.4(c)(1)(iv)(B), 12 CFR 208.43(c)(1)(iv)(B), or 12 CFR 324.403(b)(1)(vi), as each may be amended from time to time; and (b) adequately capitalized, if the bank is subject to the advanced approaches risk-based capital rules under 12 CFR 6.4(c)(2)(iv)(B), 12 CFR 208.43(c)(2)(iv)(B), or 12 CFR 324.403(b)(2)(vi), as each may be amended from time to time. 79 FR 70427, 70437 (November 26, 2014). The supplementary leverage ratio is expected to affect the capital group assignment of few, if any, small banks.

[8] The term ''primary federal regulator'' is synonymous with the term ''appropriate federal banking agency'' as it is used in section 3(q) of the FDI Act, 12 U.S.C. 1813(q).

[9] The weights applied to CAMELS components are as follows: 25 percent each for Capital and Management; 20 percent for Asset quality; and 10 percent each for Earnings, Liquidity, and Sensitivity to market risk. These weights reflect the view of the FDIC regarding the relative importance of each of the CAMELS components for differentiating risk among institutions for deposit insurance purposes. The FDIC and other bank supervisors do not use such a system to determine CAMELS composite ratings.

[10] New small banks in Risk Category I, however, are charged the highest initial assessment rate in effect for that risk category. Subject to exceptions, a new bank is one that has been federally insured for less than five years as of the last day of any quarter for which it is being assessed. 12 CFR 327.8(j).

[11] In 2011, the Board revised and approved regular assessment rate schedules. See 76 FR 10672 (Feb. 25, 2011); 12 CFR 327.10.

[12] See 71 FR 41910, 41913 (July 24, 2006).

[13] Insured branches are deemed small banks for purposes of the deposit insurance assessment system.

percent by September 30, 2020.[14] On October 22, 2015, the FDIC authorized publication of a notice of proposed rulemaking to implement the Dodd-Frank Act requirements that the fund reserve ratio reach 1.35 percent by September 30, 2020 and that the effect of the higher minimum reserve ratio on small banks be offset.[15]

The initial assessment rates currently in effect for small and large banks are set forth in Table 2 below.[16]

TABLE 2—INITIAL BASE ASSESSMENT RATES

[In basis points per annum]

	Risk Category					
	I*		II	III	IV	Large & highly complex institutions**
	Minimum	Maximum				
Annual Rates (in basis points)	5	9	14	23	35	5–35

* Initial base rates that are not the minimum or maximum will vary between these rates.
** See 12 CFR 327.8(f) and 12 CFR 327.8(g) for the definition of large and highly complex institutions.

An institution's total assessment rate may vary from the initial assessment rate as the result of possible adjustments.[17] After applying all possible adjustments, minimum and maximum total assessment rates for each risk category are set forth in Table 3 below.

TABLE 3—TOTAL BASE ASSESSMENT RATES*

[In basis points per annum]

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large & highly complex institutions**
Initial Assessment Rate	5–9	14	23	35	5–35.
Unsecured Debt Adjustment***	−4.5 to 0	−5 to 0	−5 to 0	−5 to 0	−5 to 0.
Brokered Deposit Adjustment	N/A	0 to 10	0 to 10	0 to 10	0 to 10.
Total Assessment Rate	2.5 to 9	9 to 24	18 to 33	30 to 45	2.5 to 45.

* Total base assessment rates do not include the DIDA.
** See 12 CFR 327.8(f) and (g) for the definition of large and highly complex institutions.
*** The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate. The unsecured debt adjustment does not apply to new banks or insured branches.

In 2011, consistent with the FDIC's long-term fund management plan, the Board adopted lower, moderate assessment rates that will go into effect when the DIF reserve ratio reaches 1.15 percent.[18] Pursuant to the FDIC's authority to set assessments, regulations currently in effect provide that the initial base and total base assessment rates set forth in Table 4 below will take effect beginning the assessment period after the fund reserve ratio first meets or exceeds 1.15 percent, without the necessity of further action by the Board. The rates are to remain in effect unless and until the reserve ratio meets or exceeds 2 percent.[19]

[14] See 76 FR 10672. Among other things, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), enacted in July 2010: (1) Raised the minimum designated reserve ratio (DRR), which the FDIC must set each year, to 1.35 percent (from the former minimum of 1.15 percent) and removed the upper limit on the DRR (which was formerly capped at 1.5 percent), 12 U.S.C. 1817(b)(3)(B); (2) required that the fund reserve ratio reach 1.35 percent by September 30, 2020 (rather than 1.15 percent by the end of 2016, as formerly required), Public Law 111–203, 334(d), 124 Stat. 1376, 1539 (12 U.S.C. 1817(note)); and (3) required that, in setting assessments, the FDIC ''offset the effect of [requiring that the reserve ratio reach 1.35 percent by September 30, 2020 rather than 1.15 percent by the end of 2016] on insured depository institutions with total consolidated assets of less than $10,000,000,000'', Public Law 111–203, 334(e), 124 Stat. 1376, 1539 (12 U.S.C. 1817(note)). The Dodd-Frank Act also: (1) Eliminated the requirement that the FDIC provide dividends from the fund when the reserve ratio is between 1.35 percent and 1.5 percent, 12 U.S.C. 1817(e), and (2) continued the FDIC's authority to declare dividends when the reserve ratio at the end of a calendar year is at least 1.5 percent, but granted the FDIC sole discretion in determining whether to suspend or limit the declaration of payment or dividends, 12 U.S.C. 1817(e)(2)(A)–(B).

[15] See 80 FR 68780.

[16] Before adopting the assessment rate schedules currently in effect, the FDIC undertook a historical analysis to determine how high the reserve ratio would have to have been to have maintained both a positive balance and stable assessment rates from 1950 through 2010. The historical analysis and long-term fund management plan are described at 76 FR at 10675 and 75 FR 66272, 66272–281 (Oct. 27, 2010). The analysis shows that the fund reserve ratio would have needed to be approximately 2 percent or more before the onset of the 1980s and 2008 crises to maintain both a positive fund balance and stable assessment rates, assuming, in lieu of dividends, that the long-term industry average nominal assessment rate would have been reduced by 25 percent when the reserve ratio reached 2 percent, and by 50 percent when the reserve ratio reached 2.5 percent.

[17] A bank's total base assessment rate can vary from its initial base assessment rate as the result of three possible adjustments. Two of these adjustments—the unsecured debt adjustment and the depository institution debt adjustment (DIDA)—apply to all banks (except that the unsecured debt adjustment does not apply to new banks or insured branches). The unsecured debt adjustment lowers a bank's assessment rate based on the bank's ratio of long-term unsecured debt to the bank's assessment base. The DIDA increases a bank's assessment rate when it holds long-term, unsecured debt issued by another insured depository institution. The third possible adjustment—the brokered deposit adjustment—applies only to small banks in Risk Category II, III and IV (and to large and highly complex institutions that are not well capitalized or that are not CAMELS composite 1 or 2-rated). It does not apply to insured branches. The brokered deposit adjustment increases a bank's assessment when it holds significant amounts of brokered deposits. 12 CFR 327.9(d).

[18] See 76 FR at 10717–720.

[19] For new banks, however, the rates will remain in effect even if the reserve ratio equals or exceeds 2 percent (or 2.5 percent).

TABLE 4—INITIAL AND TOTAL BASE ASSESSMENT RATES *

[In basis points per annum]

[Once the reserve ratio reaches 1.15 percent [20]]

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large & highly complex institutions **
Initial Base Assessment Rate	3–7	12	19	30	3–30.
Unsecured Debt Adjustment ***	−3.5 to 0	−5 to 0	−5 to 0	−5 to 0	−5 to 0.
Brokered Deposit Adjustment	N/A	0 to 10	0 to 10	0 to 10	0 to 10.
Total Base Assessment Rate	1.5 to 7	7 to 22	14 to 29	25 to 40	1.5 to 40.

* Total base assessment rates do not include the DIDA.

** See 12 CFR 327.8(f) and (g) for the definition of large and highly complex institutions.

*** The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate; thus, for example, an insured depository institution with an initial base assessment rate of 3 basis points will have a maximum unsecured debt adjustment of 1.5 basis points and cannot have a total base assessment rate lower than 1.5 basis points. The unsecured debt adjustment does not apply to new banks or insured branches.

In lieu of dividends, and pursuant to the FDIC's authority to set assessments and consistent with the FDIC's long-term fund management plan, the Board also adopted a lower schedule of assessment rates that will come into effect without further action by the Board when the fund reserve ratio at the end of the prior assessment period meets or exceeds 2 percent, but is less than 2.5 percent, and another, still lower, schedule of assessment rates that will come into effect, again, without further action by the Board when the fund reserve ratio at the end of the prior assessment period meets or exceeds 2.5 percent.[21]

The Board has the authority to adopt rates without further notice and comment rulemaking that are higher or lower than the total assessment rates (also known as the total base assessment rates), provided that: (1) The Board cannot increase or decrease rates from one quarter to the next by more than two basis points; and (2) cumulative increases and decreases cannot be more than two basis points higher or lower than the total base assessment rates.[22]

II. The Proposed Rule

Description of the Proposed Rule

The financial ratios method as revised would use the measures described in the right-hand column of Table 5 below. For comparison's sake, the measures currently used in the financial ratios method are set out on the left-hand column of the table. To avoid unnecessary burden, the proposal will not require established small banks to report any new data in their Reports of Condition and Income (Call Reports).

TABLE 5—COMPARISON OF CURRENT AND PROPOSED MEASURES IN THE FINANCIAL RATIOS METHOD

Current risk category I financial ratios method	Proposed financial ratios method
• Weighted Average CAMELS Component Rating	• Weighted Average CAMELS Component Rating.
• Tier 1 Leverage Ratio	• Tier 1 Leverage Ratio.
• Net Income before Taxes/Risk-Weighted Assets	• Net Income before Taxes/Total Assets.
• Nonperforming Assets/Gross Assets	• Nonperforming Loans and Leases/Gross Assets.
	• Other Real Estate Owned/Gross Assets.
• Adjusted Brokered Deposit Ratio	• Brokered Deposit Ratio.
	• One Year Asset Growth.
• Net Loan Charge-Offs/Gross Assets.	
• Loans Past Due 30–89 Days/Gross Assets.	
	• Loan Mix Index.

All of the measures proposed in this revised NPR are derived from a statistical analysis that estimates a bank's probability of failure within three years. Each of the measures is statistically significant in predicting a bank's probability of failure over that period. The statistical analysis used bank financial data and CAMELS ratings from 1985 through 2011, failure data from 1986 through 2014, and loan charge-off data from 2001 through 2014.[23] Appendix 1 to the Supplementary Information section of the 2015 NPR, and Appendix 1 to the Supplementary Information Section and Appendix E of this proposed rule describe the statistical analysis and the derivation of these measures in detail.

Two of the measures proposed in this revised NPR—the weighted average CAMELS component rating and the tier 1 leverage ratio—are identical to the measures currently used in the financial ratios method and are as proposed in the 2015 NPR. The net income before taxes/total assets measure in this revised NPR is virtually identical to the measure proposed in the 2015 NPR and is also almost identical to the current measure. The denominator in the net income before taxes/total assets measure in the revised proposal is total assets rather than risk-weighted assets as under current rules. The definition of the measure in the revised proposal also differs from the definitions in both the 2015 NPR and current rules in that it no longer refers to extraordinary items.[24]

[20] The reserve ratio for the immediately prior assessment period must also be less than 2 percent.

[21] New small banks will remain subject to the assessment schedule in Table 4 when the reserve ratio reaches 2 percent and 2.5 percent.

[22] See 12 CFR 327.10(f); 76 FR at 10684.

[23] For certain lagged variables, such as one-year asset growth rates, the statistical analysis also used bank financial data from 1984.

[24] The numerator of the proposed net income measure definition is income before applicable income taxes and discontinued operations for the most recent twelve months, rather than income before income taxes and extraordinary items and other adjustments for the most recent twelve

Continued

The current nonperforming assets/gross assets measure includes other real estate owned. In this revised NPR and in the 2015 NPR, other real estate owned/gross assets is a separate measure from nonperforming loans and leases/gross assets.

The remaining three proposed financial measures, described in detail below, differ from the measures in the current established small bank deposit assessment system.[25] The FDIC proposes to replace the adjusted brokered deposit ratio currently used in the financial ratios method with two separate measures: A brokered deposit ratio (rather than a core deposit ratio as proposed in the 2015 NPR) and a one-year asset growth measure. As stated above, these two financial measures—the brokered deposit ratio and the one year asset growth measure—differ from the measures proposed in the 2015 NPR. The third proposed new measure, the loan mix index, remains as proposed in the 2015 NPR.

Brokered Deposit Ratio

Under current assessment rules, brokered deposits affect a small bank's assessment rate based on its Risk Category. For established small banks that are assigned to Risk Category I (those that are well capitalized and have a CAMELS composite rating of 1 or 2), the adjusted brokered deposit ratio is one of the financial ratios used to determine a bank's initial assessment rate. The adjusted brokered deposit ratio increases a bank's initial assessment rate when a bank has brokered deposits that exceed 10 percent of its domestic deposits, combined with a high asset growth rate.[26] Reciprocal deposits are not included with other brokered deposits in the adjusted brokered deposit ratio.

Established small banks in Risk Categories II, III, and IV (those that are less than well capitalized or that have a CAMELS composite rating of 3, 4, or 5) are subject to the brokered deposit adjustment, one of three possible adjustments that can increase or decrease a bank's initial assessment rate. The brokered deposit adjustment increases a bank's assessment rate if it has brokered deposits in excess of 10 percent of its domestic deposits.[27] Unlike the adjusted brokered deposit ratio, the brokered deposit adjustment includes *all* brokered deposits, *including* reciprocal deposits, and is not affected by asset growth rates. As the FDIC noted when it adopted the brokered deposit adjustment and included reciprocal deposits with other brokered deposits in the adjustment, ''The statutory restrictions on accepting, renewing or rolling over brokered deposits when an institution becomes less than well capitalized apply to all brokered deposits, including reciprocal deposits. Market restrictions may also apply to these reciprocal deposits when an institution's condition declines.'' [28]

The FDIC proposes to replace the adjusted brokered deposit ratio currently used in the financial ratios method with a brokered deposit ratio, measured as the ratio of brokered deposits to total assets. As discussed below, the FDIC also proposes to eliminate the existing brokered deposit adjustment for established small banks. Under the proposed brokered deposit ratio, brokered deposits would increase an assessment rate only for an established small bank that holds brokered deposits in excess of 10 percent of total assets. For a bank that is well capitalized and has a CAMELS composite rating of 1 or 2, reciprocal deposits would be deducted from brokered deposits. For a bank that is less than well capitalized or has a CAMELS composite rating of 3, 4 or 5, however, reciprocal deposits would be included with other brokered deposits.

This treatment of reciprocal deposits is generally consistent with the 442 comment letters on the 2015 NPR arguing that reciprocal deposits should not be treated as brokered deposits for assessment purposes.[29] Some commenters encouraged the FDIC to revise the proposal in the 2015 NPR so that it reflects the current treatment of reciprocal deposits, which this revised proposal does. As described above, in the current system, the adjusted brokered deposit, which applies to well-capitalized established small banks that have CAMELS composite ratings of 1 or 2, excludes reciprocal deposits.[30] The brokered deposit adjustment, however, which applies to all established small banks that are less than well capitalized or have CAMELS composite ratings of 3, 4 or 5, includes reciprocal deposits.[31] The proposed brokered deposit ratio makes the same distinction with respect to reciprocal deposits.

The FDIC also received 40 comment letters on the 2015 NPR arguing that reciprocal deposits should be treated as core deposits or are the functional equivalent of core deposits. The FDIC analyzed the characteristics of reciprocal deposits in its Study on Core Deposits and Brokered Deposits and concluded that, ''While the FDIC agrees that reciprocal deposits do not present

months as in the 2015 NPR and current rules. In the current Call Report, extraordinary items and discontinued operations are combined for reporting purposes. Income for the net income ratio is currently determined before both extraordinary items and discontinued operations. In January 2015, the Financial Accounting Standards Board (FASB) eliminated from U.S. generally accepted accounting principles (GAAP) the concept of extraordinary items, effective for fiscal years and interim periods within those fiscal years, beginning after December 15, 2015. In September 2015, the Federal banking agencies published a joint Paperwork Reduction Act (PRA) notice and request for comment on proposed changes to the Call Report, including the elimination of the concept of extraordinary items and revision of affected data items. See 80 FR 56539 (Sept. 18, 2015). That PRA process is still in progress and the FDIC expects that, at some future time, references to extraordinary items will be removed from the Call Report. Nevertheless, items that would have met the criteria for classification as extraordinary before the effective date of the FASB's accounting change will no longer be reported as such in the Call Report income statement after the effective date of the change. Discontinued operations, however, will continue to be reported in the Call Report income statement as a separate item in the future and, under the revised proposal, income for the net income ratio would be determined before discontinued operations. See, *e.g.*, 80 FR at 56547. Therefore, the FDIC is proposing to define the net income measure to reflect the anticipated Call Report changes. The FDIC recognizes that this revised proposal may be finalized and become effective before the Federal banking agencies finalize the proposed Call Report changes.

Because the numerator of the proposed net income measure is defined to include income for the most recent twelve months, there may be a transition period in which income for the most recent twelve months may include income from periods before the elimination from GAAP of the concept of extraordinary items has taken effect. For those portions of the most recent twelve months before this elimination has taken effect, income will be determined as income before income taxes and extraordinary items and other adjustments.

[25] Two measures in the current financial ratios method—net loan charge-offs/gross assets and loans past due 30–89 days/gross assets—are not used in the statistical analysis and are not among the measures in the 2015 NPR or this revised proposal.

[26] The adjusted brokered deposit ratio can affect assessment rates only if a bank's brokered deposits (excluding reciprocal deposits) exceed 10 percent of its non-reciprocal brokered deposits and its assets have grown more than 40 percent in the previous 4 years. 12 CFR 327 Appendix A to Subpart A.

Few Risk Category I banks have both high levels of non-reciprocal brokered deposits and high asset growth, so the adjusted brokered deposit ratio affects relatively few banks. As of September 30, 2015, the adjusted brokered deposit ratio affected the assessment rate of 95 banks.

[27] 12 CFR 327.9(d)(3); 12 U.S.C. 1831f.

[28] 74 FR 9525, 9541 (Mar. 9, 2009).

[29] On the other hand, four commenters asserted that the FDIC should not charge higher assessment rates to banks that hold brokered deposits, but should instead consider how banks used brokered deposits and whether they remain profitable and well-capitalized. The FDIC's statistical analyses have consistently found, however, that brokered deposits are correlated with a higher probability of failure. See FDIC Study on Core Deposits and Brokered Deposits (2011), 46–47 and 66–68 (Appendix A: Excerpts from Material Loss Reviews And Summaries of OIG Semiannual Reports to Congress).

[30] 12 CFR part 327 Appendix A to Subpart A.

[31] 12 CFR 327.9(d)(3); 12 U.S.C. 1831f.

all of the problems that traditional brokered deposits present, they pose sufficient potential problems—particularly their dependence on a network and the network's continued willingness to allow a bank to participate, and the potential of supporting rapid growth if not based upon a relationship—that *they should not be considered core . . .*'' [32] (Emphasis added.) The proposed brokered deposit ratio, which deducts reciprocal deposits for well capitalized, well rated banks, is consistent with the Study on Core Deposits and Brokered Deposits and with the majority of comments received.

Sixteen commenters, including banking trade associations, cautioned against penalizing the use of Federal Home Loan Bank advances in determining assessment rates. Some commenters also argued that lowering assessments for core deposits, as proposed in the 2015 NPR, would make Federal Home Loan Bank advances relatively more expensive. Replacing the previously proposed core deposit ratio with a brokered deposit ratio would not change the current treatment of Federal Home Loan Bank advances in the small bank deposit insurance assessment system. In contrast, treating reciprocal deposits as core deposits in the core deposit ratio would create an incentive for established small banks to switch Federal Home Loan Bank advances and other funding sources (other than core deposits) to reciprocal deposit funding, with unpredictable effects on banks' probability of failure.

One-Year Asset Growth Measure

The FDIC received 18 comments on the proposed one-year asset growth measure in the 2015 NPR. Some commenters argued that the one-year asset growth rate should not penalize normal growth. One commenter suggested that asset growth should not affect assessments until it exceeds an industry-based norm, while other commenters suggested using the ''A'' (''Asset quality'') CAMELS component instead of a one-year asset growth rate or taking mitigating factors into account in the growth rate.

In response to comments, the FDIC is proposing that the one-year asset growth measure increase the assessment rate only for an established small bank that has had one-year asset growth greater than 10 percent. With this modification, the measure will raise assessment rates for established small banks that grow rapidly (other than through merger or by acquiring failed banks), but will not increase assessments for normal asset growth.[33]

Loan Mix Index

The proposed loan mix index is unchanged from the 2015 NPR. As described in the 2015 NPR, the loan mix index is a measure of the extent to which a bank's total assets include higher-risk categories of loans. The index uses historical charge-off rates to identify loan types with higher risk. Each category of loan in a bank's loan portfolio is divided by the bank's total assets to determine the percentage of the bank's assets represented by that category of loan. Each percentage is then multiplied by that category of loan's historical weighted average industry-wide charge-off rate. The products are then summed to determine the loan mix index value for that bank.

The loan categories in the loan mix index were selected based on the availability of category-specific charge-off rates over a sufficiently lengthy period (2001 through 2014) to be representative. The loan categories exclude credit card loans.[34] For each loan category, the weighted-average charge-off rate weights each industry-wide charge-off rate for each year by the number of bank failures in that year. Thus, charge-off rates from 2008 through 2014, during the recent banking crisis, have a much greater influence on the weighted-average charge-off rate than do charge-off rates from the years before the crisis, when few failures occurred. The weighted averages assure that types of loans that have high charge-off rates during downturns (*i.e.*, periods marked by significant insurance fund losses) have an appropriate influence on assessment rates.

Table 6 below illustrates how the loan mix index is calculated for a hypothetical bank.

TABLE 6—LOAN MIX INDEX FOR A HYPOTHETICAL BANK [35]

	Weighted charge-off rate percent	Loan category as a percent of hypothetical bank's total assets	Product of two columns to the left
Construction & Development	4.50	1.40	6.29
Commercial & Industrial	1.60	24.24	38.75
Leases	1.50	0.64	0.96
Other Consumer	1.46	14.93	21.74
Loans to Foreign Government	1.34	0.24	0.32
Real Estate Loans Residual	1.02	0.11	0.11
Multifamily Residential	0.88	2.42	2.14
Nonfarm Nonresidential	0.73	13.71	9.99
1–4 Family Residential	0.70	2.27	1.58
Loans to Depository banks	0.58	1.15	0.66
Agricultural Real Estate	0.24	3.43	0.82
Agriculture	0.24	5.91	1.44

[32] FDIC Study on Core Deposits and Brokered Deposits (2011), 54.

[33] From 1985 through 2014, one-year asset growth rates greater than 10 percent represented approximately the 70th percentile of small banks. A 10 percent one-year asset growth rate measure is generally consistent with the adjusted brokered deposit ratio in the current Risk Category I financial ratios method, which raises assessment rates only when small banks have both four-year asset growth rates in excess of 40 percent and high levels of brokered deposits.

[34] Credit card loans were excluded from the loan mix index because they produced anomalously high assessment rates for banks with significant credit card loans. Credit card loans have very high charge-off rates, but they also tend to have very high interest rates to compensate. In addition, few small banks have significant concentrations of credit card loans. Consequently, credit card loans are omitted from the index.

[35] As discussed above, the loan mix index uses loan charge-off data from 2001 through 2014. The table shows industry-wide weighted charge-off percentage rates, the loan category as a percentage of total assets, and the products to two decimal places. In fact, the FDIC proposes to use seven decimal places for industry-wide weighted charge-off percentage rates, and as many decimal places as permitted by the FDIC's computer systems for the loan category as a percentage of total assets and the products. The total (the loan mix index itself) would use three decimal places.

TABLE 6—LOAN MIX INDEX FOR A HYPOTHETICAL BANK [35]—Continued

	Weighted charge-off rate percent	Loan category as a percent of hypothetical bank's total assets	Product of two columns to the left
SUM (Loan Mix Index)	.....	70.45	84.79

The weighted charge-off rates in the table are the same for all established small banks. The remaining two columns vary from bank to bank, depending on the bank's loan portfolio. For each loan type, the value in the rightmost column is calculated by multiplying the weighted charge-off rate by the bank's loans of that type as a percent of its total assets. In this illustration, the sum of the right-hand column (84.79) is the loan mix index for this bank.

Calculating the Initial Assessment Rate

As in the current methodology for Risk Category I small banks, and as proposed in the 2015 NPR, under the revised proposal the weighted CAMELS components and financial ratios would be multiplied by statistically derived pricing multipliers, the products would be summed, and the sum would be added to a uniform amount that would be: (a) Derived from the statistical analysis, (b) adjusted for assessment rates set by the FDIC, and (c) applied to all established small banks.[36] The total would equal the bank's initial assessment rate. If, however, the resulting rate were below the minimum initial assessment rate for established small banks, the bank's initial assessment rate would be the minimum initial assessment rate; if the rate were above the maximum, then the bank's initial assessment rate would be the maximum initial rate for established small banks. In addition, if the resulting rate for an established small bank were below the minimum or above the maximum initial assessment rate applicable to banks with the bank's CAMELS composite rating, the bank's initial assessment rate would be the respective minimum or maximum assessment rate for an established small bank with its CAMELS composite rating. This approach would allow rates to vary incrementally across a wide range of rates for all established small banks. The conversion of the statistical model to pricing multipliers and the uniform amount is discussed further below and in detail in the proposed Appendix E. Appendix E also discusses the derivation of the pricing multipliers and the uniform amount.

Adjustments to Initial Base Assessment Rates

As discussed above, the FDIC proposes to eliminate the brokered deposit adjustment for established small banks.[37] Under current rules, the brokered deposit adjustment only applies to small banks if they are in Risk Category II, III, and IV. The brokered deposit adjustment increases a bank's assessment when it holds significant amounts of brokered deposits. To avoid assessing banks twice for holding brokered deposits (because the brokered deposit ratio would apply to all established small banks), the FDIC proposes eliminating the brokered deposit adjustment.

As under current rules, the DIDA would continue to apply to all banks, and the unsecured debt adjustment would continue to apply to all banks except new banks and insured branches.[38]

Proposed Assessment Rates

Like the 2015 NPR, this revised proposal preserves the lower range of initial base assessment rates previously adopted by the Board. Under current regulations, once the reserve ratio reaches 1.15 percent, initial base assessment rates will fall automatically from the current 5 basis point to 35 basis point range to a 3 basis point to 30 basis point range, as reflected in Table 4. The FDIC adopted the range of initial assessment rates in this rate schedule pursuant to its long-term fund management plan as the FDIC's best estimate of the assessment rates that would have been needed from 1950 to 2010 to maintain a positive fund balance during the past two banking crises. This assessment rate schedule remains the FDIC's best estimate of the long-term rates needed. Consequently, and as discussed in greater detail further below and in detail in Appendix E, the FDIC proposes to convert its statistical model to assessment rates within this 3 basis point to 30 basis point assessment range in a revenue neutral way; that is, in a manner that does not materially change the aggregate assessment revenue collected from established small banks.

As set out in the rate schedule in Table 7 below, for established small banks, the FDIC proposes to eliminate risk categories but maintain the range of initial assessment rates that the Board has previously determined will go into effect starting the quarter after the reserve ratio reaches 1.15 percent.[39] Unless revised by the Board, these rates would remain in effect as long as the reserve ratio is less than 2 percent. Table 7 also includes a maximum assessment rate that would apply to

[36] Current rules provide that: (1) Under specified conditions, certain subsidiary small banks will be considered established rather than new, 12 CFR 327.8(k)(4); and (2) the time that a bank has spent as a federally insured credit union is included in determining whether a bank is established, 12 CFR 327.8(k)(5). If a Risk Category I small bank is considered established under these rules, but has no CAMELS component ratings, its initial assessment rate is 2 basis points above the minimum initial assessment rate applicable to Risk Category I (which is equivalent to 2 basis points above the minimum initial assessment rate for established small banks) until it receives CAMELS component ratings. Thereafter, the assessment rate is determined by annualizing, where appropriate, financial ratios obtained from all quarterly Call Reports that have been filed, until the bank files four quarterly Call Reports. As proposed in the 2015 NPR, for small banks that are considered established under these rules, but do not have CAMELS component ratings, the FDIC proposes the following:

1. If the bank has no CAMELS composite rating, its initial assessment rate would be 2 basis points above the minimum initial assessment rate for established small banks until it receives a CAMELS composite rating; and

2. If the bank has a CAMELS composite rating but no CAMELS component ratings, its initial assessment rate would be determined using the financial ratios method by substituting its CAMELS composite rating for its weighted average CAMELS component rating and, if the bank has not yet filed four quarterly Call Reports, by annualizing, where appropriate, financial ratios obtained from all quarterly Call Reports that have been filed.

[37] As under rules currently in effect, the brokered deposit adjustment would continue to apply to all new small institutions in Risk Categories II, III, and IV, and all large and highly complex institutions, except large and highly complex institutions that are well capitalized and have a CAMELS composite rating of 1 or 2. As under rules currently in effect, the brokered deposit adjustment would not apply to insured branches.

[38] As under rules currently in effect, however, no adjustments would apply to bridge banks or conservatorships. These banks would continue to be charged the minimum assessment rate applicable to small banks.

[39] See 12 CFR 327.10(b); 76 FR at 10718.

CAMELS composite 1- and 2-rated banks and minimum assessment rates that would apply to CAMELS composite 3-rated banks and CAMELS composite 4- and 5-rated banks.

TABLE 7—INITIAL AND TOTAL BASE ASSESSMENT RATES *

[In basis points per annum]

[Once the reserve ratio reaches 1.15 percent [40]]

	Established small banks			Large & highly complex institutions **
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	3 to 16	6 to 30	16 to 30	3 to 30.
Unsecured Debt Adjustment ***	−5 to 0	−5 to 0	−5 to 0	−5 to 0.
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10.
Total Base Assessment Rate	1.5 to 16	3 to 30	11 to 30	1.5 to 40.

* Total base assessment rates in the table do not include the DIDA.

** See 12 CFR 327.8(f) and (g) for the definition of large and highly complex institutions.

*** The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate; thus, for example, an insured depository institution with an initial base assessment rate of 3 basis points will have a maximum unsecured debt adjustment of 1.5 basis points and cannot have a total base assessment rate lower than 1.5 basis points.

The FDIC proposes to maintain the range of initial assessment rates, set out in the rate schedule in Table 8 below, that the Board previously determined will go into effect starting the quarter after the reserve ratio reaches or exceeds 2 percent and is less than 2.5 percent. Unless revised by the Board, these rates would remain in effect as long as the reserve ratio is in this range. Table 8 also includes the maximum assessment rates that would apply to CAMELS composite 1- and 2-rated banks and the minimum assessment rates that would apply to CAMELS composite 3-rated banks and CAMELS composite 4- and 5-rated banks.

TABLE 8—INITIAL AND TOTAL BASE ASSESSMENT RATES *

[In basis points per annum]

[If the reserve ratio for the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent]

	Established small banks			Large & highly complex institutions **
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	2 to 14	5 to 28	14 to 28	2 to 28.
Unsecured Debt Adjustment ***	−5 to 0	−5 to 0	−5 to 0	−5 to 0.
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10.
Total Base Assessment Rate	1 to 14	2.5 to 28	9 to 28	1 to 38.

* Total base assessment rates in the table do not include the DIDA.

** See 12 CFR 327.8(f) and (g) for the definition of large and highly complex institutions.

*** The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate; thus, for example, an insured depository institution with an initial base assessment rate of 2 basis points will have a maximum unsecured debt adjustment of 1 basis point and cannot have a total base assessment rate lower than 1 basis point.

The FDIC proposes to maintain the range of initial assessment rates, set out in the rate schedule in Table 9 below, that the Board previously determined will go into effect, again without further action by the Board, when the fund reserve ratio at the end of the prior assessment period meets or exceeds 2.5 percent. Unless changed by the Board, these rates would remain in effect as long as the reserve ratio is at or above this level. Table 9 also includes the maximum assessment rates that would apply to CAMELS composite 1- and 2-rated banks and the minimum assessment rates that would apply to CAMELS composite 3-rated banks and CAMELS composite 4- and 5-rated banks.

[40] The reserve ratio for the immediately prior assessment period must also be less than 2 percent.

TABLE 9—INITIAL AND TOTAL BASE ASSESSMENT RATES *

[In basis points per annum]

[If the reserve ratio for the prior assessment period is equal to or greater than 2.5 percent]

	Established small banks			Large & highly complex institutions **
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	1 to 13	4 to 25	13 to 25	1 to 25.
Unsecured Debt Adjustment ***	−5 to 0	−5 to 0	−5 to 0	−5 to 0.
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10.
Total Base Assessment Rate	0.5 to 13	2 to 25	8 to 25	0.5 to 35.

* Total base assessment rates in the table do not include the DIDA.

** See 12 CFR 327.8(f) and (g) for the definition of large and highly complex institutions.

*** The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate; thus, for example, an insured depository institution with an initial base assessment rate of 1 basis point will have a maximum unsecured debt adjustment of 0.5 basis points and cannot have a total base assessment rate lower than 0.5 basis points.

As proposed in the 2015 NPR, with respect to each of the three assessment rate schedules (Tables 7, 8 and 9), the FDIC proposes that the Board would retain its authority to uniformly adjust assessment rates up or down from the total base assessment rate schedule without further rulemaking, as long as the adjustment does not exceed 2 basis points. Also, with respect to each of the three schedules, the FDIC proposes that, if a bank's CAMELS composite or component ratings change during a quarter in a way that changes the institution's initial base assessment rate, then its assessment rate would be determined separately for each portion of the quarter in which it had different CAMELS composite or component ratings.

Conversion of Statistical Model to Pricing Multipliers and Uniform Amount

As discussed above, and as proposed in the 2015 NPR, the FDIC proposes to convert the statistical model to the assessment rates set out in Table 7 in a revenue neutral manner.[41] Specifically, and as described in detail in Appendix E, the FDIC proposes to convert the statistical model to assessment rates to ensure that aggregate assessments for an assessment period shortly before adoption of a final rule would have been approximately the same under a final rule as they would have been under the assessment rate schedule set forth in Table 4 (the rates that, under current rules, will automatically go into effect when the reserve ratio reaches 1.15 percent).

To illustrate the conversion, Table 10 below sets out the pricing multipliers and uniform amounts that would have resulted if the FDIC had converted the statistical model to the assessment rate schedule set out in Table 7 (with a range of assessment rates from 3 basis points to 30 basis points). The pricing multipliers and uniform amount have been set so that, for the third quarter of 2015, aggregate assessments for all established small banks under the revised proposal would have equaled, as closely as reasonably possible, aggregate assessments for all established small banks had the assessment rate schedule in Table 4 been in effect for that assessment period.[42]

The pricing multipliers and uniform amount in Table 10 differ from those in the 2015 NPR because the FDIC has re-estimated the statistical model for this revised proposal using a revised definition of the one-year asset growth measure and a brokered deposit ratio in place of a core deposit ratio.

Partly because the actual conversion will be based upon a later quarter, the pricing multipliers and the uniform amount shown in Table 10 are likely to differ somewhat from those in a final rule.

TABLE 10—PRICING MULTIPLIERS AND THE UNIFORM AMOUNT UNDER A HYPOTHETICAL CONVERSION OF THE STATISTICAL MODEL TO ASSESSMENT RATES BASED ON THE THIRD QUARTER OF 2015

Model measures	Pricing multiplier
Weighted Average CAMELS Component Rating.	1.443
Tier 1 Leverage Ratio	−1.201
Net Income Before Taxes/Total Assets.	−0.684
Nonperforming Loans and Leases/Gross Assets.	0.895
Other Real Estate Owned/Gross Assets.	0.506
Brokered Deposit Ratio	0.251
One Year Asset Growth	0.058
Loan Mix Index	0.077
Uniform Amount	7.398

Updating the Statistical Model, Pricing Multipliers and Uniform Amount

As discussed above, the statistical analysis used bank financial data and CAMELS ratings from 1985 through 2011, failure data from 1986 through 2014 and loan charge-off data from 2001 through 2014.[43] In response to comments on the 2015 NPR, the FDIC proposes that any changes to the small bank deposit insurance pricing model would go through notice-and-comment rulemaking. The FDIC does not anticipate a need for annual updates, since variables and coefficients in the underlying model are not likely to change much absent a significant number of failures.

[41] The FDIC proposes to convert a linear version of the model, which was estimated in a non-linear manner. (See Appendix E.) The conversion using a linear version of the model preserves the same rank ordering as the non-linear model, but using the linear version of the model allows initial assessment rates to be expressed as a linear function of the model variables. The FDIC also used a linear version of its original non-linear downgrade probability statistical model when it instituted variable rates within Risk Category 1 effective January 1, 2007.

[42] Initial assessment rates under the rate schedule actually in effect for the third quarter of 2015 ranged from 5 basis points to 35 basis points, since the DIF reserve ratio was under 1.15 percent.

[43] Also as discussed above, for certain lagged variables, such as one-year asset growth rates, the statistical analysis also used bank financial data from 1984.

Insured Branches of Foreign Banks and New Small Banks

As discussed in the 2015 NPR, this revised proposal makes no changes to the current rules governing the assessment rate schedules applicable to insured branches or to the assessment rate schedule applicable to new small banks. The revised proposal also makes no changes to the way in which assessment rates for insured branches and new small banks are determined.

Implementation of the Proposed Rule

The FDIC is proposing that a final rule would take effect the quarter after the Deposit Insurance Fund (DIF) reserve ratio has reached 1.15 percent (or the first quarter after a final rule is adopted that the rule can take effect, whichever is later).

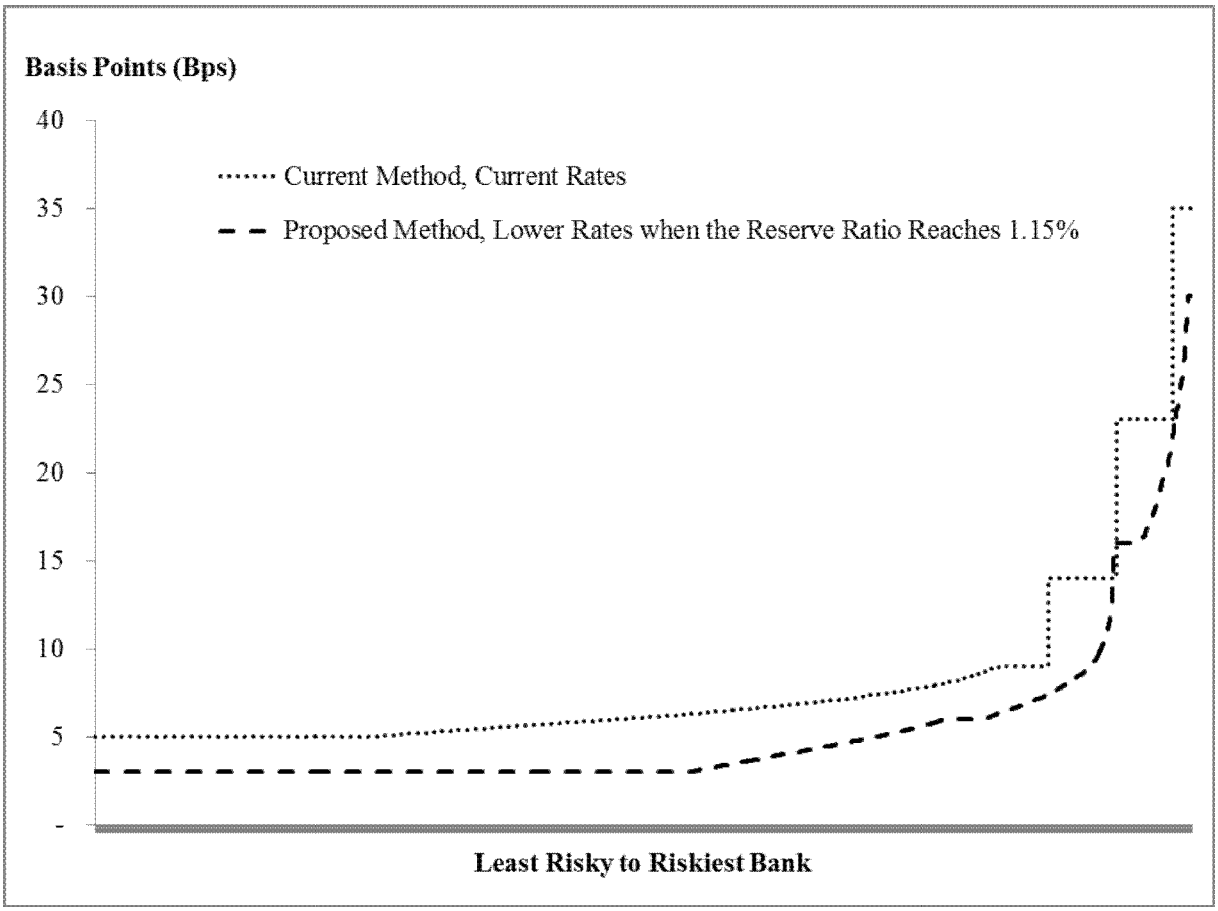
III. Expected Effects of the Revised Proposal

Effect on Assessment Rates

To illustrate the effects of the revised proposal on established small bank assessment rates, the FDIC compared actual assessment rates under the current system for established small banks for the third quarter of 2015, using a range of initial assessment rates of 5 basis points to 35 basis points, with the proposed assessment rates in Table 7 of this revised NPR, which has an overall range of initial assessment rates of 3 basis points to 30 basis points; the assessment rates in Table 7 would take effect the quarter after the DIF reserve ratio reaches 1.15 percent.[44] The proportion (and number) of established small banks paying the minimum initial assessment rate would have increased significantly, from 26 percent (1,611 small banks) to 56 percent under the revised proposal (3,475 small banks). The proportion (and number) of established small banks paying the maximum initial assessment rate would have decreased from 0.5 percent of established small banks (31 small banks) to 0.1 percent of established small banks under the revised proposal (5 small banks). Chart 1 below graphically compares the distribution of established small bank initial assessment rates under this illustration. The horizontal axis in the chart represents established small banks ranked by risk, from the least risky on the left to the most risky on the right. Because actual risk rankings under the current system differ from risk rankings under the revised proposal, a particular point on the horizontal axis is not likely to represent the same bank for the current system and the proposed rule. Thus, the chart does not show how an individual bank's assessment would change under the revised proposal; it simply compares the distribution of assessment rates under the current system to the distribution under the revised proposal.

Chart 1—Illustrative, Hypothetical Comparison of Distribution of Assessment Rates for Established Small Banks (Comparing Actual Third Quarter of 2015 Initial Assessment Rates for the Current System to the Revised Proposal)

[44] The revised proposal assumes a range of initial assessment rates from 3 basis points to 30 basis points. For purposes of determining assessment rates for the illustration, the FDIC converted the statistical model to a range of assessment rates from 3 basis points to 30 basis points so that, for the third quarter of 2015, aggregate assessments for all established small banks under the revised proposal would have equaled, as closely as reasonably possible, aggregate assessments for all established small banks under the rate schedule in Table 4 (the rates that, under current rules, will automatically go into effect when the reserve ratio reaches 1.15 percent). Initial assessment rates under the rate schedule actually in effect for the fourth quarter of 2014 ranged from 5 basis points to 35 basis points, since the DIF reserve ratio was under 1.15 percent.

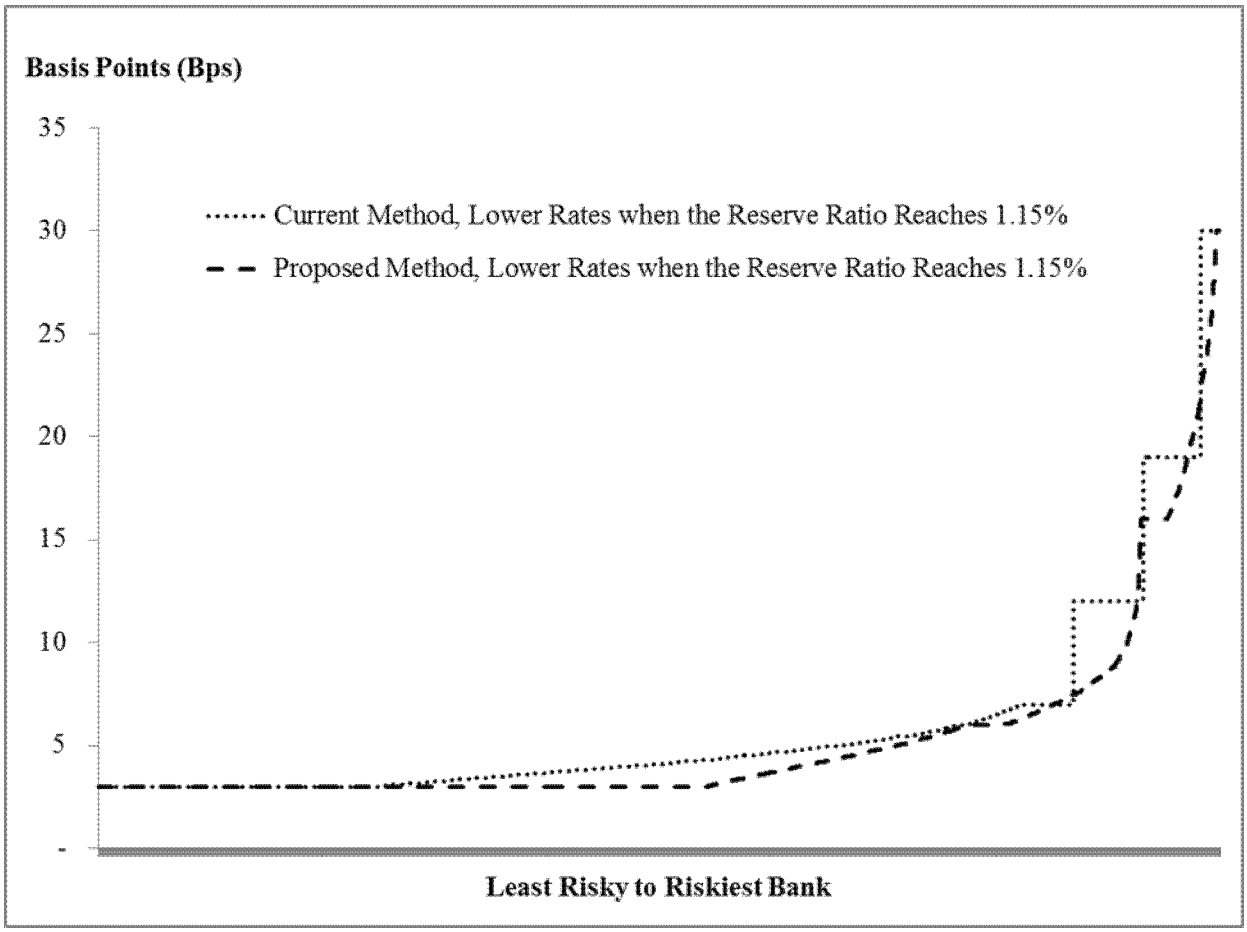


Due in large part to the overall decline in rates once the reserve ratio reaches 1.15 percent, most established small banks (5,729 or 93 percent) would have had lower total assessment rates.[45] Among Risk Category I established small banks, 92 percent would have had rate decreases; the average decrease for these banks would have been 2.6 basis points. Of the Risk Category II, III, and IV established small banks, 99 percent would have had rate decreases; the average decrease would have been 7.0 basis points. A total of 428 established small banks (7 percent of established small banks) would have had rate increases. Of the Risk Category I established small banks, 8 percent would have had rate increases; the average increase would have been 1.6 basis points. Of the Risk Category II, III, and IV established small banks, 1 percent would have had rate increases; the average increase would have been 2.5 basis points. The results of the comparison are similar to those that would have resulted from a comparison of actual assessment rates to those proposed in the 2015 NPR.

To further illustrate the effects of the revised proposal on small bank assessment rates, the FDIC compared hypothetical assessment rates under the revised proposal with the assessment rates established small banks would have been charged for the third quarter of 2015 under the current system if the assessment rate schedule that will go into effect when the reserve ratio reaches 1.15 percent had been in effect. The proportion of established small banks paying the minimum initial assessment rate would also have increased from 26 percent to 56 percent under the revised proposal and the proportion of established small banks paying the maximum initial assessment rate would also have decreased from 0.5 percent of established small banks to 0.1 percent of established small banks under the revised proposal. Chart 2 below graphically compares the distribution of established small bank initial assessment rates under this illustration.

Chart 2—Illustrative, Hypothetical Comparison of Distribution of Assessment Rates for Established Small Banks Based on the Third Quarter of 2015 (Comparing Table 4 Initial Assessment Rates for the Current System to the Revised Proposal)

[45] As discussed above, a bank's total assessment rate may vary from the initial assessment rate as the result of possible adjustments. Under the current system, there are three possible adjustments: The unsecured debt adjustment, the DIDA, and the brokered deposit adjustment. Under the revised proposal, the brokered deposit adjustment would be eliminated for established small banks, but the unsecured debt adjustment and the DIDA would remain.



Most established small banks (3,467 or 56 percent) would have had lower total assessment rates. Among Risk Category I established small banks, 52 percent would have had rate decreases; the average decrease for these banks would have been 1.3 basis points. Of the Risk Category II, III, and IV established small banks, 94 percent would have had rate decreases; the average decrease would have been 4.6 basis points. 1,282 established small banks (21 percent of established small banks) would have had rate increases. Of the Risk Category I established small banks, 23 percent would have had rate increases; the average increase would have been 1.8 basis points. Of the Risk Category II, III, and IV established small banks, 5 percent would have had rate increases; the average increase would have been 2.4 basis points. Again, the results of the comparison are similar to those that would have resulted from a comparison of assessment rates that, under current rules, would have gone into effect when the reserve ratio reaches 1.15 percent with those proposed in the 2015 NPR.

Effect on Capital and Earnings

Appendix 2 to the Supplementary Information section of this notice discusses the effect of the revised proposal on the capital and earnings of established small banks in detail. Using balance sheet and trailing twelve month income data as of the third quarter 2015, Appendix 2 analyzes the effects of the revised proposal on capital and income in two ways: (1) The effect of the revised proposal compared to the current small bank deposit insurance assessment system under the rate schedule in Table 3 (with an initial assessment rate range of 5 basis points to 35 basis points) (the first comparison); and (2) the effect of the revised proposal compared to the current small bank deposit insurance assessment system under the rate schedule in Table 4 (with an initial assessment rate range of 3 basis points to 30 basis points; this rate schedule is to go into effect the quarter after the DIF reserve ratio reaches 1.15 percent) (the second comparison).

Under either comparison, the revised proposal would cause no small bank to fall below a 4 percent or 2 percent leverage ratio if the bank would otherwise be above these thresholds. Similarly, the revised proposal would cause no small bank to rise above a 4 percent or 2 percent leverage ratio if the bank would otherwise be below these thresholds.

In the first comparison, only approximately 7 percent of profitable established small banks and approximately 4 percent of unprofitable small banks would face a rate increase. All but a very few (16) of these banks would have resulting declines in income (or increases in losses, where the bank is unprofitable) of 5 percent or less. As discussed above, assessment rates for approximately 93 percent of established small banks would decline, resulting in increases in income (or decreases in losses), some of which would be substantial. The effect on earnings of established small banks under the revised proposal in this comparison does not differ materially from the corresponding effect in the 2015 NPR.

In the second comparison, approximately 21 percent of profitable established small banks and approximately 15 percent of unprofitable established small banks would face a rate increase. All but 80 of these banks would have resulting declines in income (or increases in losses, where the bank is unprofitable) of 5 percent or less. As discussed above,

assessment rates for approximately 56 percent of established small banks would decline, resulting in increases in income (or decreases in losses), some of which would be substantial. The effect on earnings of established small banks under the revised proposal in this comparison does not differ materially from the corresponding effect in the 2015 NPR.

In sum, because the proposed revisions are intended to generate the same total revenue from small banks as would have been generated absent the revised proposal, the revisions should, overall, have no material effect on the capital and earnings of the banking industry, although the revisions will affect the earnings and capital of individual institutions.

IV. Backtesting

To evaluate the proposed revisions to the risk-based deposit insurance assessment system for small banks, the FDIC tested how well the revised system would have differentiated between banks that failed and those that did not during the recent crisis compared to the current small bank deposit insurance assessment system.

Table 11 compares accuracy ratios for the assessment system in the proposed system and the current system. An accuracy ratio compares how well each approach would have discriminated between banks that failed within the projection period and those that did not. The projection period in each case is the three years following the date of the projection (the first column), which is the last day of the year given. Thus, for example, the accuracy ratios for 2006 reflect how well each approach would have discriminated in its projection between banks that failed and those that did not from 2007 through 2009.[46] A ''perfect'' projection would receive an accuracy ratio of 1; a random projection would receive an accuracy ratio of 0.[47]

TABLE 11—ACCURACY RATIO COMPARISON BETWEEN THE REVISED PROPOSAL AND THE CURRENT SMALL BANK DEPOSIT INSURANCE ASSESSMENT SYSTEM

Year of projection	(A)	(B)	
	Accuracy ratio for the revised proposal *	Accuracy ratio for the current small bank assessment system	Accuracy ratio for the revised proposal—accuracy ratio for the current system (A–B)
2006	0.6988	0.3491	0.3498
2007	0.7760	0.5616	0.2144
2008	0.9015	0.7825	0.1190
2009	0.9360	0.9015	0.0345
2010	0.9667	0.9394	0.0272
2011	0.9548	0.9323	0.0225

* The accuracy ratio for the revised proposal is based on the conversion of the statistical model as estimated based on bank data through 2011 and failure data through 2014.

The table contains results that do not differ materially from the comparison of the assessment system proposed in the 2015 NPR and the current small bank deposit insurance assessment system. In each comparison, the table reveals that, while the current system did relatively well at capturing risk and predicting failures in more recent years, the proposed system would have not only done significantly better immediately before the recent crisis and at the beginning of the crisis, but also better overall.[48] In the early part of the crisis, when CAMELS ratings had not fully reflected the worsening condition of many banks, the proposed system would have recognized risk far better than the current system, primarily because the rates under the proposed system are not constrained by risk categories. As the crisis progressed and CAMELS ratings more fully reflected crisis conditions, the superiority of the proposed system decreased, but it still performed better than the current system.

Appendix 1 to the Supplementary Information section of this notice contains a more detailed description of the FDIC's backtests of the revised proposal.

V. Alternatives Considered

In the 2015 NPR, the FDIC solicited comments on the following alternatives: different minimum and maximum assessment rates based on CAMELS composite ratings, including higher, lower, or no minimum or maximum initial assessment rates for banks with certain CAMELS ratings; the inclusion of loss given default (LGD) in the new statistical model; and no changes to the small bank deposit insurance assessment system. The discussion of these alternatives is found in the 2015 NPR.[49]

[46] The current small bank deposit insurance assessment system did not exist at the end of 2006 and existed in somewhat different forms in years before 2011. The comparison assumes that the small bank deposit insurance assessment system in its current form existed in each year of the comparison.

[47] A ''perfect'' projection is defined as one where the projection rates every bank that fails over the projection period as more risky than every bank that does not fail. A random projection is one where the projection does no better than chance; that is, any given percentage of banks with projected higher risk will include the same percentage of banks that fail over the projection period. Thus, for example, in a random projection, the 10 percent of banks that receive the highest risk projections will include 10 percent of the banks that fail over the projection period; the 20 percent of banks that receive the highest risk projections will include 20 percent of the banks that fail over the projection period, and so on.

[48] As implied in the footnote to Table 11, the accuracy ratios in the table for the proposed system are based on in-sample backtesting. In-sample backtesting compares model forecasts to actual outcomes where those outcomes are included in the data used in model development. Out-of-sample backtesting is the comparison of model predictions against outcomes where those outcomes are not used as part of the model development used to generate predictions. Out-of-sample backtesting, discussed in Appendix 1 of the Supplementary Information section of this notice, also shows that, while the current assessment system for small banks did relatively well at predicting failures in more recent years, the proposed system would have done significantly better immediately before the recent crisis and at the beginning of the crisis, but also better overall.

[49] 80 FR 40838, 40851–40854.

VI. Request for Comments

The FDIC seeks comment on every aspect of this proposed rulemaking, particularly revisions made to the 2015 NPR, including the brokered deposit ratio and one-year asset growth measure.

The FDIC received comments on parts of the proposal in the 2015 NPR that have not changed in this revised NPR. The FDIC will consider all comments submitted in response to the 2015 NPR, as well as comments submitted in response to this revised NPR, in developing a final rule. Thus, to reduce burden, those who submitted a comment on the 2015 NPR need not resubmit the comment for it to be considered by the FDIC in developing the final rule. However, comments on any aspect of the revised NPR are welcome.

VII. Regulatory Analysis and Procedure

A. Regulatory Flexibility Act

The FDIC has carefully considered the potential impacts on all banking organizations, including community banking organizations, and has sought to minimize the potential burden of these changes where consistent with applicable law and the agencies' goals.

The Regulatory Flexibility Act (RFA) requires that each federal agency either certify that a proposed rule would not, if adopted in final form, have a significant economic impact on a substantial number of small entities or prepare an initial regulatory flexibility analysis of the proposal and publish the analysis for comment.[50] Certain types of rules, such as rules of particular applicability relating to rates or corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of ''rule'' for purposes of the RFA.[51] The proposed rule relates directly to the rates imposed on insured depository institutions for deposit insurance and to the deposit insurance assessment system that measures risk and determines each established small bank's assessment rate. Nonetheless, the FDIC is voluntarily undertaking an initial regulatory flexibility analysis of the revised proposal and seeking comment on it.

As of September 30, 2015, of the 6,270 insured commercial banks and savings institutions, there were 5,015 small insured depository institutions as that term is defined for purposes of the RFA (*i.e.,* those with $550 million or less in assets).[52]

For purposes of this analysis, whether the FDIC were to collect needed assessments under the existing rule or under the proposed rule, the total amount of assessments collected would be the same. The FDIC's total assessment needs are driven by the FDIC's aggregate projected and actual insurance losses, expenses, investment income, and insured deposit growth, among other factors, and assessment rates are set pursuant to the FDIC's long-term fund management plan. This analysis demonstrates how the new pricing system under the proposed range of initial assessment rates of 3 basis points to 30 basis points (P330) could affect small entities relative to the current assessment rate schedule (C535) and relative to the rate schedule that under current regulations will be in effect when the reserve ratio exceeds 1.15 percent (C330).[53] Using data as of September 30, 2015, the FDIC calculated the total assessments that would be collected under both rate schedules and under the proposed rule.

The economic impact of the revised proposal on each small institution for RFA purposes (*i.e.,* institutions with assets of $550 million or less) was then calculated as the difference in annual assessments under the proposed rule compared to the existing rule as a percentage of the institution's annual revenue and annual profits, assuming the same total assessments collected by the FDIC from the banking industry.[54]

Projected Effects on Small Entities Assuming No Change in Initial Assessment Rate Range (P330–C330)

Based on the September 30, 2015 data, of the total of 5,015 small institutions, no institution would have experienced an increase in assessments equal to five percent or more of its total revenue. These figures do not reflect a significant economic impact on revenues for a substantial number of small insured institutions. Table 12 below sets forth the results of the analysis in more detail.

TABLE 12—PERCENT CHANGE IN ASSESSMENTS RESULTING FROM THE REVISED PROPOSAL

[Assuming no change in the assessment rate range]

Change in assessments	Number of institutions	Percent of institutions
More than 5 percent lower	0	0
0 to 5 percent lower	2,984	60
0 to 5 percent higher	2,031	40
More than 5 percent higher	0	0
Total	5,015	100

The FDIC performed a similar analysis to determine the impact on profits for small institutions. Based on September 30, 2015 data, of those small institutions with reported profits, 13 institutions would have an increase in assessments equal to 10 percent or more of their profits. Again, these figures do not reflect a significant economic impact on profits for a substantial number of small insured institutions. Table 13 sets forth the results of the analysis in more detail.

[50] See 5 U.S.C. 603, 604 and 605.

[51] 5 U.S.C. 601.

[52] Throughout this RFA analysis (unlike the rest of this revised NPR), a ''small institution'' refers to an institution with assets of $550 million or less; a ''small bank,'' however, continues to refer to a small insured depository institution for purposes of deposit insurance assessments (generally, a bank with less than $10 billion in assets).

[53] The analysis is based on total assessment rates, rather than initial assessment rates. A bank's total assessment rate may vary from its initial assessment rate as the result of possible adjustments. Under the current system, there are three possible adjustments: The unsecured debt adjustment, the DIDA, and the brokered deposit adjustment. Under revised proposal, the brokered deposit adjustment would be eliminated for established small banks, but the unsecured debt adjustment and the DIDA would remain.

[54] For purposes of the analysis, an institution's total revenue is defined as the sum of its interest income and noninterest income and an institution's profit is defined as income before taxes and extraordinary items.

TABLE 13 *—ASSESSMENT CHANGES RELATIVE TO PROFITS FOR PROFITABLE SMALL INSTITUTIONS UNDER THE REVISED PROPOSAL

[Assuming no change in the initial assessment rate range]

Change in assessments relative to profits	Number of institutions	Percent of institutions
Decrease in assessments equal to more than 40 percent of profits	56	1
Decrease in assessments equal to 20 to 40 percent of profits	48	1
Decrease in assessments equal to 10 to 20 percent of profits	111	2
Decrease in assessments equal to 5 to 10 percent of profits	269	6
Decrease in assessments equal to 0 to 5 percent of profits	3,429	73
Increase in assessments equal to 0 to 5 percent of profits	741	16
Increase in assessments equal to 5 to 10 percent of profits	34	1
Increase in assessments equal to 10 to 20 percent of profits	8	0
Increase in assessments equal to 20 to 40 percent of profits	2	0
Increase in assessments equal to more than 40 percent of profits	3	0
Total	4,701	** 100

* Institutions with negative or no profit were excluded. These institutions are shown in Table 14.
** Figures may not add to totals due to rounding.

Table 13 excludes small institutions that either show no profit or show a loss, because a percentage cannot be calculated. The FDIC analyzed the effect of the revised proposal on these institutions by determining the annual assessment change (either an increase or a decrease) that would result. Table 14 below shows that 23 (seven percent) of the 314 small insured institutions with negative or no reported profits would have an increase of $20,000 or more in their annual assessments.

TABLE 14—CHANGE IN ASSESSMENTS FOR UNPROFITABLE SMALL INSTITUTIONS RESULTING FROM THE REVISED PROPOSAL

[Assuming no change in the initial assessment rate range]

Change in assessments	Number of institutions	Percent of institutions
$20,000 or more decrease	136	43
$10,000–$20,000 decrease	56	18
$5,000–$10,000 decrease	32	10
$1,000–$5,000 decrease	30	10
$0–$1,000 decrease	14	4
$0–$1,000 increase	6	2
$1,000–$5,000 increase	7	2
$5,000–$10,000 increase	4	1
$10,000–$20,000 increase	6	2
$20,000 increase or more	23	7
Total	314	* 100

* Figures may not add to totals due to rounding.

Projected Effects on Small Entities Assuming Change in the Initial Assessment Rate Range From 5–35 Bps to 3–30 Bps (P330–C535)

Based on the September 30, 2015 data, of the total of 5,015 small institutions, no institution would have experienced an increase in assessments equal to five percent or more of its total revenue. These figures do not reflect a significant economic impact on revenues for a substantial number of small insured institutions. Table 15 below sets forth the results of the analysis in more detail.

TABLE 15—PERCENT CHANGE IN ASSESSMENTS RESULTING FROM THE REVISED PROPOSAL

[Assuming change in the initial assessment rate range from 5–35 bps to 3–30 bps]

Change in assessments	Number of institutions	Percent of institutions
More than 5 percent lower	1	0
0 to 5 percent lower	4,758	95
0 to 5 percent higher	256	5
More than 5 percent higher	0	0
Total	5,015	100

The FDIC performed a similar analysis to determine the impact on profits for small institutions. Based on September 30, 2015 data, of those small institutions with reported profits, 3 institutions would have an increase in assessments equal to 10 percent or more of their profits. Again, these figures do not reflect a significant economic impact on profits for a substantial number of small insured institutions. Table 16 sets forth the results of the analysis in more detail.

TABLE 16 *—ASSESSMENT CHANGES RELATIVE TO PROFITS FOR PROFITABLE SMALL INSTITUTIONS UNDER THE REVISED PROPOSAL

[Assuming change in the initial assessment rate range from 5–35 bps to 3–30 bps]

Change in assessments relative to profits	Number of institutions	Percent of institutions
Decrease in assessments equal to more than 40 percent of profits	91	2
Decrease in assessments equal to 20 to 40 percent of profits	98	2
Decrease in assessments equal to 10 to 20 percent of profits	268	6
Decrease in assessments equal to 5 to 10 percent of profits	492	10
Decrease in assessments equal to 0 to 5 percent of profits	3,510	75
Increase in assessments equal to 0 to 5 percent of profits	235	5
Increase in assessments equal to 5 to 10 percent of profits	4	0
Increase in assessments equal to 10 to 20 percent of profits	1	0
Increase in assessments equal to 20 to 40 percent of profits	1	0
Increase in assessments equal to more than 40 percent of profits	1	0
Total	4,701	100

* Institutions with negative or no profit were excluded. These institutions are shown in Table 17.
** Figures may not add to totals due to rounding.

Table 16 excludes small institutions that either show no profit or show a loss, because a percentage cannot be calculated. The FDIC analyzed the effect of the revised proposal on these institutions by determining the annual assessment change (either an increase or a decrease) that would result. Table 17 below shows that just 6 (2 percent) of the 314 small insured institutions with negative or no reported profits would have an increase of $20,000 or more in their annual assessments. Again, these figures do not reflect a significant economic impact on profits for a substantial number of small insured institutions.

TABLE 17—CHANGE IN ASSESSMENTS FOR UNPROFITABLE SMALL INSTITUTIONS RESULTING FROM THE REVISED PROPOSAL

[Assuming assessment change in the initial assessment rate range from 5–35 bps to 3–30 bps]

Change in assessments	Number of institutions	Percent of institutions
$20,000 or more decrease	208	66
$10,000–$20,000 decrease	52	17
$5,000–$10,000 decrease	28	9
$1,000–$5,000 decrease	11	4
$0–$1,000 decrease	4	1
$0–$1,000 increase	1	0
$1,000–$5,000 increase	0	0
$5,000–$10,000 increase	2	1
$10,000–$20,000 increase	2	1
$20,000 increase or more	6	2
Total	314	* 100

* Figures may not add to totals due to rounding.

The proposed rule does not directly impose any ''reporting'' or ''recordkeeping'' requirements within the meaning of the Paperwork Reduction Act. The compliance requirements for the proposed rule would not exceed (and, in fact, would be the same as) existing compliance requirements for the current risk-based deposit insurance assessment system for small banks. The FDIC is unaware of any duplicative, overlapping or conflicting federal rules.

The initial RFA analysis set forth above demonstrates that, if adopted in final form, the proposed rule would not have a significant economic impact on a substantial number of small institutions within the meaning of those terms as used in the RFA.[55]

Commenters are invited to provide the FDIC with any information they may have about the likely quantitative effects of the revised proposal on small insured depository institutions (those with $550 million or less in assets).

B. Riegle Community Development and Regulatory Improvement Act

The Riegle Community Development and Regulatory Improvement Act (RCDRIA) requires that the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on insured depository

[55] 5 U.S.C. 605.

institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.[56]

This revised NPR proposes no additional reporting or disclosure requirements on insured depository institutions, including small depository institutions, nor on the customers of depository institutions.

C. Paperwork Reduction Act

The proposed rule does not create any new, or revise any existing collections of information pursuant to the Paperwork Reductions Act (44 U.S.C. 3501 *et seq.*). Therefore, the FDIC will not be submitting any information collection request to the Office of Management and Budget.

D. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

E. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invites your comments on how to make this revised proposal easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be stated more clearly?
- Does the proposed regulation contain language or jargon that is unclear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand?

Appendix 1

Description of Statistical Model Underlying Proposed Method for Determining Deposit Insurance Assessments for Established Small Insured Depository Institutions

Appendix 1 to the **SUPPLEMENTARY INFORMATION** section of the 2015 NPR provided a technical description of the statistical model[57] underlying the proposed method for determining deposit insurance assessments for established small banks. It provided background information, reviewed the data and methodology used to estimate the statistical model underlying the proposed method (including a discussion of variable selection, variables used in the model, variables considered but not used in the model, and variables excluded from the model), the estimation model (including a description of the model used to estimate failure probabilities, the time horizon chosen, and in-sample estimation), validation (including a backtest comparison of the proposal to the current small bank assessment system), and references. Appendix 1.1 to the **SUPPLEMENTARY INFORMATION** section of the 2015 NPR discussed the loan mix index and Appendix 1.2 **SUPPLEMENTARY INFORMATION** section of the 2015 NPR listed the variables tested. Appendices 1, 1.1 and 1.2 to the **SUPPLEMENTARY INFORMATION** section of the 2015 NPR are incorporated by reference.[58]

This Appendix 1 to the **SUPPLEMENTARY INFORMATION** section of the revised proposal updates relevant portions of Appendix 1 to the **SUPPLEMENTARY INFORMATION** section of the 2015 NPR to account for the revisions to the definition of the asset growth variable and the introduction of the brokered deposit ratio variable.

I. Variables

Table 1.1 lists and describes the variables that are included in the statistical model (the ''new model'') used in the revised proposal.

TABLE 1.1—NEW MODEL VARIABLE DESCRIPTION

Variables	Description
Tier 1 Leverage Ratio (%)	Tier 1 capital divided by adjusted average assets. (Numerator and denominator are both based on the definition for prompt corrective action.)
Net Income before Taxes/Total Assets (%)	Income (before income taxes and extraordinary items and other adjustments) for the most recent twelve months divided by total assets.[1]
Nonperforming Loans and Leases/Gross Assets (%)	Sum of total loans and lease financing receivables past due 90 or more days and still accruing interest and total nonaccrual loans and lease financing receivables (excluding, in both cases, the maximum amount recoverable from the U.S. Government, its agencies or government-sponsored enterprises, under guarantee or insurance provisions) divided by gross assets.[2] [3]
Other Real Estate Owned/Gross Assets (%)	Other real estate owned divided by gross assets.[3]
Brokered Deposit Ratio	The ratio of the difference between brokered deposits and 10 percent of total assets to total assets. For institutions that are well capitalized and have a CAMELS composite rating of 1 or 2, reciprocal deposits are deducted from brokered deposits.[4] If the ratio is less than zero, the value is set to zero.
Weighted Average of C, A, M, E, L, and S Component Ratings.	The weighted sum of the ''C,'' ''A,'' ''M,'' ''E'', ''L'', and ''S'' CAMELS components, with weights of 25 percent each for the ''C'' and ''M'' components, 20 percent for the ''A'' component, and 10 percent each for the ''E'', ''L'', and ''S'' components. In instances where the ''S'' component is missing, the remaining components are scaled by a factor of 10/9.[5]
Loan Mix Index	A measure of credit risk described below.

[56] 12 U.S.C. 4802.

[57] The preamble to the revised NPR refers to the new model as the ''statistical model.''

[58] 80 FR 40838, 40857–40873.

TABLE 1.1—NEW MODEL VARIABLE DESCRIPTION—Continued

Variables	Description
Asset Growth (%)	Percentage growth in assets (merger adjusted[6]) over the previous year in excess of 10 percent.[7] If growth is less than 10 percent, the value is set to zero.

[1] For purposes of calculating actual assessment rates (as opposed to model estimation), the ratio of Net Income before Taxes to Total Assets is defined as income (before applicable income taxes and discontinued operations) for the most recent twelve months divided by total assets and is bounded below by (and cannot be less than) −25 percent and is bounded above by (and cannot exceed) 3 percent. In January 2015, the Financial Accounting Standards Board (FASB) eliminated from U.S. generally accepted accounting principles (GAAP) the concept of extraordinary items, effective for fiscal years and interim periods within those fiscal years, beginning after December 15, 2015. In September 2015, the Federal banking agencies published a joint PRA notice and request for comment on proposed changes to the Call Report, including the elimination of the concept of extraordinary items and revision of affected data items. That PRA process is still in progress and the FDIC expects that, at some future time, references to extraordinary items will be removed from the Call Report. Therefore, the FDIC is proposing to define the net income measure for purposes of calculating assessment rates to reflect the anticipated Call Report changes.

[2] "Gross assets" are total assets plus the allowance for loan and lease financing receivable losses (ALLL); for purposes of estimating the statistical model, for years before 2001, when allocated transfer risk was not included in ALLL in Call Reports, allocated transfer risk was included in gross assets separately.

[3] Delinquency and non-accrual data on government guaranteed loans are not available for the entire estimation period. As a result, the model is estimated without deducting delinquent or past-due government guaranteed loans from the nonperforming loans and leases to gross assets ratio.

[4] For estimation purposes, the numerator does not subtract reciprocal brokered deposits because of a lack of data for most of the estimation period.

[5] The component rating for sensitivity to market risk (the "S" rating) is not available for years before 1997. As a result, and as described in the table, the model is estimated using a weighted average of five component ratings excluding the "S" component where the component is not available.

[6] Growth in assets is also adjusted for acquisitions of failed banks.

[7] For purposes of calculating actual assessment rates (as opposed to model estimation), the maximum value of the Asset Growth measure is 230 percent; that is, asset growth (merger adjusted) over the previous year in excess of 240 percent (230 percentage points in excess of the 10 percent threshold) will not further increase a bank's assessment rate.

The Tier 1 Leverage Ratio, Net Income before Taxes/Total Assets, Nonperforming Loans and Leases/Gross Assets, Weighted Average of C, A, M, E, L, and S Component Ratings, and Loan Mix Index ("LMI") are described and discussed in Appendix 1 to the Supplementary Information section of the 2015 NPR.[59]

1. Asset Growth

Among the variables included in the specifications was a one-year asset growth rate. The FDIC also considered a two-year growth rate and lagged one- and two-year growth rates. The one-year growth rates generally had the most explanatory power and additional growth rates did not tend to improve the model's fit. To avoid penalizing normal asset growth, the variable uses only growth in excess of 10 percent. If asset growth is less than 10 percent, the variable is set to zero. This variable has generally the same explanatory power as a variable measuring any positive growth.

Mergers of troubled banks into healthier banks and purchases of failed banks help limit losses to the DIF. Penalizing banks for growth that occurs through the acquisition of troubled or failed banks would create a disincentive for such mergers. Consequently, bank asset growth was adjusted to remove growth resulting from mergers and failed bank acquisitions.

2. Brokered Deposit Ratio

Early test versions of the new model used core deposits as a variable predictive of failure. This variable was statistically significant in-sample across all specifications with a positive correlation with failure. Subsequent versions used brokered deposits as the alternative variable. It provides similar predictive power, and is the variable used for estimating the new model in this revised proposal. Only the portion of brokered deposits above 10 percent of assets is included in the brokered deposit ratio; if the ratio of brokered deposits to assets is less than 10 percent, then the variable is set to zero. For purposes of determining assessments, as opposed to estimation of the new model, reciprocal deposits are excluded from the numerator for banks that are well capitalized and have a CAMELS composite rating of 1 or 2.

II. In-Sample Estimation

The in-sample estimation time period was chosen to be 1985 through 2011, incorporating Call Report data through the end of 2011 and failures through the end of 2014.

To avoid having overlapping three-year look-ahead periods for a given regression, each regression uses data in which only every third year is included. One regression uses insured depository institutions' Call Report and TFR data for the end of 1985 and failures from 1986 through 1988; Call Report and TFR data for the end of 1988 and failures from 1989 through 1991; and so on, ending with Call Report data for the end of 2009 and failures from 2010 through 2012. (See Table 1.2A below.) The second regression uses insured depository institutions' Call Report and TFR data for the end of 1986 and failures from 1987 through 1989, and so on, ending with Call Report data for the end of 2010 and failures from 2011 through 2013. (See Table 1.2B below.) The third regression uses insured depository institutions' Call Report and TFR data for the end of 1987 and failures from 1988 through 1990, and so on, ending with Call Report data for the end of 2011 and failures from 2012 through 2014. (See Table 1.2C below.) Since there is no particular reason for favoring any one of these three regressions over another, the actual model estimates are constructed as an average of each of the three regression estimates for each parameter.

The regressions only include observations for institutions that are at least five years of age, since younger institutions will be subject to a different assessment methodology. Also, since the model will be applied to banks with under $10 billion in assets, larger banks are not included in the regressions.

The data used for estimation is winsorized (that is, extreme values in the data are reset to reduce the effect of outliers) at the 1st percentile and 99th percentile levels for each year. For example, if a variable for a bank has a value greater than the 99th percentile value for that year, then the value for that bank is set to the 99th percentile value before estimation is made.

The test statistics applied follow the analysis of Shumway (2001). In Shumway's formulation, the standard test statistics from a logistic regression used to assess statistical significance are divided by the average number of bank-years per bank; this adjustment corrects for the lack of independence between bank-year observations. That is, an adjustment is made to account for a bank no longer being observed after failure. In Tables 1.2A, 1.2B, and 1.2C below, "WaldChiSq2" shows the adjusted χ-square statistic, and "ProbChiSq2" the associated probability value. (The lower the value of ProbChisSq2, the more statistically significant is the parameter estimate. Parameter estimates with a ProbChiSq2 below .05 are considered to be statistically significant at the .05 level.)

As reported in Tables 1.2A, 1.2B, and 1.2C, banks with a higher leverage ratio are less likely to fail within the next three years. Similarly, banks' earnings before taxes and their core deposits to assets ratios are negatively correlated with failure probability. In contrast, nonperforming loans and the other real estate owned to assets ratios are positively correlated with failure probability.

[59] 80 FR 40838 at 40858–40860.

Moreover, banks with a higher LMI, faster asset growth, and worse weighted CAMELS component ratings are more likely to fail within the next three years.

The estimated coefficients of the variables are statistically significant at the 5% level for all three regression sets except for the asset growth rate variable. The asset growth rate is statistically significant for two out of the three regressions.

TABLE 1.2A—REGRESSION WITH DECEMBER 2009 AS LAST DATA POINT FOR INDEPENDENT VARIABLES

Variable description	Estimate	WaldChiSq2	ProbChiSq2
Intercept	−5.1717	122.9993	0.000000
Tier 1 Leverage Ratio (%)	−0.3195	72.1987	0.000000
Net Income before Taxes/Assets (%)	−0.1347	10.5889	0.001138
Loan Mix Index	0.0184	68.0000	0.000000
Brokered Deposit Ratio (%)	0.0470	4.8123	0.028257
Nonperforming Assets/Gross Assets (%)	0.2604	54.7635	0.000000
Other Real Estate Owned/Gross Assets (%)	0.1357	9.1723	0.002457
Asset Growth (%)	0.0217	13.0579	0.000302
Weighted Average of C, A, M, E, L and S Component Ratings	0.4604	18.5915	0.000016

TABLE 1.2B—REGRESSION WITH DECEMBER 2010 AS LAST DATA POINT FOR INDEPENDENT VARIABLES

Variable description	Estimate	WaldChiSq2	ProbChiSq2
Intercept	−4.9279	113.2177	0.000000
Tier 1 Leverage Ratio (%)	−0.3381	73.0771	0.000000
Net Income before Taxes/Assets (%)	−0.1635	13.8092	0.000202
Loan Mix Index	0.0240	144.1270	0.000000
Brokered Deposit Ratio (%)	0.0840	17.9979	0.000022
Nonperforming Assets/Gross Assets (%)	0.2268	36.6508	0.000000
Other Real Estate Owned/Gross Assets (%)	0.1495	12.5637	0.000393
Asset Growth (%)	0.0081	1.2169	0.269976
Weighted Average of C, A, M, E, L and S Component Ratings	0.2786	6.6049	0.010170

TABLE 1.2C—REGRESSION WITH DECEMBER 2011 AS LAST DATA POINT FOR INDEPENDENT VARIABLES

Variable description	Estimate	WaldChiSq2	ProbChiSq2
Intercept	−5.4491	127.5634	0.000000
Tier 1 Leverage Ratio (%)	−0.3073	63.3053	0.000000
Net Income before Taxes/Assets (%)	−0.2518	35.5448	0.000000
Loan Mix Index	0.0195	68.4211	0.000000
Brokered Deposit Ratio (%)	0.0707	20.3491	0.000006
Nonperforming Assets/Gross Assets (%)	0.2318	38.1453	0.000000
Other Real Estate Owned/Gross Assets (%)	0.1215	7.3735	0.006619
Asset Growth (%)	0.0170	6.9063	0.008589
Weighted Average of C, A, M, E, L and S Component Ratings	0.4207	14.4167	0.000146

The parameter estimates applied for the assessments are the average of the estimates from the three regressions above. These average values are show in Table 1.2D.

TABLE 1.2D—AVERAGE OF THE PARAMETER ESTIMATES OVER THREE REGRESSIONS

Variable description	Estimate
Intercept	−5.1829
Tier 1 Leverage Ratio (%)	−0.3216
Net Income before Taxes/Assets (%)	−0.1833
Loan Mix Index	0.0206
Brokered Deposit Ratio (%)	0.0672
Nonperforming Assets/Gross Assets (%)	0.2397
Other Real Estate Owned/Gross Assets (%)	0.1356
Asset Growth (%)	0.0156
Weighted Average of C, A, M, E, L and S Component Ratings	0.3866

When the new model is used to determine assessment rates, the variables Asset Growth and Net Income before Taxes/Total Assets are each bounded as follows:

Asset Growth ≤ 230

−25 ≤ Net Income before Taxes/Total Assets ≤ 3.

For example, if Asset Growth in excess of the 10 percent threshold is greater than 230 (percent), then it is reset to 230 to determine assessment rates. After the parameters shown in Table 1.2D were obtained, the values of these bounds were determined by performing an iterative series of backtests covering data from 1985 to 2011, with each iteration testing a different combination of bounds; the combination of bounds that resulted in the best rank correlation (Kendall's tau) between probability of failure and actual failure is the combination of bounds selected.

III. Validation

A. Backtest Comparison of the Established Small Bank Assessment System in the Revised Proposal to the Current Small Bank Deposit Insurance Assessment System

Using initial base assessment rates,[60] the FDIC also compared the out-of-sample forecast accuracy of the established small bank assessment system in the revised proposal, which is based on the new model, to the current small bank deposit insurance system's assessment rankings.[61] Comparisons

[60] The current small bank deposit insurance assessment system did not exist at the end of 2006 and existed in somewhat different forms in years before 2011. The comparison assumes that the small bank deposit insurance assessment system in its current form and established small bank assessment system in the revised proposal (assuming a revenue neutral conversion to assessment rates as of the third quarter of 2015) had been in effect in each year of the comparison.

[61] For the out-of-sample backtests, the parameters applied are the average of the parameters from three separate regressions, as in the new model, except

were made for projections as of the end of six different years, 2006 through 2011, and are shown graphically using cumulative accuracy profile (CAP) curves. A CAP curve is illustrated in Figure 1.1. Suppose that banks are ranked on a percentile basis according to a model's predicted probability of failure, with the ranking in descending order. Thus the banks with the highest predicted probability of failure would have a percentile rank near zero, while the banks with the lowest predicted probability of failure would have a percentile rank near 100. In Figure 1.1, the horizontal axis represents this bank percentile rank. The vertical axis represents the cumulative percentage of actual failures. For example, the point marked by ''X'' indicates that the 30 percent of banks with the highest projected probability of failure included 50 percent of the banks that actually failed. In general, when comparing a CAP curve for alternative models, a model with a higher CAP curve (one with more area underneath it) would be the superior model.

Figure 1.1. Cumulative Accuracy Profile (CAP) Illustration

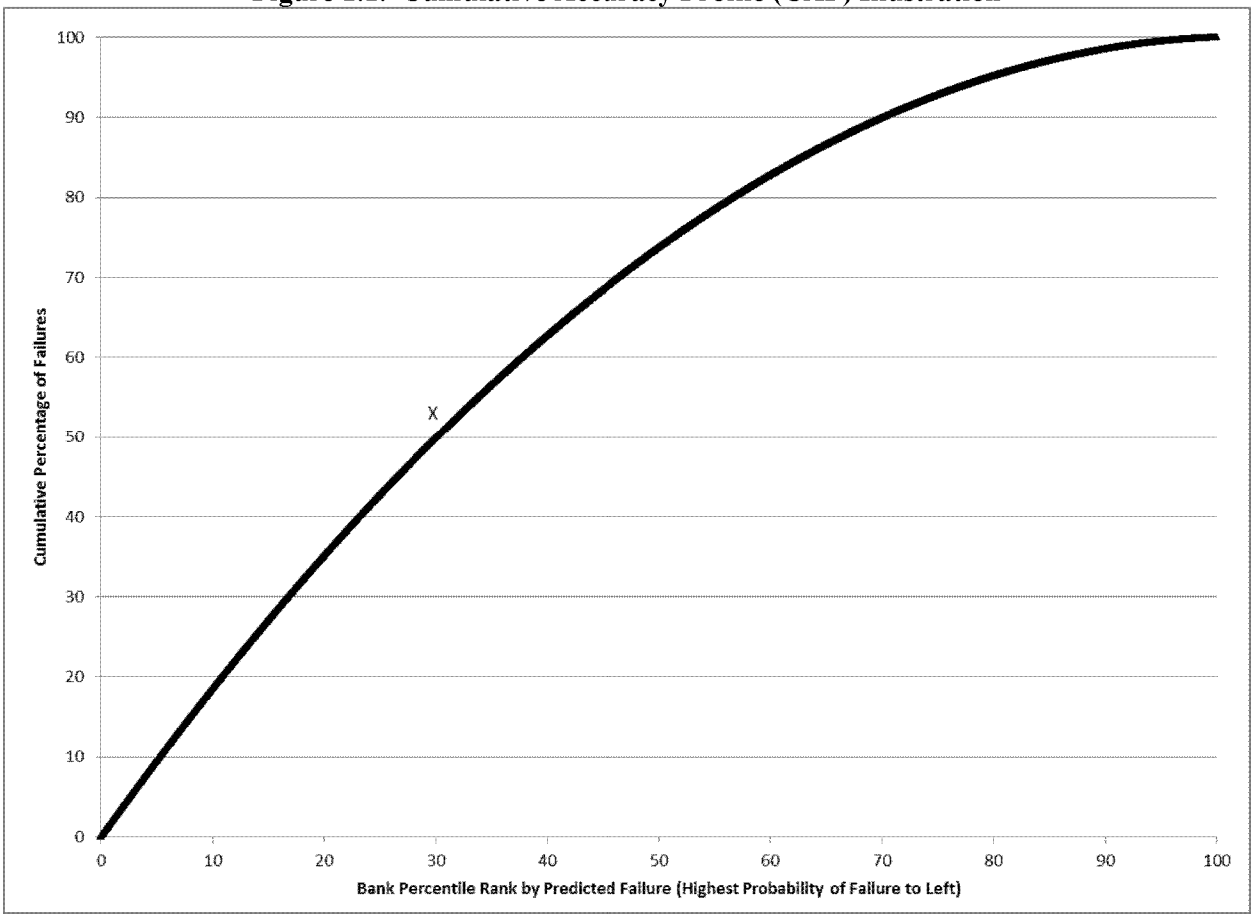
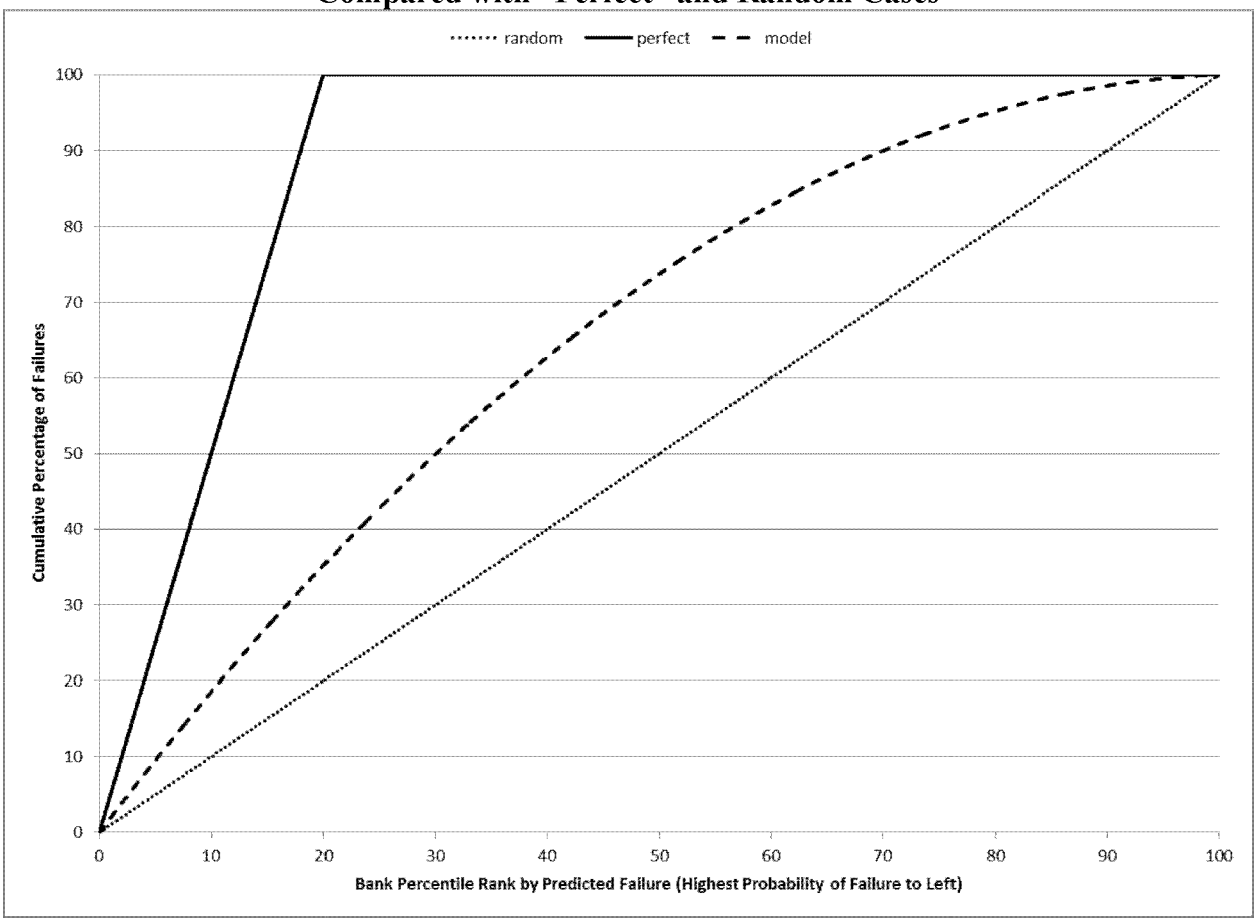


Figure 1.2 shows the CAP curve for a model (dotted line) compared with two limiting CAP curves. The ''random'' curve (single straight line) shows what the CAP would look like if the model prediction were purely random; for example, the 30 percent of banks with the highest failure projections would include 30 percent of actual failures. At the other extreme, the two solid straight lines show a CAP curve for a model that perfectly differentiates banks that fail from banks that do not in its projections; thus, for example, assuming that 20 percent of all banks actually failed, for the ''perfect'' model, the 20 percent of banks with the highest projected failure probability would identify 100 percent of failures.[62]

with more recent three-year periods omitted. Using Table 1.3 as an example, one regression uses data from the end of 1985 and failures from 1986 through 1988; data for the end of 1988 and failures from 1989 through 1991; and so on, ending with data for the end of 2003 and failures from 2004 through 2006. The second regression uses data from the end of 1987 and failures from 1988 through 1990, and so on, ending with data for the end of 2002 and failures from 2003 through 2005. The third regression uses data from the end of 1986 and failures from 1987 through 1989, and so on, ending with data for the end of 2001 and failures from 2002 through 2004.

[62] The accuracy ratio can be derived from the CAP curve. For the model depicted by the curved line in Figure 1.2, the area between the curved line and the dotted straight line is a measure of the superiority of the model over the random benchmark. The area between the solid line and the dotted straight line is a measure of the superiority of a ''perfect'' model over the random benchmark. The ratio of these two areas is the accuracy ratio for the model depicted by the curved line. The value is normalized so that it is always less than or equal to 1. An accuracy ratio of 1 occurs in the case of a perfect model, and is 0 in the case of a model that does no better than random guessing. (For the illustrative example in Figure 1.2, the accuracy ratio of the model depicted by the curved line is .396.)

Figure 1.2. Cumulative Accuracy Profile (CAP) Illustration Compared with "Perfect" and Random Cases



To illustrate the application of CAP curves to the assessment system, Figure 1.3 shows a CAP curve for the current small bank deposit insurance system based on its risk ranking (as reflected in assessment rates) as of 2006 and on failures over the next three years (2007 through 2009). The horizontal axis coordinates for four points on this curve, ''IV'', ''III'', ''II'', and ''I Max'', corresponding to the percentage of small banks reported in Column (A) in Table 1.3 below, and the vertical axis coordinates for the points correspond to the percentage of failures contained within these percentages of small banks, as shown in column (B) in Table 1.3. For example, the point in Figure 1.3 marked ''IV'' is 0.06 (percentage of small banks in Risk Category IV) on the horizontal axis and 0.65 (percentage of actual failures among small banks in Risk Category IV) on the vertical axis. Similarly, all points to the left of the point marked ''III'' in Figure 1.3 are Risk Category III and IV rated small banks.

The banks along the horizontal axis corresponding to the horizontal axis coordinates between the points ''II'' and ''I Max'' represent Risk Category I small banks that are assessed at the maximum assessment rate for that category. The banks corresponding to the horizontal axis coordinates between the points ''I Max'' and ''I Var'' represent Risk Category I small banks that are differentially assessed between the maximum and minimum assessment rates for Risk Category I. (Point ''I Var'' is not included in Table 1.3.) Banks to the right of the horizontal axis coordinate for the point ''I Var'' represent Risk Category I small banks that were assessed at the minimum assessment rate.

TABLE 1.3—COMPARISONS OF OUT-OF-SAMPLE PROJECTION OF NEW MODEL TO THE SMALL BANK DEPOSIT INSURANCE ASSESSMENT SYSTEM'S RANKINGS FOR 2006 *

	(A)	(B)	(C)
	Percentage of small banks in risk categories (X percent)	Percentage of actual failures among the X percent	Percentage of actual failures among riskiest X percent of banks under the revised proposal
Risk Category IV	0.06	0.65	0.65
Risk Categories IV and III	0.66	3.23	4.86
Risk Categories IV, III, and II	5.35	14.19	36.77
Risk Categories IV, III, II, and Max. Rate RC I	12.79	34.19	60.00

* New Model Projections use 2003 as Last Year of Estimation Data.

Where a group of banks along the horizontal axis all have the same risk ranking (that is, where they would all pay the same assessment rate), the CAP curve is constructed as if the failures that occur within this group are uniformly distributed, resulting in a straight line (shown as two parallel lines in CAP curve). Thus, for example, the 26 failures that occurred among the banks on the horizontal axis to the right of ''I Var'', which represent the 3,011 Risk Category I small banks that were assessed at the minimum assessment rate as of the end of 2006, are shown as uniformly distributed among this group (that is, as if each successive bank represented 26/3,011 of a failure). This representation results in the straight line between point ''I Var'' and the point to the extreme upper right of the curve.

Figure 1.3 – Cumulative Accuracy Profile for the Small Bank Deposit Insurance Assessment System Based on Its Risk Rankings for 2006

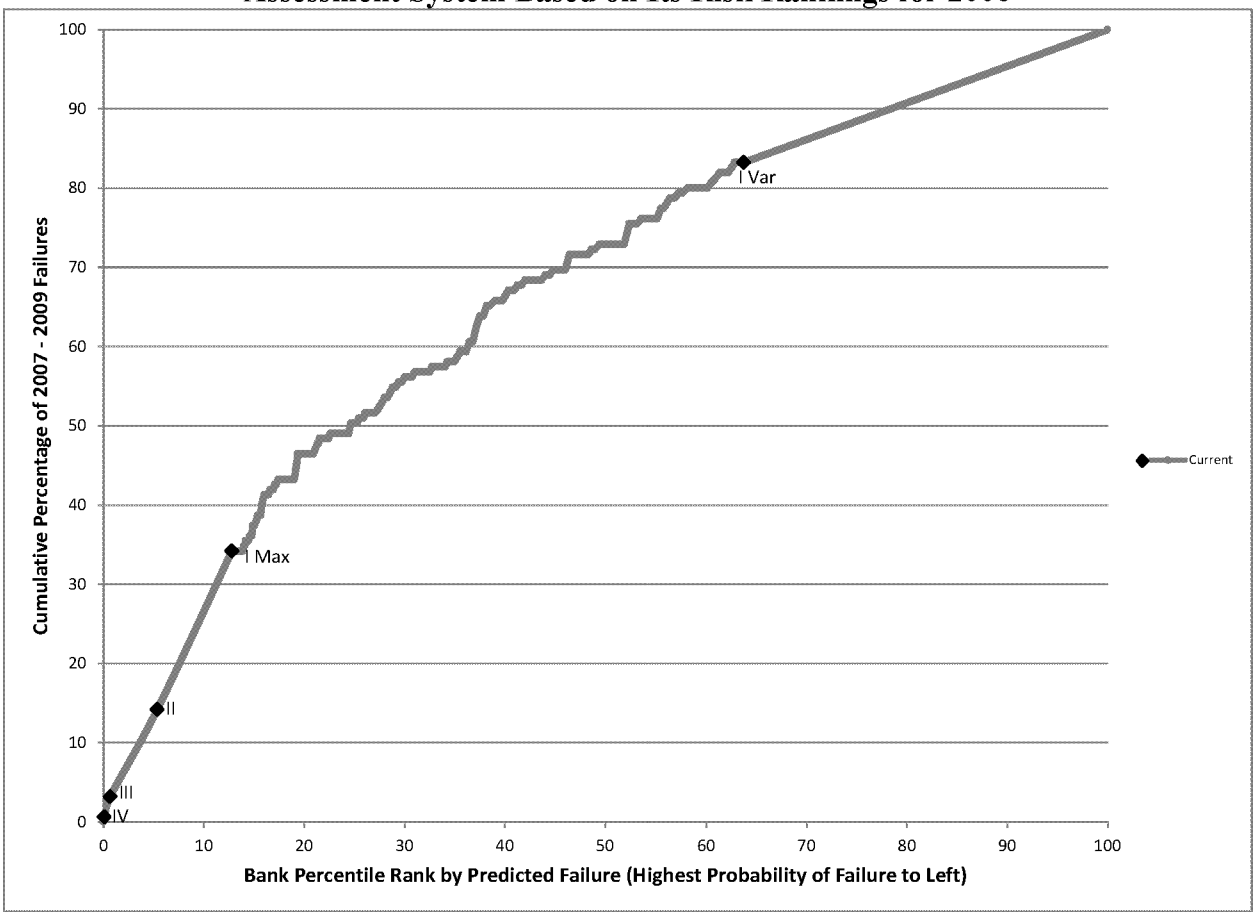


Figure 1.4 shows the same CAP curve as Figure 1.3, but adds a CAP curve based on the revised proposal's risk ranking (as reflected in assessment rates) as of 2006 and on failures over the next three years (2007 through 2009).[63] Just as Table 1.3 implies, the revised proposal is superior to the current system at almost all points. For example, the revised proposal is obviously superior between the points marked by ''III'', ''II'', ''I Max'' and ''I Var'' and between ''I Var'' and the upper right of the curve. As discussed earlier, for the current small bank deposit insurance assessment system, banks along the horizontal axis corresponding to the horizontal axis coordinates between the points ''I Max'' and ''I Var'' represent Risk Category I small banks that are assessed between the maximum and minimum assessment rates for Risk Category I. The revised proposal is superior in this entire range for 2006.

[63] The horizontal axis shows the risk rank order percentile for each model (the current small bank deposit insurance assessment system and established small bank assessment system in the revised proposal), but, because the rankings are different under the two models, as a general rule, the bank that corresponds to any given point along the horizontal axis is likely to be different from one model to the other.

Figure 1.4 – Cumulative Accuracy Profiles of Established Small Bank Assessment System in the Revised Proposal vs. the Small Bank Deposit Insurance Assessment System Based on Their Risk Rankings for 2006

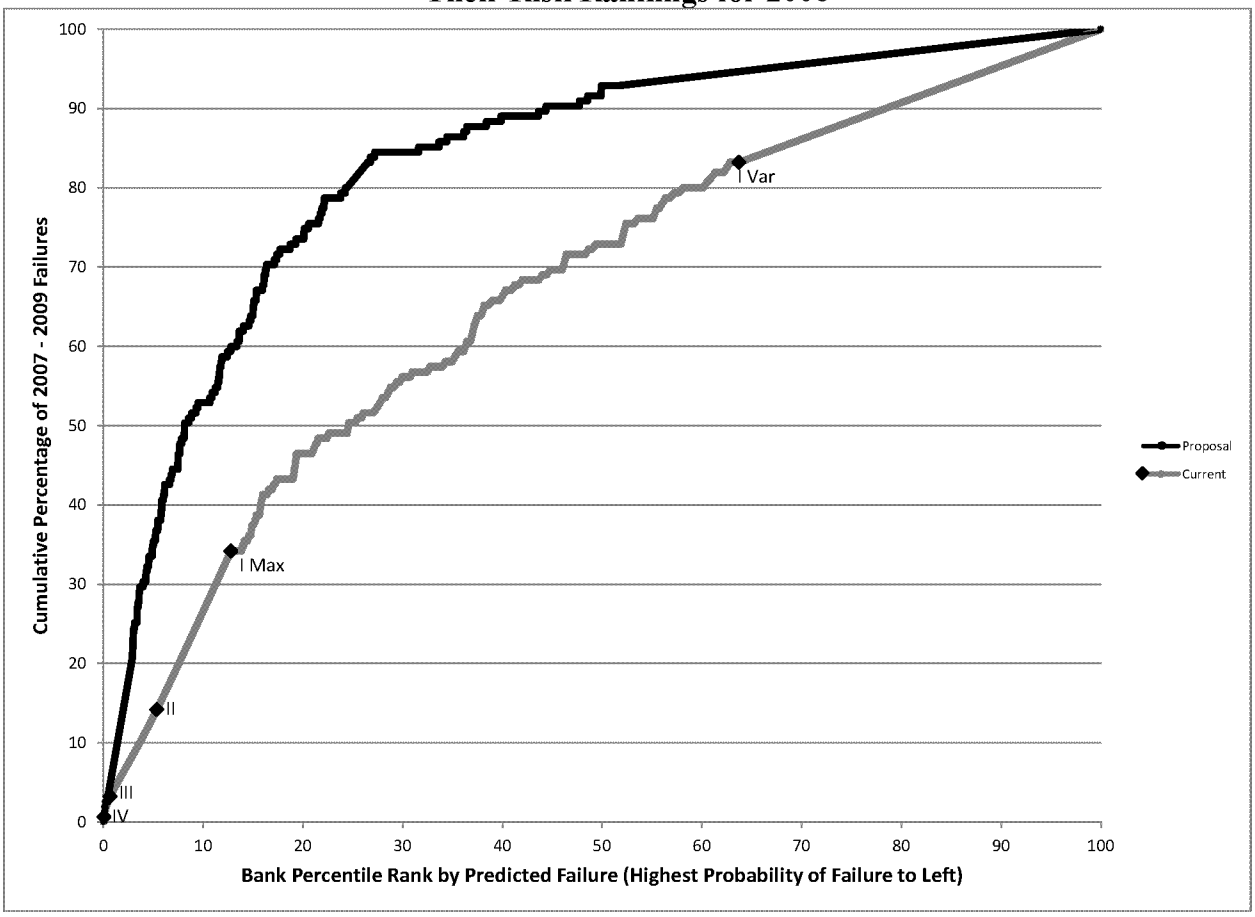


Figure 1.5 shows the same CAP curve based on the revised proposal's projections as of 2007 and on failures over the next three years (2008 through 2010). The revised proposal is superior at all points except ''IV'' and the points to the left of that point, where the two models yield identical results.

Figure 1.5 – Cumulative Accuracy Profiles of the Established Small Bank Assessment System in the Revised Proposal vs. the Small Bank Deposit Insurance Assessment System Based on Their Risk Rankings for 2007

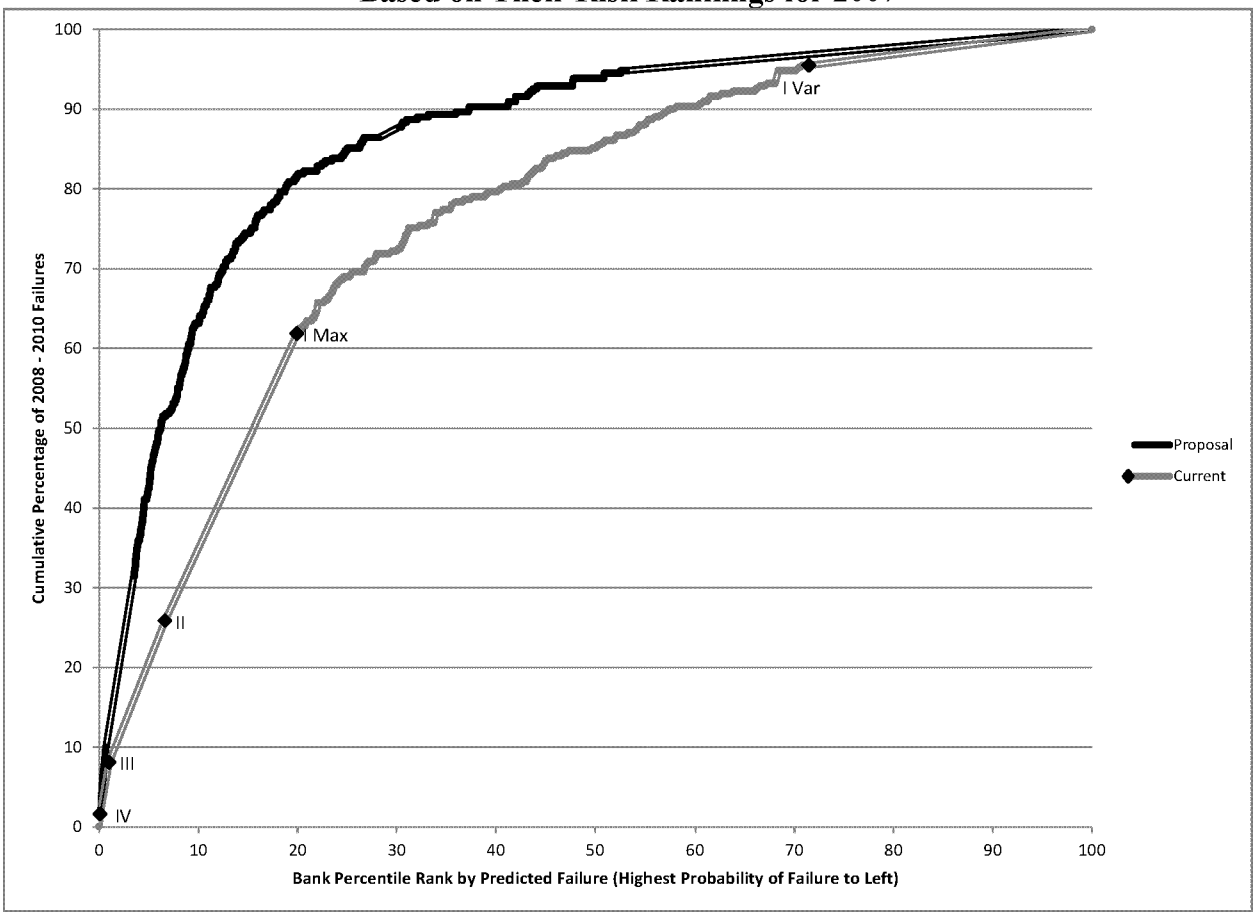


Figure 1.6 shows the same CAP curve based on the revised proposal's projections as of 2008 and on failures over the next three years (2009 through 2011). The revised proposal is superior at most points, except for a few points on the extreme left and extreme right, where the two models are nearly identical.

Figure 1.6 – Cumulative Accuracy Profiles of the Established Small Bank Assessment System in the Revised Proposal vs. the Small Bank Deposit Insurance Assessment System Based on Their Risk Rankings for 2008

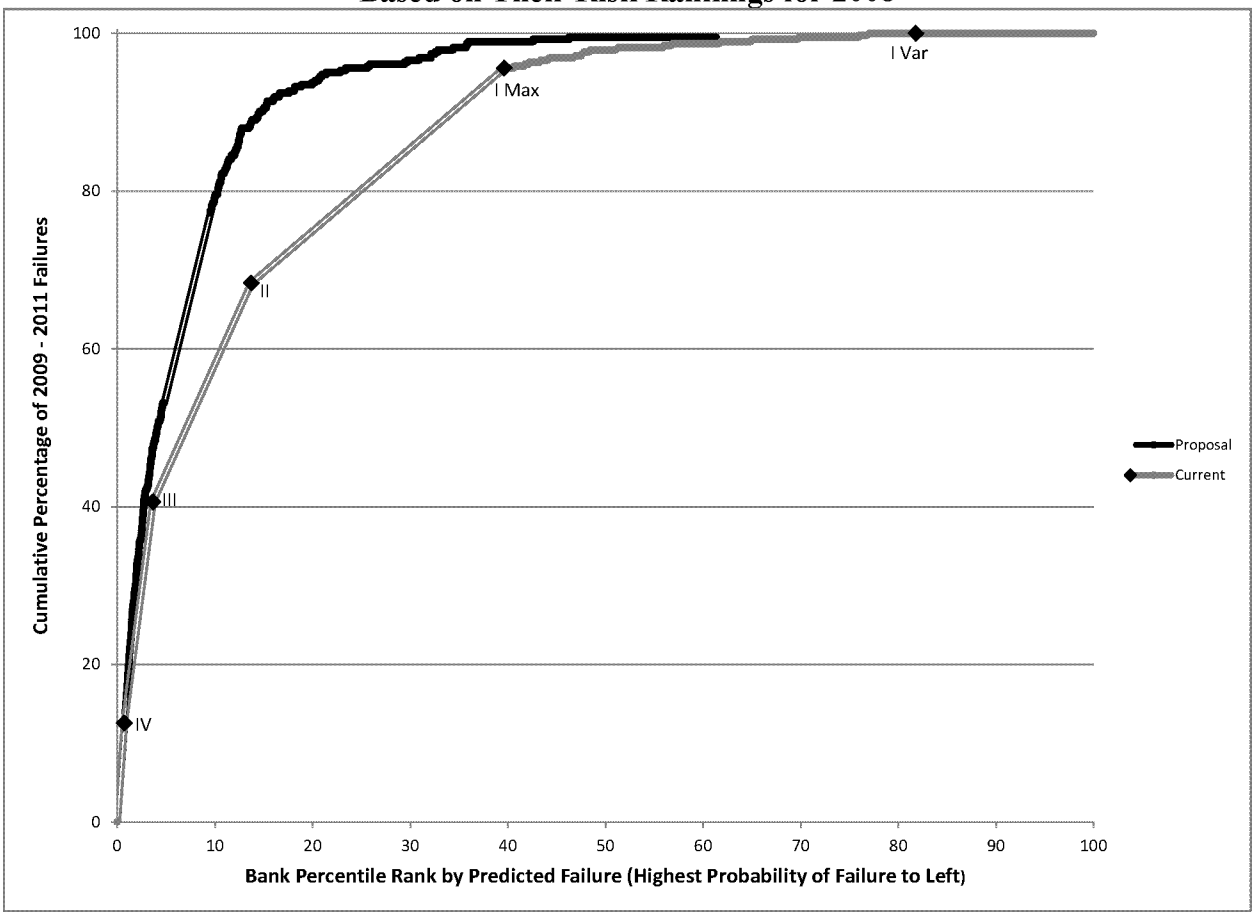


Figure 1.7 shows CAP curves for 2009. (Note that the vertical axis is not zero based.) The revised proposal is superior at most points and approximately equal to the current model at some points (near IV, and at points to the right of the ''X'').

Figure 1.7 – Cumulative Accuracy Profiles of the Established Small Bank Assessment System in the Revised Proposal vs. the Small Bank Deposit Insurance Assessment System Based on Their Risk Rankings for 2009

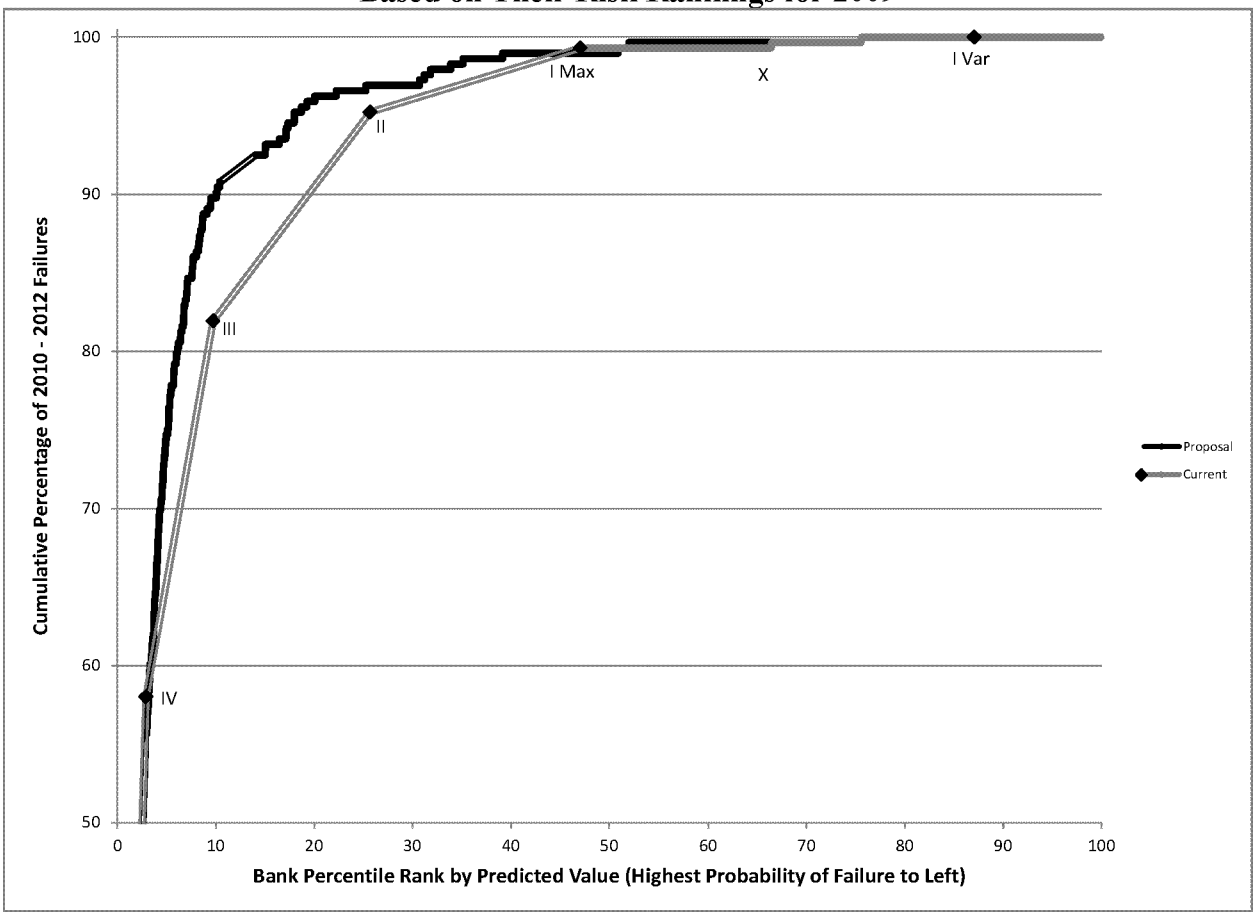
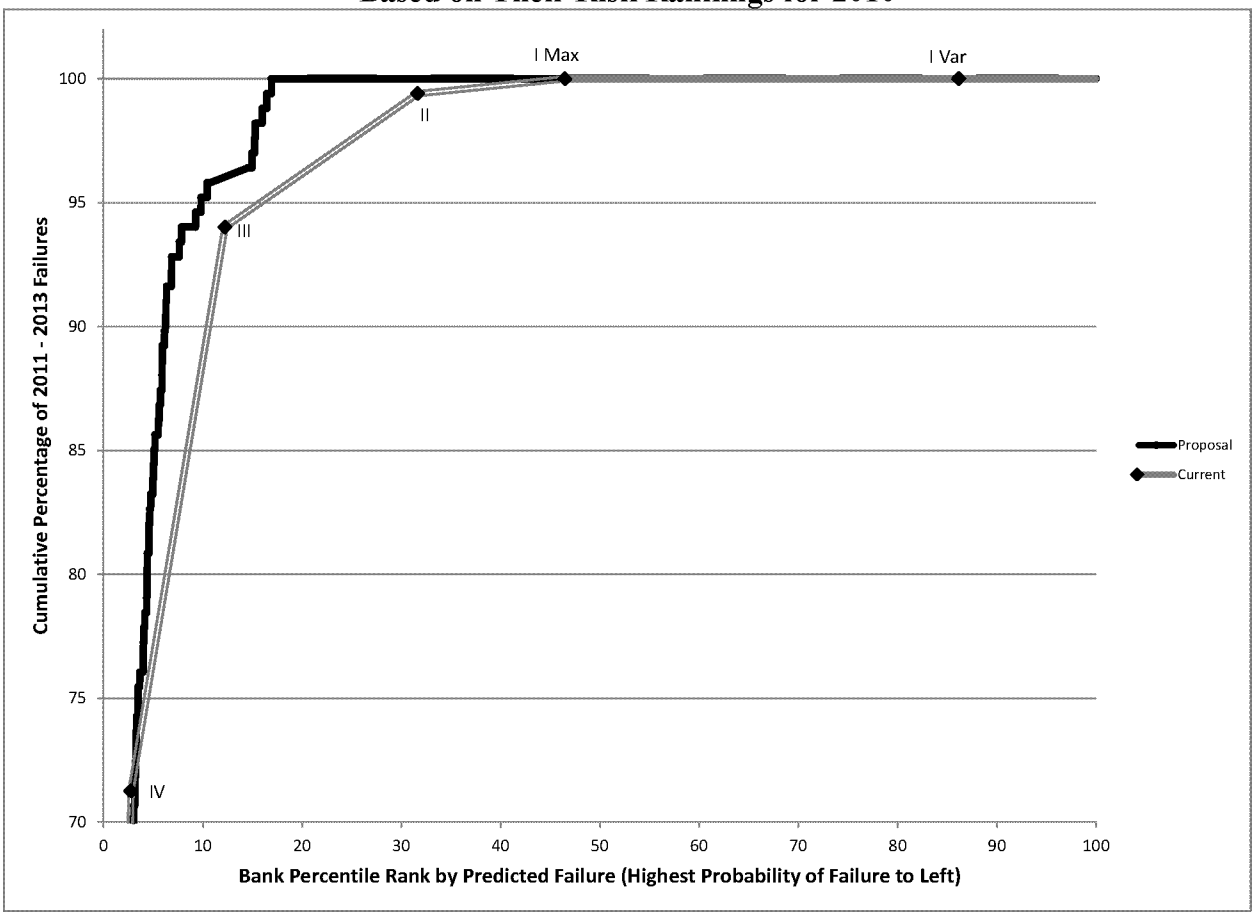


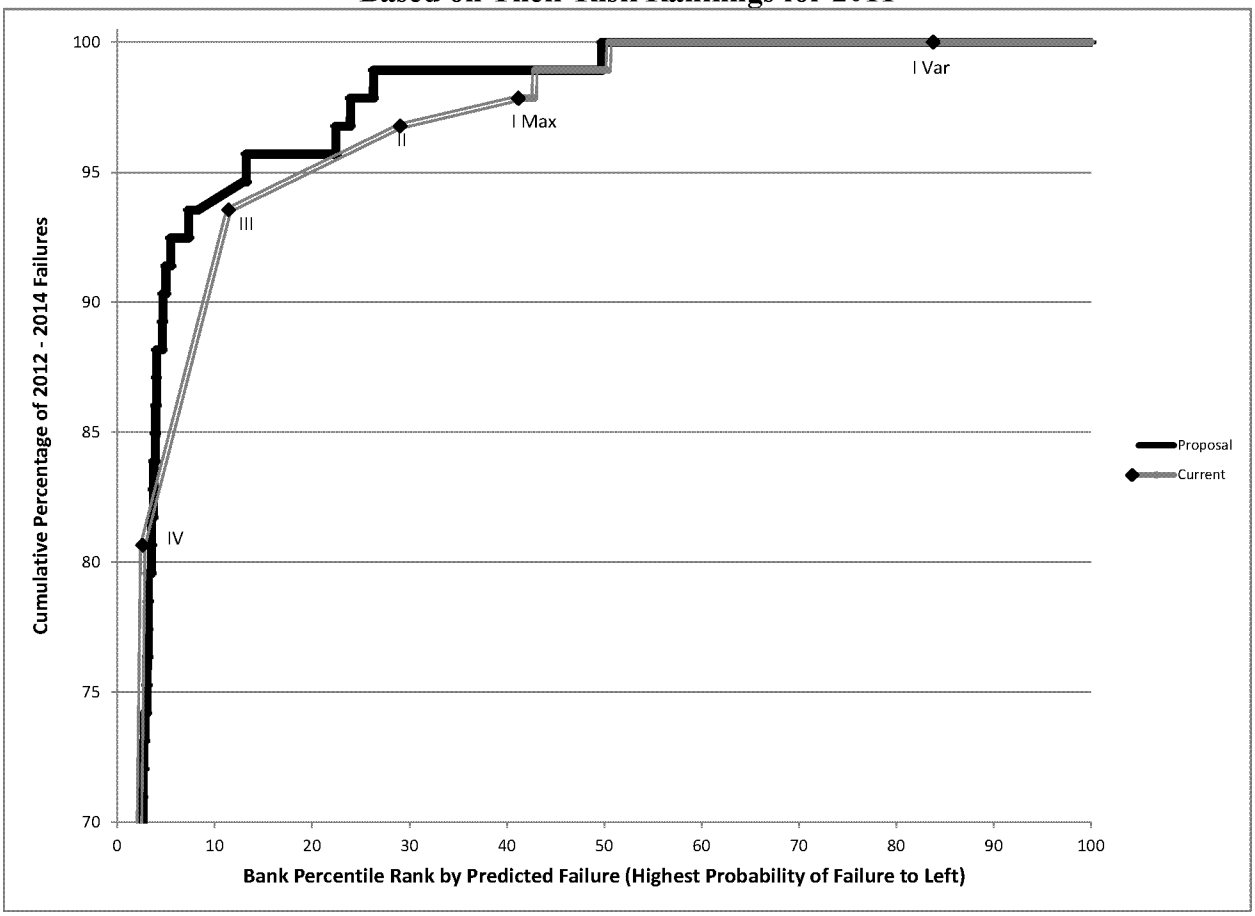
Figure 1.8 shows CAP curves for 2010. When using 2010 data to rank-order small banks based on failure likelihood, the revised proposal performs worse than the current small bank deposit insurance system for the 2.76 percent of worst-rated small banks (the percentage of banks in Risk Category IV). Bank failures after 2010 occurred in the earlier part of the three-year horizon (more failures in 2011 than in 2013). In such instances, the current small bank deposit insurance system, which has a one-year forecast horizon, can perform better than the revised proposal with a longer forecast horizon. However, the revised proposal performs better than or as well as the current model for all points to the right of the intersection of the two curves (near the point marked ''IV'').

Figure 1.8 – Cumulative Accuracy Profiles of the Established Small Bank Assessment System in the Revised Proposal vs. the Small Bank Deposit Insurance Assessment System Based on Their Risk Rankings for 2010



Projections from 2011 are shown in Figure 1.9. The current small bank deposit insurance system is slightly superior at point IV. At most other points, the revised proposal is superior or equal to the current model.

Figure 1.9 – Cumulative Accuracy Profiles of the Established Small Bank Assessment System in the Revised Proposal vs. the Small Bank Deposit Insurance Assessment System Based on Their Risk Rankings for 2011



Overall, the accuracy of the established small bank assessment system in the revised proposal is superior to the current small bank deposit insurance system. The superiority of the new model is much stronger for projections from the years 2006, 2007, and 2008 than in the years 2010 and 2011. By 2010, CAMELS ratings largely reflected the weakened condition of many banks. Furthermore, for projections from 2010 and 2011, a large portion of the failures of the subsequent three-year horizon were near term—that is, in the earlier part of the three-year horizon. For projections done from 2006, 2007 and 2008, a larger portion of the actual failures were further out in the three-year horizon. Thus, while CAMELS 4 and 5 ratings can be good predictors of near-term failures, the additional indicators from the new model contribute more to forecasting accuracy when the failures are further out in time.

Appendix 2

Analysis of the Projected Effects of the Payment of Assessments on the Capital and Earnings of Insured Depository Institutions

I. Introduction

This analysis estimates the effect of the changes in the deposit insurance assessment system and assessment rates in the proposed rule on the equity capital and profitability of banks.[64] The changes considered in the proposed rule affect only established small banks; they do not affect new banks, large banks or insured branches of foreign banks.

This appendix analyzes how banks' total assessments under the new assessment system using the proposed range of initial base assessment rates of 3 basis points to 30 basis points (P330) could increase or decrease earnings and capital relative to the current initial base assessment rate schedule of 5 basis points to 35 basis points (C535) and relative to the initial base assessment rate schedule of 3 basis points to 30 basis points (C330) that will take effect when the reserve ratio exceeds 1.15 percent under current regulations.[65] The proposed rule (P330) is intended to maintain approximate revenue neutrality compared to C330. Therefore, for insured established small banks in aggregate, the proposed rule will not affect aggregate earnings and capital compared to C330. Compared to the current system under current assessment rates, however, banks in the aggregate will have higher earnings and capital under the revised proposal. This analysis focuses on the magnitude of increases or decreases to individual established small banks' earnings and capital resulting from the proposed rule.

II. Assumptions and Data

The analysis assumes that annual pre-tax income for each established small bank is equal to trailing twelve month income as of the third quarter of 2015. The analysis also assumes that the effects of changes in assessments are not transferred to customers in the form of changes in borrowing rates, deposit rates, or service fees. Since deposit insurance assessments are a tax-deductible operating expense, increases in the assessment expense can lower taxable

[64] As it is elsewhere in this revised NPR, in this appendix, the term ''bank'' is synonymous with the term ''insured depository institution'' and the term ''established small bank'' is synonymous with the term ''established small depository institution'' as it is used in 12 CFR part 327. In general, an ''established small bank'' is one that has less than $10 billion in assets and that has been federally insured for at least five years as of the last day of any quarter for which it is being assessed.

[65] A bank's total assessment rate may vary from its initial assessment rate as the result of possible adjustments. Under the current system, there are three possible adjustments: The unsecured debt adjustment, the DIDA, and the brokered deposit adjustment. Under the revised proposal, the brokered deposit adjustment would be eliminated for established small banks, but the unsecured debt adjustment and the DIDA would remain.

income and decreases in the assessment expense can increase taxable income. Therefore, the analysis considers the effective after-tax cost of assessments in calculating the effect on capital.

The effect of the change in assessments on an established small bank's income is measured by the change in deposit insurance assessments as a percent of income before assessments, taxes, and extraordinary items and other adjustments (hereafter referred to as ''income'').[66] This income measure is used in order to eliminate the potentially transitory effects of extraordinary items and taxes on profitability. To facilitate a comparison of the effect of assessment changes, established small banks were assigned to one of two groups: Those that were profitable and those that were unprofitable for the twelve months ending September 30, 2015. For this analysis, data as of September 30, 2015 are used to calculate each bank's assessment base and risk-based assessment rate. The base and rate are assumed to remain constant throughout the one-year projection period. An established small bank's earnings retention and dividend policies also influence the extent to which assessments affect equity levels. If an established small bank maintains the same *dollar* amount of dividends when it pays a higher deposit insurance assessment under the proposed rule, equity (retained earnings) will be less by the full amount of the after-tax cost of the increase in the assessment. This analysis instead assumes that an established small bank will maintain its dividend *rate* (that is, dividends as a fraction of net income) unchanged from the weighted average rate reported over the four quarters ending September 30, 2015.

III. Projected Effects on Capital and Earnings Assuming a Change in the Initial Assessment Rate Range From 5 Basis Points to 35 Basis Points to 3 Basis Points to 30 Basis Points (Assessment Change P330–C535)

Under this scenario, the FDIC projects that no established small bank facing an increase in assessments would, as a result of the assessment increase, fall below a 4 percent or 2 percent leverage ratio. Furthermore, no established small bank facing a decrease in assessments would, as a result of the decrease, have its leverage ratio rise above a 4 percent or 2 percent leverage ratio.

The FDIC projects that approximately 85 percent of established small banks that were profitable during the 12 months ending September 30, 2015, would have a decrease in assessments in an amount between 0 and 10 percent of income. Table 2.1 shows that another 8 percent of profitable established small banks would have a reduction in assessments exceeding 10 percent of their income. A total of 413 profitable established small banks would have an increase in assessments, with all but 6 of them facing assessment increases between 0 and 10 percent of their income.

TABLE 2.1—EFFECT OF THE REVISED PROPOSAL ON INCOME FOR PROFITABLE ESTABLISHED SMALL BANKS

[P330 compared to C535]

Change in assessments relative to income	Institutions		Assets	
	Number	Percent of total profitable established small banks	Assets ($billions)	Percent of total assets of profitable established small banks
Decrease over 40%	92	2	14	0
Decrease 20% to 40%	106	2	25	1
Decrease 10% to 20%	287	5	71	2
Decrease 5% to 10%	541	9	143	5
Decrease 0% to 5%	4,383	75	2,303	79
No Change	2	0	1	0
Increase 0% to 5%	402	7	349	12
Increase 5% to 10%	5	0	3	0
Increase 10% to 20%	3	0	7	0
Increase 20% to 40%	2	0	1	0
Increase over 40%	1	0	0	0
All	5,824	100	*2,916	*100

*Figures may not add to totals due to rounding.

Table 2.2 provides the same analysis for established small banks that were unprofitable during the 12 months ending September 30, 2015. Table 2.2 shows that 50 percent of unprofitable established small banks would have a decrease in assessments in an amount between 0 and 10 percent of their losses. Another 46 percent would have lower assessments in amounts exceeding 10 percent income. Only 14 unprofitable banks would have assessment increases, all but 4 of them in amounts between 0 and 10 percent of losses.

[66] At present, the Call Report combines extraordinary items with two other adjustments: (1) The results of discontinued operations; and (2) the cumulative effect of changes in accounting principles not reported elsewhere in the Call Report. As discussed in a previous footnote, however, in January 2015, the concept of extraordinary items was eliminated from GAAP for fiscal years and interim periods within those fiscal years beginning after December 15, 2015, and extraordinary items will no longer be reported as such in the Call Report. In addition, the cumulative effect of changes in accounting principles will no longer be reported as an adjustment. The results of discontinued operations, however, will continue to be reported as an adjustment. Because the three adjustments cannot be disaggregate in Call Report data, income in the analysis is measured before all three adjustments, even though only one adjustment will apply in the future. In any event, extraordinary items and the cumulative effect of changes in accounting principles are rarely reported and should have little effect on the analysis.

TABLE 2.2—EFFECT OF THE REVISED PROPOSAL ON INCOME FOR UNPROFITABLE ESTABLISHED SMALL BANKS

[P330 compared to C535]

Change in assessment relative to losses	Institutions		Assets	
	Number	Percent of total unprofitable established small banks	Assets ($ billions)	Percent of total assets of unprofitable established small banks
Decrease over 40%	40	12	7	10
Decrease 20% to 40%	47	14	11	15
Decrease 10% to 20%	66	20	14	20
Decrease 5% to 10%	64	19	10	13
Decrease 0% to 5%	102	31	17	23
No Change	1	0	0	0
Increase 0% to 5%	9	3	8	11
Increase 5% to 10%	1	0	5	7
Increase 10% to 20%	2	1	0	1
Increase 20% to 40%	1	0	0	0
Increase over 40%	1	0	0	0
All	334	100	*71	100

* Figures may not add to totals due to rounding.

IV. Projected Effects on Capital and Earnings Assuming Same Initial Assessment Rate Range (P330–C330)

Under this scenario, the FDIC projects that no established small bank facing an increase in assessments would, as a result of the assessment increase, fall below a 4 percent or 2 percent leverage ratio. No established small bank facing a decrease in assessments would, as a result of the assessment decrease, have its leverage ratio rise above the 4 percent or 2 percent threshold.

Table 2.3 shows that 51 percent of established small banks that were profitable during the 12 months ended September 30, 2015, would have a decrease in assessments in an amount between 0 and 10 percent of income. Another 4 percent of profitable established small banks would have a reduction in assessments exceeding 10 percent of their income. A total of 1,238 profitable established small banks would have an increase in assessments, with all but 16 facing assessment increases between 0 and10 percent of their income.

TABLE 2.3—EFFECT OF THE REVISED PROPOSAL ON INCOME FOR PROFITABLE ESTABLISHED SMALL BANKS

[P330 compared to C330]

Change in assessments relative to income	Institutions		Assets	
	Number	Percent of total profitable established small banks	Assets ($ billions)	Percent of total assets of profitable established small banks
Decrease over 40%	56	1	7	0
Decrease 20% to 40%	50	1	10	0
Decrease 10% to 20%	121	2	29	1
Decrease 5% to 10%	293	5	81	3
Decrease 0% to 5%	2,669	46	1,148	39
No Change	1,397	24	522	18
Increase 0% to 5%	1,173	20	1,084	37
Increase 5% to 10%	49	1	25	1
Increase 10% to 20%	9	0	2	0
Increase 20% to 40%	4	0	7	0
Increase over 40%	3	0	0	0
All	5,824	100	*2,916	*100

* Figures may not add to totals due to rounding.

Table 2.4 provides the same analysis for established small banks that were unprofitable during the 12 months ending September 30, 2015. Table 2.4 shows that 58 percent of unprofitable established small banks would have a decrease in assessments in an amount between 0 and 10 percent of their losses. Another 25 percent would have lower assessments in amounts exceeding 10 percent of their losses. Only 51 unprofitable banks would face assessment increases, all but 10 of them in amounts between 0 and 10 percent of losses.

TABLE 2.4—EFFECT OF THE REVISED PROPOSAL ON INCOME FOR UNPROFITABLE ESTABLISHED SMALL BANKS

[P330 compared to C330]

Change in assessments relative to losses	Institutions		Assets	
	Number	Percent of total unprofitable established small banks	Assets ($ billions)	Percent of total assets of unprofitable established small banks
Decrease over 40%	21	6	5	7
Decrease 20% to 40%	26	8	4	5
Decrease 10% to 20%	37	11	10	14
Decrease 5% to 10%	58	17	10	14
Decrease 0% to 5%	135	40	21	29
No Change	6	2	1	1
Increase 0% to 5%	36	11	13	18
Increase 5% to 10%	5	1	2	2
Increase 10% to 20%	5	1	6	8
Increase 20% to 40%	2	1	1	1
Increase over 40%	3	1	0	1
All	334	*100	*71	100

*Figures may not add to totals due to rounding.

VIII. Revisions to Code of Federal Regulations

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, Savings Associations.

For the reasons set forth above, the FDIC proposes to amend part 327 as follows:

PART 327—ASSESSMENTS

■ 1. The authority for 12 CFR part 327 continues to read as follows:

Authority: 12 U.S.C. 1441, 1813, 1815, 1817–19, 1821.

§ 327.3 [Amended]

■ 2. Amend § 327.3, in paragraph (b), by removing ''§§ 327.4(a) and 327.9'' and adding in its place ''§ 327.4(a) and § 327.9 or § 327.16''.

§ 327.4 [Amended]

■ 3. Amend § 327.4:

■ a. In paragraph (a), by removing ''§ 327.9'' and adding in its place ''§ 327.9 or § 327.16''.

■ b. In paragraph (c), by removing ''§ 327.9(e)(3)'' and adding in its place ''§§ 327.9(e)(3) and 327.16 (f)(3)''.

§ 327.8 [Amended]

■ 4. Amend § 327.8:

■ a. In paragraph (e) and (f), by removing ''§ 327.9(e)'' and adding in its place ''§§ 327.9(e) and 327.16 (f)''.

■ b. In paragraph (k)(1), by removing ''§ 327.9(f)(3) and (4)'' and adding in its place ''§§ 327.9(f)(3) and (4) and 327.16 (g)(3) and (4)''.

■ c. By revising paragraph (l).

■ d. In paragraphs (m), (n), (o), and (p), by removing ''§ 327.9(d)(1)'' and adding in its place ''§§ 327.9(d)(1) and 327.16(e)(1)'' and removing ''§ 327.9(d)(2)'' and adding in its place ''§§ 327.9(d)(2) and 327.16(e)(2).''

■ e. By adding paragraphs (v) through (y).

The revision and additions read as follows:

§ 327.8 Definitions.

* * * * *

(l) *Risk assignment.* Under § 327.9, for all small institutions and insured branches of foreign banks, risk assignment includes assignment to Risk Category I, II, III, or IV and, within Risk Category I, assignment to an assessment rate. Under § 327.16, for all new small institutions and insured branches of foreign banks, risk assignment includes assignment to Risk Category I, II, III, or IV, and for insured branches of foreign banks within Risk Category I, assignment to an assessment rate or rates. For all established small institutions, large institutions and highly complex institutions, risk assignment includes assignment to an assessment rate.

* * * * *

(v) *Established small institution*—An established small institution is a ''small institution'' as defined under paragraph (e) of this section that meets the definition of ''established depository institution'' under paragraph (k) of this section.

(w) *New small institution*—A new small institution is a ''small institution'' as defined under paragraph (e) of this section that meets the definition of ''new depository institution'' under paragraph (j) of this section.

(x) *Deposit Insurance Fund and DIF*—the Deposit Insurance Fund established pursuant to 12 U.S.C. 1813(y)(1).

(y) *Reserve ratio of the DIF*—the reserve ratio as defined in 12 U.S.C. 1813(y)(3).

§ 327.9 [Amended]

■ 5. Amend § 327.9 by adding introductory text to read as follows:

§ 327.9 Assessment pricing methods

The following pricing methods shall apply through the calendar quarter in which the reserve ratio of the DIF reaches 1.15 percent for the first time after June 30, 2015.

* * * * *

§ 327.10 [Amended]

■ 6. In § 327.10, revise paragraphs (b) through (f) to read as follows:

§ 327.10 Assessment rate schedules

* * * * *

(b) Assessment rate schedules for established small institutions and large and highly complex institutions applicable in the first calendar quarter after June 30, 2015, that the reserve ratio of the DIF reaches or exceeds 1.15 percent for the previous calendar quarter and in all subsequent quarters that the reserve ratio is less than 2 percent.

(1) *Initial base assessment rate schedule for established small institutions and large and highly complex institutions.* In the first calendar quarter after June 30, 2015, that the reserve ratio of the DIF reaches or exceeds 1.15 percent for the previous calendar quarter and for all subsequent quarters where the reserve ratio for the immediately prior assessment period is

less than 2 percent, the initial base assessment rate for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the following schedule:

INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST QUARTER AFTER JUNE 30, 2015, THAT THE RESERVE RATIO REACHES 1.15 PERCENT AND FOR ALL SUBSEQUENT QUARTERS WHERE THE RESERVE RATIO FOR THE IMMEDIATELY PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT *

	Established small institutions			Large & highly complex institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	3 to 16	6 to 30	16 to 30	3 to 30.

* All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS Composite 1- and 2-rated Established Small Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 3 to 16 basis points.

(ii) *CAMELS Composite 3-rated Established Small Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 6 to 30 basis points.

(iii) *CAMELS Composite 4- and 5-rated Established Small Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 16 to 30 basis points.

(iv) *Large and Highly Complex Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 3 to 30 basis points.

(2) *Total base assessment rate schedule after adjustments.* Once the reserve ratio of the DIF first reaches 1.15 percent, and for all subsequent quarters where the reserve ratio for the immediately prior assessment period is less than 2 percent, the total base assessment rates after adjustments for established small institutions and large and highly complex institutions shall be as prescribed in the following schedule.

TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) * BEGINNING THE FIRST QUARTER AFTER JUNE 30, 2015, THAT THE RESERVE RATIO REACHES 1.15 PERCENT AND FOR ALL SUBSEQUENT QUARTERS WHERE THE RESERVE RATIO FOR THE IMMEDIATELY PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT **

	Established small institutions			Large & highly complex institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	3 to 16	6 to 30	16 to 30	3 to 30.
Unsecured Debt Adjustment	−5 to 0	−5 to 0	−5 to 0	−5 to 0.
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10.
Total Base Assessment Rate	1.5 to 16	3 to 30	11 to 30	1.5 to 40.

* The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

** All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS Composite 1- and 2-rated Established Small Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 1.5 to 16 basis points.

(ii) *CAMELS Composite 3-rated Established Small Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 3 to 30 basis points.

(iii) *CAMELS Composite 4- and 5-rated Established Small Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 11 to 30 basis points.

(iv) *Large and Highly Complex Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 1.5 to 40 basis points.

(c) *Assessment rate schedules if the reserve ratio of the DIF for the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent—(1) Initial base assessment rate schedule for established small institutions and large and highly complex institutions.* If the reserve ratio of the DIF for the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent, the initial base assessment rate for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the following schedule:

INITIAL BASE ASSESSMENT RATE SCHEDULE IF RESERVE RATIO FOR PRIOR ASSESSMENT PERIOD IS GREATER THAN 2.5 PERCENT *

	Established small institutions			Large & highly complex institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	2 to 14	5 to 28	14 to 28	2 to 28.

* All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS Composite 1- and 2-rated Established Small Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 2 to 14 basis points.

(ii) *CAMELS Composite 3-rated Established Small Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 5 to 28 basis points.

(iii) *CAMELS Composite 4- and 5-rated Established Small Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 14 to 28 basis points.

(iv) *Large and Highly Complex Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 2 to 28 basis points.

(2) *Total Base Assessment Rate Schedule after Adjustments for Established Small Institutions and Large and Highly Complex Institutions.* If the reserve ratio of the DIF for the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent, the total base assessment rates after adjustments for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be as prescribed in the following schedule.

TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) * IF RESERVE RATIO FOR PRIOR ASSESSMENT PERIOD IS EQUAL TO OR GREATER THAN 2 PERCENT BUT LESS THAN 2.5 PERCENT **

	Established small institutions			Large & highly complex institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	2 to 14	5 to 28	14 to 28	2 to 28.
Unsecured Debt Adjustment	−5 to 0	−5 to 0	−5 to 0	−5 to 0.
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10.
Total Base Assessment Rate	1 to 14	2.5 to 28	9 to 28	1 to 38.

* The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

** All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS Composite 1- and 2-rated Established Small Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 1 to 14 basis points.

(ii) *CAMELS Composite 3-rated Established Small Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 2.5 to 28 basis points.

(iii) *CAMELS Composite 4- and 5-rated Established Small Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 9 to 28 basis points.

(iv) *Large and Highly Complex Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 1 to 38 basis points.

(d) *Assessment rate schedules if the reserve ratio of the DIF for the prior assessment period is greater than 2.5 percent*—(1) *Initial Base Assessment Rate Schedule.* If the reserve ratio of the DIF for the prior assessment period is greater than 2.5 percent, the initial base assessment rate for established small institutions and a large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the following schedule:

INITIAL BASE ASSESSMENT RATE SCHEDULE IF RESERVE RATIO FOR PRIOR ASSESSMENT PERIOD IS GREATER THAN OR EQUAL TO 2.5 PERCENT *

	Established small institutions			Large & highly complex institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	1 to 13	4 to 25	13 to 25	1 to 25.

* All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS Composite 1- and 2-rated Established Small Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 1 to 13 basis points.

(ii) *CAMELS Composite 3-rated Established Small Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 4 to 25 basis points.

(iii) *CAMELS Composite 4- and 5-rated Established Small Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 13 to 25 basis points.

(iv) *Large and Highly Complex Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 1 to 25 basis points.

(2) *Total Base Assessment Rate Schedule after Adjustments.* If the reserve ratio of the DIF for the prior assessment period is greater than 2.5 percent, the total base assessment rates after adjustments for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the following schedule.

TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) * IF RESERVE RATIO FOR PRIOR ASSESSMENT PERIOD IS GREATER THAN OR EQUAL TO 2.5 PERCENT **

	Established small institutions			Large & highly complex institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	1 to 13	4 to 25	13 to 25	1 to 25.
Unsecured Debt Adjustment	−5 to 0	−5 to 0	−5 to 0	−5 to 0.
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10.
Total Base Assessment Rate	.5 to 13	2 to 25	8 to 25	.5 to 35.

* The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

** All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS Composite 1- and 2-rated Established Small Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 0.5 to 13 basis points.

(ii) *CAMELS Composite 3-rated Established Small Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 2 to 25 basis points.

(iii) *CAMELS Composite 4- and 5-rated Established Small Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 8 to 25 basis points.

(iv) *Large and Highly Complex Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 0.5 to 35 basis points.

(e) *Assessment Rate Schedules for New Institutions and Insured Branches of Foreign Banks.*

(1) New depository institutions, as defined in 327.8(j), shall be subject to the assessment rate schedules as follows:

(i) *Prior to the reserve ratio of the DIF first reaching 1.15 percent after June 30, 2015.* Prior to the reserve ratio of the DIF reaching 1.15 percent for the first time after June 30, 2015, all new institutions shall be subject to the initial and total base assessment rate schedules provided for in paragraph (a) of this section.

(ii) *Assessment rate schedules for new large and highly complex institutions once the DIF reserve ratio first reaches 1.15 percent after June 30, 2015.* Beginning the first calendar quarter after June 30, 2015 in which the reserve ratio of the DIF reaches or exceeds 1.15 percent in the previous calendar quarter, new large and highly complex institutions shall be subject to the initial and total base assessment rate schedules provided for in paragraph (b) of this section, even if the reserve ratio equals or exceeds 2 percent or 2.5 percent.

(iii) *Assessment rate schedules for new small institutions beginning the first quarter after June 30, 2015, that the DIF reserve ratio reaches 1.15 percent and for all subsequent quarters.*

(A) *Initial Base Assessment Rate Schedule for New Small Institutions.* Beginning the first calendar quarter after June 30, 2015 in which the reserve ratio of the DIF reaches or exceeds 1.15 percent in the previous calendar quarter, and for all subsequent quarters, the initial base assessment rate for a new small institution shall be the rate prescribed in the following schedule,

even if the reserve ratio equals or exceeds 2 percent or 2.5 percent.

INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST QUARTER AFTER JUNE 30, 2015, THAT THE RESERVE RATIO REACHES 1.15 PERCENT AND FOR ALL SUBSEQUENT QUARTERS

	Risk Category	Risk Category I	Risk Category II	Risk Category V
Initial Assessment Rate	7	12	19	30

* All amounts for all risk categories are in basis points annually.

(*1*) *Risk Category I Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all new small institutions in Risk Category I shall be 7 basis points.

(*2*) *Risk Category II, III, and IV Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all new small institutions in Risk Categories II, III, and IV shall be 12, 19, and 30 basis points, respectively.

(*3*) All new small institutions in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

(B) *Total Base Assessment Rate Schedule for New Small Institutions.* Beginning the first calendar quarter after June 30, 2015 in which the reserve ratio of the DIF reaches or exceeds 1.15 percent in the previous calendar quarter, and for all subsequent quarters, the total base assessment rates after adjustments for a new small institution shall be the rate prescribed in the following schedule, even if the reserve ratio equals or exceeds 2 percent or 2.5 percent.

TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) * BEGINNING THE FIRST QUARTER AFTER JUNE 30, 2015, THAT THE RESERVE RATIO REACHES 1.15 PERCENT AND FOR ALL SUBSEQUENT QUARTERS **

	Risk Category	Risk Category I	Risk Category II	Risk Category V
Initial Assessment Rate	7	12	19	30.
Brokered Deposit Adjustment (added)	N/A	0 to 10	0 to 10	0 to 10.
Total Assessment Rate	7	12 to 22	19 to 29	30 to 40.

* The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

** All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(*1*) *Risk Category I Total Assessment Rate Schedule.* The annual total base assessment rates for all new small institutions in Risk Category I shall be 7 basis points.

(*2*) *Risk Category II Total Assessment Rate Schedule.* The annual total base assessment rates for all new small institutions in Risk Category II shall range from 12 to 22 basis points.

(*3*) *Risk Category III Total Assessment Rate Schedule.* The annual total base assessment rates for all new small institutions in Risk Category III shall range from 19 to 29 basis points.

(*4*) *Risk Category IV Total Assessment Rate Schedule.* The annual total base assessment rates for all new small institutions in Risk Category IV shall range from 30 to 40 basis points.

(2) *Insured branches of foreign banks*—(i) *Assessment rate schedule for insured branches of foreign banks once the reserve ratio of the DIF first reaches 1.15 percent, and the reserve ratio for the immediately prior assessment period is less than 2 percent.* In the first calendar quarter after June 30, 2015, that the reserve ratio of the DIF reaches or exceeds 1.15 percent for the previous calendar quarter and for all subsequent quarters where the reserve ratio for the immediately prior assessment period is less than 2 percent, the initial and total base assessment rates for an insured branch of a foreign bank, except as provided in paragraph (f) of this section, shall be the rate prescribed in the following schedule.

INITIAL AND TOTAL BASE ASSESSMENT RATE SCHEDULE * BEGINNING THE FIRST QUARTER AFTER JUNE 30, 2015, THAT THE RESERVE RATIO REACHES 1.15 PERCENT AND FOR ALL SUBSEQUENT QUARTERS WHERE THE RESERVE RATIO FOR THE IMMEDIATELY PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT **

	Risk Category	Risk Category I	Risk Category II	Risk Category V
Initial and Total Assessment Rate	3 to 7	12	19	30

* The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

** All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

(A) *Risk Category I Initial and Total Base Assessment Rate Schedule.* The annual initial and total base assessment rates for an insured branch of a foreign bank in Risk Category I shall range from 3 to 7 basis points.

(B) *Risk Category II, III, and IV Initial and Total Base Assessment Rate Schedule.* The annual initial and total base assessment rates for Risk Categories II, III, and IV shall be 12, 19, and 30 basis points, respectively.

(C) All insured branches of foreign banks in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

(ii) *Assessment rate schedule for insured branches of foreign banks if the reserve ratio of the DIF for the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent.* If the reserve ratio of the DIF for the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent, the initial and total base assessment rates for an insured branch of a foreign bank, except as provided in paragraph (f), shall be the rate prescribed in the following schedule.

INITIAL AND TOTAL BASE ASSESSMENT RATE SCHEDULE * IF RESERVE RATIO FOR PRIOR ASSESSMENT PERIOD IS EQUAL TO OR GREATER THAN 2 PERCENT BUT LESS THAN 2.5 PERCENT **

	Risk Category	Risk Category I	Risk Category II	Risk Category V
Initial and Total Assessment Rate	2 to 6	10	17	28

* The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

** All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

(A) *Risk Category I Initial and Total Base Assessment Rate Schedule.* The annual initial and total base assessment rates for an insured branch of a foreign bank in Risk Category I shall range from 2 to 6 basis points.

(B) *Risk Category II, III, and IV Initial and Total Base Assessment Rate Schedule.* The annual initial and total base assessment rates for Risk Categories II, III, and IV shall be 10, 17, and 28 basis points, respectively.

(C) All insured branches of foreign banks in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

(iii) *Assessment rate schedule for insured branches of foreign banks if the reserve ratio of the DIF for the prior assessment period is greater than 2.5 percent.* If the reserve ratio of the DIF for the prior assessment period is greater than 2.5 percent, the initial and total base assessment rate for an insured branch of foreign bank, except as provided in paragraph (f) of this section, shall be the rate prescribed in the following schedule:

INITIAL AND TOTAL BASE ASSESSMENT RATE SCHEDULE * IF RESERVE RATIO FOR PRIOR ASSESSMENT PERIOD IS GREATER THAN OR EQUAL TO 2.5 PERCENT **

	Risk Category	Risk Category I	Risk Category II	Risk Category V
Initial Assessment Rate	1 to 5	9	15	25

* The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

** All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

(A) *Risk Category I Initial and Total Base Assessment Rate Schedule.* The annual initial and total base assessment rates for an insured branch of a foreign bank in Risk Category I shall range from 1 to 5 basis points.

(B) *Risk Category II, III, and IV Initial and Total Base Assessment Rate Schedule.* The annual initial and total base assessment rates for Risk Categories II, III, and IV shall be 9, 15, and 25 basis points, respectively.

(C) All insured branches of foreign banks in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

(f) *Total Base Assessment Rate Schedule adjustments and procedures*—(1) *Board Rate Adjustments.* The Board may increase or decrease the total base assessment rate schedule in paragraphs (a) through (e) of this section up to a maximum increase of 2 basis points or a fraction thereof or a maximum decrease of 2 basis points or a fraction thereof (after aggregating increases and decreases), as the Board deems necessary. Any such adjustment shall apply uniformly to each rate in the total base assessment rate schedule. In no case may such rate adjustments result in a total base assessment rate that is mathematically less than zero or in a total base assessment rate schedule that, at any time, is more than 2 basis points above or below the total base assessment schedule for the Deposit Insurance Fund in effect pursuant to paragraph (b) of this section, nor may any one such adjustment constitute an increase or decrease of more than 2 basis points.

(2) *Amount of revenue.* In setting assessment rates, the Board shall take into consideration the following:

(i) Estimated operating expenses of the Deposit Insurance Fund;

(ii) Case resolution expenditures and income of the Deposit Insurance Fund;

(iii) The projected effects of assessments on the capital and earnings of the institutions paying assessments to the Deposit Insurance Fund;

(iv) The risk factors and other factors taken into account pursuant to 12 U.S.C. 1817(b)(1); and

(v) Any other factors the Board may deem appropriate.

(3) *Adjustment procedure.* Any adjustment adopted by the Board

pursuant to this paragraph will be adopted by rulemaking, except that the Corporation may set assessment rates as necessary to manage the reserve ratio, within set parameters not exceeding cumulatively 2 basis points, pursuant to paragraph (f)(1) of this section, without further rulemaking.

(4) *Announcement.* The Board shall announce the assessment schedules and the amount and basis for any adjustment thereto not later than 30 days before the quarterly certified statement invoice date specified in § 327.3(b) of this part for the first assessment period for which the adjustment shall be effective. Once set, rates will remain in effect until changed by the Board.

■ 7. Add § 327.16 to read as follows:

§ 327.16 Assessment pricing methods—beginning the first calendar quarter after the calendar quarter in which the reserve ratio of the DIF reaches 1.15 percent.

(a) *Established small institutions.* Beginning the first calendar quarter after June 30, 2015 in which the reserve ratio of the DIF reached or exceeded 1.15 percent in the previous calendar quarter, an established small institution shall have its initial base assessment rate determined by using the financial ratios methods set forth in paragraph (a)(1) of this section.

(1) Under the financial ratios method, each of seven financial ratios and a weighted average of CAMELS component ratings will be multiplied by a corresponding pricing multiplier. The sum of these products will be added to a uniform amount. The resulting sum shall equal the institution's initial base assessment rate; provided, however, that no institution's initial base assessment rate shall be less than the minimum initial base assessment rate in effect for established small institutions with a particular CAMELS composite rating for that quarter nor greater than the maximum initial base assessment rate in effect for established small institutions with a particular CAMELS composite rating for that quarter. An institution's initial base assessment rate, subject to adjustment pursuant to paragraphs (e)(1) and (2) of this section, as appropriate (resulting in the institution's total base assessment rate, which in no case can be lower than 50 percent of the institution's initial base assessment rate), and adjusted for the actual assessment rates set by the Board under § 327.10(f), will equal an institution's assessment rate. The seven financial ratios are: Tier 1 Leverage Ratio (%); Net Income before Taxes/Total Assets (%); Nonperforming Loans and Leases/Gross Assets (%); Other Real Estate Owned/Gross Assets (%); Brokered Deposit Ratio (%); One Year Asset Growth (%); and Loan Mix Index. The ratios are defined in Table E.1 of Appendix E to this subpart. The ratios will be determined for an assessment period based upon information contained in an institution's report of condition filed as of the last day of the assessment period as set out in paragraph (a)(2) of this section. The weighted average of CAMELS component ratings is created by multiplying each component by the following percentages and adding the products: Capital adequacy—25%, Asset quality—20%, Management—25%, Earnings—10%, Liquidity—10%, and Sensitivity to market risk—10%. The following tables set forth the values of the pricing multipliers:

PRICING MULTIPLIERS APPLICABLE BEGINNING THE [FIRST QUARTER AFTER JUNE 30, 2015 THAT THE RESERVE RATIO REACHES 1.15 PERCENT] AND ALL SUBSEQUENT QUARTERS WHERE THE RESERVE RATIO FOR THE IMMEDIATELY PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT

Risk measures *	Pricing multipliers **
Tier 1 Leverage ratio	[ ]
Net Income before Taxes/ Total Assets	[ ]
Nonperforming Loans and Leases/Gross Assets	[ ]
Other Real Estate Owned/ Gross Assets	[ ]
Brokered Deposit Ratio	[ ]
One Year Asset Growth	[ ]
Loan Mix Index	[ ]
Weighted Average CAMELS Component Rating	[ ]

* Ratios are expressed as percentages.
** Multipliers are rounded to three decimal places.

PRICING MULTIPLIERS APPLICABLE WHEN THE RESERVE RATIO FOR THE PRIOR ASSESSMENT PERIOD IS EQUAL TO OR GREATER THAN 2 PERCENT BUT IS LESS THAN 2.5 PERCENT

Risk measures *	Pricing multipliers **
Tier 1 Leverage Ratio	[ ]
Net Income before Taxes/ Total Assets	[ ]
Nonperforming Loans and Leases/Gross Assets	[ ]
Other Real Estate Owned/ Gross Assets	[ ]
Brokered Deposit Ratio	[ ]
One Year Asset Growth	[ ]
Loan Mix Index	[ ]
Weighted Average CAMELS Component Rating	[ ]

* Ratios are expressed as percentages.
** Multipliers are rounded to three decimal places.

PRICING MULTIPLIERS APPLICABLE WHEN THE RESERVE RATIO FOR THE PRIOR ASSESSMENT PERIOD IS EQUAL TO OR GREATER THAN 2 PERCENT BUT IS LESS THAN 2.5 PERCENT—Continued

Risk measures *	Pricing multipliers **
Weighted Average CAMELS Component Rating	[ ]

* Ratios are expressed as percentages.
** Multipliers are rounded to three decimal places.

PRICING MULTIPLIERS APPLICABLE WHEN THE RESERVE RATIO FOR THE PRIOR ASSESSMENT PERIOD IS GREATER THAN OR EQUAL TO 2.5 PERCENT

Risk measures *	Pricing multipliers **
Tier 1 Leverage Ratio	[ ]
Net Income before Taxes/Total Assets	[ ]
Nonperforming Loans and Leases/Gross Assets	[ ]
Other Real Estate Owned/Gross Assets	[ ]
Brokered Deposit Ratio	[ ]
One Year Asset Growth	[ ]
Loan Mix Index	[ ]
Weighted Average CAMELS Component Rating	[ ]

* Ratios are expressed as percentages.
** Multipliers are rounded to three decimal places.

(i) *Uniform amount.* Except as adjusted for the actual assessment rates set by the Board under § 327.10(f), the uniform amount shall be:

(A) ____Whenever the assessment rate schedule set forth in § 327.10(b) is in effect;

(B) ____whenever the assessment rate schedule set forth in § 327.10(c) is in effect; or

(C) ____whenever the assessment rate schedule set forth in § 327.10(d) is in effect.

(ii) *Implementation of CAMELS rating changes*—(A) *Composite rating change.* If, during a quarter, a CAMELS composite rating change occurs in a way that changes the institution's initial base assessment rate, then the institution's initial base assessment rate for the portion of the quarter prior to the change shall be determined using the assessment schedule for the appropriate CAMELS composite rating in effect before the change, including any minimum or maximum initial base assessment rates, and subject to adjustment pursuant to paragraphs (e)(1)

and (e)(2) of this section, as appropriate, and adjusted for actual assessment rates set by the Board under § 327.10(f). For the portion of the quarter after the CAMELS composite rating change, the institution's initial base assessment rate shall be determined using the assessment schedule for the applicable CAMELS composite rating in effect, including any minimum or maximum initial base assessment rates, and subject to adjustment pursuant to paragraphs (e)(1) and (e)(2) of this section, as appropriate, and adjusted for actual assessment rates set by the Board under § 327.10(f).

(B) *Component ratings changes.* If, during a quarter, a CAMELS component rating change occurs in a way that changes the institution's initial base assessment rate, the initial base assessment rate for the period before the change shall be determined under the financial ratios method using the CAMELS component ratings in effect before the change, subject to adjustment under paragraphs (e)(1) and (e)(2) of this section, as appropriate. Beginning on the date of the CAMELS component rating change, the initial base assessment rate for the remainder of the quarter shall be determined under the financial ratios method using the CAMELS component ratings in effect after the change, again subject to adjustment under paragraphs (e)(1) and (e)(2), as appropriate.

(iii) *No CAMELS composite rating or no CAMELS component ratings*—(A) *No CAMELS composite rating.* If, during a quarter, an institution has no CAMELS composite rating, its initial assessment rate would be 2 basis points above the minimum initial assessment rate for established small institutions until it receives a CAMELS composite rating.

(B) *No CAMELS component ratings.* If, during a quarter, an institution has a CAMELS composite rating but no CAMELS component ratings, the initial base assessment rate for that institution shall be determined under the financial ratios method using the CAMELS composite rating for its weighted average CAMELS component rating and, if the institution has not yet filed four quarterly Call Reports, by annualizing, where appropriate, financial ratios obtained from all quarterly Call Reports that have been filed.

(2) *Applicable reports of condition.* The financial ratios used to determine the assessment rate for an established small institution shall be based upon information contained in an institution's Consolidated Reports of Condition and Income or Thrift Financial Report (or successor report, as appropriate) dated as of March 31 for the assessment period beginning the preceding January 1; dated as of June 30 for the assessment period beginning the preceding April 1; dated as of September 30 for the assessment period beginning the preceding July 1; and dated as of December 31 for the assessment period beginning the preceding October 1.

(b) *Large and Highly Complex institutions*—(1) *Assessment scorecard for large institutions (other than highly complex institutions).* (i) A large institution other than a highly complex institution shall have its initial base assessment rate determined using the scorecard for large institutions.

SCORECARD FOR LARGE INSTITUTIONS

	Scorecard measures and components	Measure weights (percent)	Component weights (percent)
P	Performance Score		
P.1	Weighted Average CAMELS Rating	100	30
P.2	Ability to Withstand Asset-Related Stress		50
	Leverage ratio	10	
	Concentration Measure	35	
	Core Earnings/Average Quarter-End Total Assets *	20	
	Credit Quality Measure	35	
P.3	Ability to Withstand Funding-Related Stress		20
	Core Deposits/Total Liabilities	60	
	Balance Sheet Liquidity Ratio	40	
L	Loss Severity Score		
L.1	Loss Severity Measure		100

* Average of five quarter-end total assets (most recent and four prior quarters).

(ii) The scorecard for large institutions produces two scores: Performance score and loss severity score.

(A) Performance score for large institutions. The performance score for large institutions is a weighted average of the scores for three measures: The weighted average CAMELS rating score, weighted at 30 percent; the ability to withstand asset-related stress score, weighted at 50 percent; and the ability to withstand funding-related stress score, weighted at 20 percent.

(*1*) *Weighted average CAMELS rating score.* (*i*) To compute the weighted average CAMELS rating score, a weighted average of an institution's CAMELS component ratings is calculated using the following weights:

CAMELS component	Weight (percent)
C	25
A	20
M	25
E	10
L	10
S	10

(*ii*) A weighted average CAMELS rating converts to a score that ranges from 25 to 100. A weighted average rating of 1 equals a score of 25 and a weighted average of 3.5 or greater equals a score of 100. Weighted average CAMELS ratings between 1 and 3.5 are assigned a score between 25 and 100. The score increases at an increasing rate as the weighted average CAMELS rating increases. Appendix B of this subpart describes the conversion of a weighted average CAMELS rating to a score.

(*2*) *Ability to withstand asset-related stress score.* (*i*) The ability to withstand asset-related stress score is a weighted average of the scores for four measures: Leverage ratio; concentration measure; the ratio of core earnings to average quarter-end total assets; and the credit quality measure. Appendices A and C of this subpart define these measures.

(*ii*) The Leverage ratio and the ratio of core earnings to average quarter-end total assets are described in appendix A and the method of calculating the scores is described in appendix C of this subpart.

(*iii*) The score for the concentration measure is the greater of the higher-risk assets to Tier 1 capital and reserves score or the growth-adjusted portfolio concentrations score. Both ratios are described in appendix C.

(*iv*) The score for the credit quality measure is the greater of the criticized and classified items to Tier 1 capital and reserves score or the underperforming assets to Tier 1 capital and reserves score.

(*v*) The following table shows the cutoff values and weights for the measures used to calculate the ability to withstand asset-related stress score. Appendix B of this subpart describes how each measure is converted to a score between 0 and 100 based upon the minimum and maximum cutoff values, where a score of 0 reflects the lowest risk and a score of 100 reflects the highest risk.

CUTOFF VALUES AND WEIGHTS FOR MEASURES TO CALCULATE ABILITY TO WITHSTAND ASSET-RELATED STRESS SCORE

Measures of the ability to withstand asset-related stress	Cutoff values		Weights (percent)
	Minimum (percent)	Maximum (percent)	
Leverage ratio	6	13	10
Concentration Measure	.....	.....	35
Higher-Risk Assets to Tier 1 Capital and Reserves; or	0	135	.....
Growth-Adjusted Portfolio Concentrations	4	56	.....
Core Earnings/Average Quarter-End Total Assets *	0	2	20
Credit Quality Measure	.....	.....	35
Criticized and Classified Items/Tier 1 Capital and Reserves; or	7	100	.....
Underperforming Assets/Tier 1 Capital and Reserves	2	35	.....

* Average of five quarter-end total assets (most recent and four prior quarters).

(*vi*) The score for each measure in the table in paragraph (b)(1)(ii)(A)(*2*)(*v*) of this section is multiplied by its respective weight and the resulting weighted score is summed to arrive at the score for an ability to withstand asset-related stress, which can range from 0 to 100, where a score of 0 reflects the lowest risk and a score of 100 reflects the highest risk.

(*3*) Ability to withstand funding-related stress score. Two measures are used to compute the ability to withstand funding-related stress score: a core deposits to total liabilities ratio, and a balance sheet liquidity ratio. Appendix A of this subpart describes these measures. Appendix B of this subpart describes how these measures are converted to a score between 0 and 100, where a score of 0 reflects the lowest risk and a score of 100 reflects the highest risk. The ability to withstand funding-related stress score is the weighted average of the scores for the two measures. In the following table, cutoff values and weights are used to derive an institution's ability to withstand funding-related stress score:

CUTOFF VALUES AND WEIGHTS TO CALCULATE ABILITY TO WITHSTAND FUNDING-RELATED STRESS SCORE

Measures of the ability to withstand funding-related stress	Cutoff values		Weights (percent)
	Minimum (percent)	Maximum (percent)	
Core Deposits/Total Liabilities	5	87	60
Balance Sheet Liquidity Ratio	7	243	40

(*4*) Calculation of Performance Score. In paragraph (b)(1)(ii)(A)(*3*) of this section, the scores for the weighted average CAMELS rating, the ability to withstand asset-related stress, and the ability to withstand funding-related stress are multiplied by their respective weights (30 percent, 50 percent and 20 percent, respectively) and the results are summed to arrive at the performance score. The performance score cannot be less than 0 or more than 100, where a score of 0 reflects the lowest risk and a score of 100 reflects the highest risk.

(B) *Loss severity score.* The loss severity score is based on a loss severity measure that is described in appendix D of this subpart. Appendix B also describes how the loss severity measure is converted to a score between 0 and 100. The loss severity score cannot be less than 0 or more than 100, where a score of 0 reflects the lowest risk and a score of 100 reflects the highest risk. Cutoff values for the loss severity measure are:

CUTOFF VALUES TO CALCULATE LOSS SEVERITY SCORE

Measure of loss severity	Cutoff values	
	Minimum (percent)	Maximum (percent)
Loss Severity	0	28

(C) *Total score.* (*1*) The performance and loss severity scores are combined to produce a total score. The loss severity score is converted into a loss severity factor that ranges from 0.8 (score of 5 or lower) to 1.2 (score of 85 or higher).

Scores at or below the minimum cutoff of 5 receive a loss severity factor of 0.8, and scores at or above the maximum cutoff of 85 receive a loss severity factor of 1.2. The following linear interpolation converts loss severity scores between the cutoffs into a loss severity factor:

(Loss Severity Factor = 0.8 + [0.005 * (Loss Severity Score − 5)].

(*2*) The performance score is multiplied by the loss severity factor to produce a total score (total score = performance score * loss severity factor). The total score can be up to 20 percent higher or lower than the performance score but cannot be less than 30 or more than 90. The total score is subject to adjustment, up or down, by a maximum of 15 points, as set forth in paragraph (b)(3) of this section. The resulting total score after adjustment cannot be less than 30 or more than 90.

(D) *Initial base assessment rate.* A large institution with a total score of 30 pays the minimum initial base assessment rate and an institution with a total score of 90 pays the maximum initial base assessment rate. For total scores between 30 and 90, initial base assessment rates rise at an increasing rate as the total score increases, calculated according to the following formula:

$$Rate = Minimum\ Rate + \left[\left(\left(1.4245 \times \left(\frac{Score}{100}\right)^2\right) - 0.0385\right) \times (Maximum\ Rate - Minimum\ Rate)\right]$$

where Rate is the initial base assessment rate (expressed in basis points), Maximum Rate is the maximum initial base assessment rate then in effect (expressed in basis points), and Minimum Rate is the minimum initial base assessment rate then in effect (expressed in basis points). Initial base assessment rates are subject to adjustment pursuant to paragraphs (b)(3), (e)(1), (e)(2), of this section; large institutions that are not well capitalized or have a CAMELS composite rating of 3, 4 or 5 shall be subject to the adjustment at paragraph (e)(3) of this section; these adjustments shall result in the institution's total base assessment rate, which in no case can be lower than 50 percent of the institution's initial base assessment rate.

(2) *Assessment scorecard for highly complex institutions.* (i) A highly complex institution shall have its initial base assessment rate determined using the scorecard for highly complex institutions.

SCORECARD FOR HIGHLY COMPLEX INSTITUTIONS

	Measures and components	Measure weights (percent)	Component weights (percent)
P	Performance Score		
P.1	Weighted Average CAMELS Rating	100	30
P.2	Ability To Withstand Asset-Related Stress		50
	Leverage ratio	10	
	Concentration Measure	35	
	Core Earnings/Average Quarter-End Total Assets	20	
	Credit Quality Measure and Market Risk Measure	35	
P.3	Ability To Withstand Funding-Related Stress		20
	Core Deposits/Total Liabilities	50	
	Balance Sheet Liquidity Ratio	30	
	Average Short-Term Funding/Average Total Assets	20	
L	Loss Severity Score		
L.1	Loss Severity		100

(ii) The scorecard for highly complex institutions produces two scores: performance and loss severity.

(A) Performance score for highly complex institutions. The performance score for highly complex institutions is the weighted average of the scores for three components: weighted average CAMELS rating, weighted at 30 percent; ability to withstand asset-related stress score, weighted at 50 percent; and ability to withstand funding-related stress score, weighted at 20 percent.

(*1*) *Weighted average CAMELS rating score.* (*i*) To compute the score for the weighted average CAMELS rating, a weighted average of an institution's CAMELS component ratings is calculated using the following weights:

CAMELS Component	Weight (percent)
C	25
A	20
M	25
E	10
L	10
S	10

(*ii*) A weighted average CAMELS rating converts to a score that ranges from 25 to 100. A weighted average rating of 1 equals a score of 25 and a weighted average of 3.5 or greater equals a score of 100. Weighted average CAMELS ratings between 1 and 3.5 are assigned a score between 25 and 100. The score increases at an increasing rate as the weighted average CAMELS rating increases. Appendix B of this subpart describes the conversion of a weighted average CAMELS rating to a score.

(*2*) *Ability to withstand asset-related stress score.* (*i*) The ability to withstand asset-related stress score is a weighted average of the scores for four measures: Leverage ratio; concentration measure; ratio of core earnings to average quarter-end total assets; credit quality measure and market risk measure. Appendix A of this subpart describes these measures.

(*ii*) The Leverage ratio and the ratio of core earnings to average quarter-end total assets are described in appendix A and the method of calculating the scores is described in appendix B of this subpart.

(*iii*) The score for the concentration measure for highly complex institutions is the greatest of the higher-risk assets to the sum of Tier 1 capital and reserves score, the top 20 counterparty exposure to the sum of Tier 1 capital and reserves score, or the largest counterparty exposure to the sum of Tier 1 capital and reserves score. Each ratio is described in appendix A of this subpart. The method used to convert the concentration measure into a score is described in appendix C of this subpart.

(*iv*) The credit quality score is the greater of the criticized and classified items to Tier 1 capital and reserves score or the underperforming assets to Tier 1 capital and reserves score. The market risk score is the weighted average of three scores—the trading revenue volatility to Tier 1 capital score, the market risk capital to Tier 1 capital score, and the level 3 trading assets to Tier 1 capital score. All of these ratios are described in appendix A of this subpart and the method of calculating the scores is described in appendix B. Each score is multiplied by its respective weight, and the resulting weighted score is summed to compute the score for the market risk measure. An overall weight of 35 percent is allocated between the scores for the credit quality measure and market risk measure. The allocation depends on the ratio of average trading assets to the sum of average securities, loans and trading assets (trading asset ratio) as follows:

(*v*) Weight for credit quality score = 35 percent * (1—trading asset ratio); and,

(*vi*) Weight for market risk score = 35 percent * trading asset ratio.

(*vii*) Each of the measures used to calculate the ability to withstand asset-related stress score is assigned the following cutoff values and weights:

CUTOFF VALUES AND WEIGHTS FOR MEASURES TO CALCULATE THE ABILITY TO WITHSTAND ASSET-RELATED STRESS SCORE

Measures of the ability to withstand asset-related stress	Cutoff values		Market risk measure (percent)	Weights (percent)
	Minimum (percent)	Maximum (percent)		
Leverage ratio	6	13		10.
Concentration Measure				35.
Higher Risk Assets/Tier 1 Capital and Reserves;	0	135		
Top 20 Counterparty Exposure/Tier 1 Capital and Reserves; or.	0	125		
Largest Counterparty Exposure/Tier 1 Capital and Reserves.	0	20		
Core Earnings/Average Quarter-end Total Assets	0	2		20.
Credit Quality Measure *				35 * (1 − Trading Asset Ratio).
Criticized and Classified Items to Tier 1 Capital and Reserves; or.	7	100		
Underperforming Assets/Tier 1 Capital and Reserves	2	35		
Market Risk Measure *				35 * Trading Asset Ratio.
Trading Revenue Volatility/Tier 1 Capital	0	2	60	
Market Risk Capital/Tier 1 Capital	0	10	20	
Level 3 Trading Assets/Tier 1 Capital	0	35	20	

* Combined, the credit quality measure and the market risk measure are assigned a 35 percent weight. The relative weight of each of the two scores depends on the ratio of average trading assets to the sum of average securities, loans and trading assets (trading asset ratio).

(*viii*) [Reserved]

(*ix*) The score of each measure is multiplied by its respective weight and the resulting weighted score is summed to compute the ability to withstand asset-related stress score, which can range from 0 to 100, where a score of 0 reflects the lowest risk and a score of 100 reflects the highest risk.

(*3*) Ability to withstand funding related stress score. Three measures are used to calculate the score for the ability to withstand funding-related stress: a core deposits to total liabilities ratio, a balance sheet liquidity ratio, and average short-term funding to average total assets ratio. Appendix A of this subpart describes these ratios. Appendix B of this subpart describes how each measure is converted to a score. The ability to withstand funding-related stress score is the weighted average of the scores for the three measures. In the following table, cutoff values and weights are used to derive an institution's ability to withstand funding-related stress score:

CUTOFF VALUES AND WEIGHTS TO CALCULATE ABILITY TO WITHSTAND FUNDING-RELATED STRESS MEASURES

Measures of the ability to withstand funding-related stress	Cutoff values		Weights (percent)
	Minimum (percent)	Maximum (percent)	
Core Deposits/Total Liabilities	5	87	50
Balance Sheet Liquidity Ratio	7	243	30
Average Short-term Funding/Average Total Assets	2	19	20

(*4*) Calculation of Performance Score. The weighted average CAMELS score, the ability to withstand asset-related stress score, and the ability to withstand funding-related stress score are multiplied by their respective weights (30 percent, 50 percent and 20 percent, respectively) and the results are summed to arrive at the performance score, which cannot be less than 0 or more than 100.

(B) *Loss severity score.* The loss severity score is based on a loss severity measure described in appendix D of this subpart. Appendix B of this subpart also describes how the loss severity measure is converted to a score between 0 and 100. Cutoff values for the loss severity measure are:

CUTOFF VALUES FOR LOSS SEVERITY MEASURE

Measure of loss severity	Cutoff values	
	Minimum (percent)	Maximum (percent)
Loss Severity	0	28

(C) *Total score.* The performance and loss severity scores are combined to produce a total score. The loss severity score is converted into a loss severity factor that ranges from 0.8 (score of 5 or lower) to 1.2 (score of 85 or higher). Scores at or below the minimum cutoff of 5 receive a loss severity factor of 0.8, and scores at or above the maximum cutoff of 85 receive a loss severity factor of 1.2. The following linear interpolation converts loss severity scores between the cutoffs into a loss severity factor: (Loss Severity Factor = 0.8 + [0.005 * (Loss Severity Score − 5)]. The performance score is multiplied by the loss severity factor to produce a total score (total score = performance score * loss severity factor). The total score can be up to 20 percent higher or lower than the performance score but cannot be less than 30 or more than 90. The total score is subject to adjustment, up or down, by a maximum of 15 points, as set forth in paragraph (b)(3) of this section. The resulting total score after adjustment cannot be less than 30 or more than 90.

(D) *Initial base assessment rate.* A highly complex institution with a total score of 30 pays the minimum initial base assessment rate and an institution with a total score of 90 pays the maximum initial base assessment rate. For total scores between 30 and 90, initial base assessment rates rise at an increasing rate as the total score increases, calculated according to the following formula:

$$Rate = Minimum\ Rate + \left[\left(\left(1.4245 \times \left(\frac{Score}{100}\right)^2\right) - 0.0385\right) \times (Maximum\ Rate - Minimum\ Rate)\right]$$

where Rate is the initial base assessment rate (expressed in basis points), Maximum Rate is the maximum initial base assessment rate then in effect (expressed in basis points), and Minimum Rate is the minimum initial base assessment rate then in effect (expressed in basis points). Initial base assessment rates are subject to adjustment pursuant to paragraphs (b)(3), (e)(1), and (e)(2) of this section; highly complex institutions that are not well capitalized or have a CAMELS composite rating of 3, 4 or 5 shall be subject to the adjustment at paragraph (e)(3) of this section; these adjustments shall result in the institution's total base assessment rate, which in no case can be lower than 50 percent of the institution's initial base assessment rate.

(3) Adjustment to total score for large institutions and highly complex institutions. The total score for large institutions and highly complex institutions is subject to adjustment, up or down, by a maximum of 15 points, based upon significant risk factors that are not adequately captured in the appropriate scorecard. In making such adjustments, the FDIC may consider such information as financial performance and condition information and other market or supervisory information. The FDIC will also consult with an institution's primary federal regulator and, for state chartered institutions, state banking supervisor.

(i) *Prior notice of adjustments*—(A) *Prior notice of upward adjustment.* Prior to making any upward adjustment to an institution's total score because of considerations of additional risk information, the FDIC will formally notify the institution and its primary federal regulator and provide an opportunity to respond. This notification will include the reasons for the adjustment and when the adjustment will take effect.

(B) *Prior notice of downward adjustment.* Prior to making any downward adjustment to an institution's total score because of considerations of additional risk information, the FDIC will formally notify the institution's primary federal regulator and provide an opportunity to respond.

(ii) *Determination whether to adjust upward; effective period of adjustment.* After considering an institution's and the primary federal regulator's responses to the notice, the FDIC will determine whether the adjustment to an institution's total score is warranted, taking into account any revisions to scorecard measures, as well as any actions taken by the institution to address the FDIC's concerns described in the notice. The FDIC will evaluate the need for the adjustment each subsequent assessment period. Except as provided in paragraph (b)(3)(iv) of this section, the amount of adjustment cannot exceed the proposed adjustment amount contained in the initial notice unless additional notice is provided so that the primary federal regulator and the institution may respond.

(iii) *Determination whether to adjust downward; effective period of adjustment.* After considering the primary federal regulator's responses to the notice, the FDIC will determine whether the adjustment to total score is warranted, taking into account any revisions to scorecard measures. Any downward adjustment in an institution's total score will remain in effect for subsequent assessment periods until the FDIC determines that an adjustment is no longer warranted. Downward adjustments will be made without notification to the institution. However, the FDIC will provide advance notice to an institution and its primary federal regulator and give them an opportunity to respond before removing a downward adjustment.

(iv) *Adjustment without notice.* Notwithstanding the notice provisions set forth above, the FDIC may change an institution's total score without advance notice under this paragraph, if the

institution's supervisory ratings or the scorecard measures deteriorate.

(c) *New small institutions*—(1) *Risk Categories.* Each new small institution shall be assigned to one of the following four Risk Categories based upon the institution's capital evaluation and supervisory evaluation as defined in this section.

(i) *Risk Category I.* New small institutions in Supervisory Group A that are Well Capitalized will be assigned to Risk Category I.

(ii) *Risk Category II.* New small institutions in Supervisory Group A that are Adequately Capitalized, and new small institutions in Supervisory Group B that are either Well Capitalized or Adequately Capitalized will be assigned to Risk Category II.

(iii) *Risk Category III.* New small institutions in Supervisory Groups A and B that are Undercapitalized, and new small institutions in Supervisory Group C that are Well Capitalized or Adequately Capitalized will be assigned to Risk Category III.

(iv) *Risk Category IV.* New small institutions in Supervisory Group C that are Undercapitalized will be assigned to Risk Category IV.

(2) *Capital evaluations.* Each new small institution will receive one of the following three capital evaluations on the basis of data reported in the institution's Consolidated Reports of Condition and Income or Thrift Financial Report (or successor report, as appropriate) dated as of March 31 for the assessment period beginning the preceding January 1; dated as of June 30 for the assessment period beginning the preceding April 1; dated as of September 30 for the assessment period beginning the preceding July 1; and dated as of December 31 for the assessment period beginning the preceding October 1.

(i) *Well Capitalized.* A Well Capitalized institution is one that satisfies each of the following capital ratio standards: Total risk-based capital ratio, 10.0 percent or greater; tier 1 risk-based capital ratio, 8.0 percent or greater; leverage ratio, 5.0 percent or greater; and common equity tier 1 capital ratio, 6.5 percent or greater, and after January 1, 2018, if the institution is an insured depository institution subject to the enhanced supplementary leverage ratio standards under 12 CFR 6.4(c)(1)(iv)(B), 12 CFR 208.43(c)(1)(iv)(B), or 12 CFR 324.403(b)(1)(vi), as each may be amended from time to time, a supplementary leverage ratio of 6.0 percent or greater.

(ii) *Adequately Capitalized.* An Adequately Capitalized institution is one that does not satisfy the standards of Well Capitalized in paragraph (c)(2)(i) of this section but satisfies each of the following capital ratio standards: Total risk-based capital ratio, 8.0 percent or greater; tier 1 risk-based capital ratio, 6.0 percent or greater; leverage ratio, 4.0 percent or greater; and common equity tier 1 capital ratio, 4.5 percent or greater, and after January 1, 2018, if the institution is an insured depository institution subject to the advanced approaches risk-based capital rules under 12 CFR 6.4(c)(2)(iv)(B), 12 CFR 208.43(c)(2)(iv)(B), or 12 CFR 324.403(b)(2)(vi), as each may be amended from time to time, a supplementary leverage ratio of 3.0 percent or greater.

(iii) *Undercapitalized.* An undercapitalized institution is one that does not qualify as either Well Capitalized or Adequately Capitalized under paragraphs (c)(2)(i) and (ii) of this section.

(3) *Supervisory evaluations.* Each new small institution will be assigned to one of three Supervisory Groups based on the Corporation's consideration of supervisory evaluations provided by the institution's primary federal regulator. The supervisory evaluations include the results of examination findings by the primary federal regulator, as well as other information that the primary federal regulator determines to be relevant. In addition, the Corporation will take into consideration such other information (such as state examination findings, as appropriate) as it determines to be relevant to the institution's financial condition and the risk posed to the Deposit Insurance Fund. The three Supervisory Groups are:

(i) *Supervisory Group ''A.''* This Supervisory Group consists of financially sound institutions with only a few minor weaknesses;

(ii) *Supervisory Group ''B.''* This Supervisory Group consists of institutions that demonstrate weaknesses which, if not corrected, could result in significant deterioration of the institution and increased risk of loss to the Deposit Insurance Fund; and

(iii) *Supervisory Group ''C.''* This Supervisory Group consists of institutions that pose a substantial probability of loss to the Deposit Insurance Fund unless effective corrective action is taken.

(4) *Assessment method for new small institutions in Risk Category I*—(i) *Maximum Initial Base Assessment Rate for Risk Category I New Small Institutions.* A new small institution in Risk Category I shall be assessed the maximum initial base assessment rate for Risk Category I small institutions in the relevant assessment period.

(ii) *New small institutions not subject to certain adjustments.* No new small institution in any risk category shall be subject to the adjustment in paragraph (e)(1) of this section.

(iii) *Implementation of CAMELS rating changes—Changes between risk categories.* If, during a quarter, a CAMELS composite rating change occurs that results in a Risk Category I institution moving from Risk Category I to Risk Category II, III or IV, the institution's initial base assessment rate for the portion of the quarter that it was in Risk Category I shall be the maximum initial base assessment rate for the relevant assessment period, subject to adjustment pursuant to paragraph (e)(2) of this section, as appropriate, and adjusted for the actual assessment rates set by the Board under § 327.10(g). For the portion of the quarter that the institution was not in Risk Category I, the institution's initial base assessment rate, which shall be subject to adjustment pursuant to paragraphs (e)(2) and (3) of this section, as appropriate, shall be determined under the assessment schedule for the appropriate Risk Category. If, during a quarter, a CAMELS composite rating change occurs that results in an institution moving from Risk Category II, III or IV to Risk Category I, then the maximum initial base assessment rate for new small institutions in Risk Category I shall apply for the portion of the quarter that it was in Risk Category I, subject to adjustment pursuant to paragraph (e)(2) of this section, as appropriate, and adjusted for the actual assessment rates set by the Board under § 327.10(g). For the portion of the quarter that the institution was not in Risk Category I, the institution's initial base assessment rate, which shall be subject to adjustment pursuant to paragraphs (e)(2) and (3) of this section shall be determined under the assessment schedule for the appropriate Risk Category.

(d) *Insured branches of foreign banks*—(1) *Risk categories for insured branches of foreign banks.* Insured branches of foreign banks shall be assigned to risk categories as set forth in paragraph (c)(1) of this section.

(2) *Capital evaluations for insured branches of foreign banks.* Each insured branch of a foreign bank will receive one of the following three capital evaluations on the basis of data reported in the institution's Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks dated as of March 31 for the assessment period beginning the preceding January 1;

dated as of June 30 for the assessment period beginning the preceding April 1; dated as of September 30 for the assessment period beginning the preceding July 1; and dated as of December 31 for the assessment period beginning the preceding October 1.

(i) *Well Capitalized.* An insured branch of a foreign bank is Well Capitalized if the insured branch:

(A) Maintains the pledge of assets required under § 347.209 of this chapter; and

(B) Maintains the eligible assets prescribed under § 347.210 of this chapter at 108 percent or more of the average book value of the insured branch's third-party liabilities for the quarter ending on the report date specified in paragraph (d)(2) of this section.

(ii) *Adequately Capitalized.* An insured branch of a foreign bank is Adequately Capitalized if the insured branch:

(A) Maintains the pledge of assets required under § 347.209 of this chapter; and

(B) Maintains the eligible assets prescribed under § 347.210 of this chapter at 106 percent or more of the average book value of the insured branch's third-party liabilities for the quarter ending on the report date specified in paragraph (d)(2) of this section; and

(C) Does not meet the definition of a Well Capitalized insured branch of a foreign bank.

(iii) *Undercapitalized.* An insured branch of a foreign bank is undercapitalized institution if it does not qualify as either Well Capitalized or Adequately Capitalized under paragraphs (d)(2)(i) and (ii) of this section.

(3) *Supervisory evaluations for insured branches of foreign banks.* Each insured branch of a foreign bank will be assigned to one of three supervisory groups as set forth in paragraph (c)(3) of this section.

(4) *Assessment method for insured branches of foreign banks in Risk Category I.* Insured branches of foreign banks in Risk Category I shall be assessed using the weighted average ROCA component rating.

(i) *Weighted average ROCA component rating.* The weighted average ROCA component rating shall equal the sum of the products that result from multiplying ROCA component ratings by the following percentages: Risk Management—35%, Operational Controls—25%, Compliance—25%, and Asset Quality—15%. The weighted average ROCA rating will be multiplied by 5.076 (which shall be the pricing multiplier). To this result will be added a uniform amount. The resulting sum—the initial base assessment rate—will equal an institution's total base assessment rate; provided, however, that no institution's total base assessment rate will be less than the minimum total base assessment rate in effect for Risk Category I institutions for that quarter nor greater than the maximum total base assessment rate in effect for Risk Category I institutions for that quarter.

(ii) *Uniform amount.* Except as adjusted for the actual assessment rates set by the Board under § 327.10(g), the uniform amount for all insured branches of foreign banks shall be:

(A) −3.127 whenever the assessment rate schedule set forth in § 327.10(a) is in effect;

(B) −5.127 whenever the assessment rate schedule set forth in § 327.10(b) is in effect;

(C) −-6.127 whenever the assessment rate schedule set forth in § 327.10(c) is in effect; or

(D) −7.127 whenever the assessment rate schedule set forth in § 327.10(d) is in effect.

(iii) *Insured branches of foreign banks not subject to certain adjustments.* No insured branch of a foreign bank in any risk category shall be subject to the adjustments in paragraphs (b)(3) or (e)(1) or (3) of this section.

(iv) *Implementation of changes between Risk Categories for insured branches of foreign banks.* If, during a quarter, a ROCA rating change occurs that results in an insured branch of a foreign bank moving from Risk Category I to Risk Category II, III or IV, the institution's initial base assessment rate for the portion of the quarter that it was in Risk Category I shall be determined using the weighted average ROCA component rating. For the portion of the quarter that the institution was not in Risk Category I, the institution's initial base assessment rate shall be determined under the assessment schedule for the appropriate Risk Category. If, during a quarter, a ROCA rating change occurs that results in an insured branch of a foreign bank moving from Risk Category II, III or IV to Risk Category I, the institution's assessment rate for the portion of the quarter that it was in Risk Category I shall equal the rate determined as provided using the weighted average ROCA component rating. For the portion of the quarter that the institution was not in Risk Category I, the institution's initial base assessment rate shall be determined under the assessment schedule for the appropriate Risk Category.

(v) *Implementation of changes within Risk Category I for insured branches of foreign banks.* If, during a quarter, an insured branch of a foreign bank remains in Risk Category I, but a ROCA component rating changes that will affect the institution's initial base assessment rate, separate assessment rates for the portion(s) of the quarter before and after the change(s) shall be determined under this paragraph (d)(4) of this section.

(e) *Adjustments*—(1) *Unsecured debt adjustment to initial base assessment rate for all institutions.* All institutions, except new institutions as provided under paragraphs (g)(1) and (2) of this section and insured branches of foreign banks as provided under paragraph (d)(4)(iii) of this section, shall be subject to an adjustment of assessment rates for unsecured debt. Any unsecured debt adjustment shall be made after any adjustment under paragraph (b)(3) of this section.

(i) *Application of unsecured debt adjustment.* The unsecured debt adjustment shall be determined as the sum of the initial base assessment rate plus 40 basis points; that sum shall be multiplied by the ratio of an insured depository institution's long-term unsecured debt to its assessment base. The amount of the reduction in the assessment rate due to the adjustment is equal to the dollar amount of the adjustment divided by the amount of the assessment base.

(ii) *Limitation.* No unsecured debt adjustment for any institution shall exceed the lesser of 5 basis points or 50 percent of the institution's initial base assessment rate.

(iii) *Applicable quarterly reports of condition.* Unsecured debt adjustment ratios for any given quarter shall be calculated from quarterly reports of condition (Consolidated Reports of Condition and Income and Thrift Financial Reports, or any successor reports to either, as appropriate) filed by each institution as of the last day of the quarter.

(2) *Depository institution debt adjustment to initial base assessment rate for all institutions.* All institutions shall be subject to an adjustment of assessment rates for unsecured debt held that is issued by another depository institution. Any such depository institution debt adjustment shall be made after any adjustment under paragraphs (b)(3) and (e)(1) of this section.

(i) *Application of depository institution debt adjustment.* An insured depository institution shall pay a 50 basis point adjustment on the amount of unsecured debt it holds that was issued by another insured depository institution to the extent that such debt

exceeds 3 percent of the institution's Tier 1 capital. The amount of long-term unsecured debt issued by another insured depository institution shall be calculated using the same valuation methodology used to calculate the amount of such debt for reporting on the asset side of the balance sheets.

(ii) *Applicable quarterly reports of condition.* Depository institution debt adjustment ratios for any given quarter shall be calculated from quarterly reports of condition (Consolidated Reports of Condition and Income and Thrift Financial Reports, or any successor reports to either, as appropriate) filed by each institution as of the last day of the quarter.

(3) *Brokered Deposit Adjustment.* All new small institutions in Risk Categories II, III, and IV, all large institutions and all highly complex institutions, except large and highly complex institutions (including new large and new highly complex institutions) that are well capitalized and have a CAMELS composite rating of 1 or 2, shall be subject to an assessment rate adjustment for brokered deposits. Any such brokered deposit adjustment shall be made after any adjustment under paragraphs (b)(3) and (e)(1) and (2) of this section. The brokered deposit adjustment includes all brokered deposits as defined in Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f), and 12 CFR 337.6, including reciprocal deposits as defined in § 327.8(p), and brokered deposits that consist of balances swept into an insured institution from another institution. The adjustment under this paragraph is limited to those institutions whose ratio of brokered deposits to domestic deposits is greater than 10 percent; asset growth rates do not affect the adjustment. Insured branches of foreign banks are not subject to the brokered deposit adjustment as provided in paragraph (d)(4)(iii) of this section.

(i) *Application of brokered deposit adjustment.* The brokered deposit adjustment shall be determined by multiplying 25 basis points by the ratio of the difference between an insured depository institution's brokered deposits and 10 percent of its domestic deposits to its assessment base.

(ii) *Limitation.* The maximum brokered deposit adjustment will be 10 basis points; the minimum brokered deposit adjustment will be 0.

(iii) *Applicable quarterly reports of condition.* The brokered deposit adjustment for any given quarter shall be calculated from the quarterly reports of condition (Call Reports and Thrift Financial Reports, or any successor reports to either, as appropriate) filed by each institution as of the last day of the quarter.

(f) *Request to be treated as a large institution*—(1) *Procedure.* Any institution with assets of between $5 billion and $10 billion may request that the FDIC determine its assessment rate as a large institution. The FDIC will consider such a request provided that it has sufficient information to do so. Any such request must be made to the FDIC's Division of Insurance and Research. Any approved change will become effective within one year from the date of the request. If an institution whose request has been granted subsequently reports assets of less than $5 billion in its report of condition for four consecutive quarters, the institution shall be deemed a small institution for assessment purposes.

(2) *Time limit on subsequent request for alternate method.* An institution whose request to be assessed as a large institution is granted by the FDIC shall not be eligible to request that it be assessed as a small institution for a period of three years from the first quarter in which its approved request to be assessed as a large institution became effective. Any request to be assessed as a small institution must be made to the FDIC's Division of Insurance and Research.

(3) *Request for Review.* An institution that disagrees with the FDIC's determination that it is a large, highly complex, or small institution may request review of that determination pursuant to § 327.4(c).

(g) *New and established institutions and exceptions*—(1) *New small institutions.* A new small Risk Category I institution shall be assessed the Risk Category I maximum initial base assessment rate for the relevant assessment period. No new small institution in any risk category shall be subject to the unsecured debt adjustment as determined under paragraph (e)(1) of this section. All new small institutions in any Risk Category shall be subject to the depository institution debt adjustment as determined under paragraph (e)(2) of this section. All new small institutions in Risk Categories II, III, and IV shall be subject to the brokered deposit adjustment as determined under paragraph (e)(3) of this section.

(2) *New large institutions and new highly complex institutions.* All new large institutions and all new highly complex institutions shall be assessed under the appropriate method provided at paragraph (b)(1) or (2) of this section and subject to the adjustments provided at paragraphs (b)(3) and (e)(2) and (3) of this section. No new highly complex or large institutions are entitled to adjustment under paragraph (e)(1) of this section. If a large or highly complex institution has not yet received CAMELS ratings, it will be given a weighted CAMELS rating of 2 for assessment purposes until actual CAMELS ratings are assigned.

(3) *CAMELS ratings for the surviving institution in a merger or consolidation.* When an established institution merges with or consolidates into a new institution, if the FDIC determines the resulting institution to be an established institution under § 327.8(k)(1), its CAMELS ratings for assessment purposes will be based upon the established institution's ratings prior to the merger or consolidation until new ratings become available.

(4) *Rate applicable to institutions subject to subsidiary or credit union exception*—(i) *Established small institutions.* A small institution that is established under § 327.8(k)(4) or (5) shall be assessed as follows:

(A) If the institution does not have a CAMELS composite rating, its initial base assessment rate shall be 2 basis points above the minimum initial base assessment rate applicable to established small institutions until it receives a CAMELS composite rating.

(B) If the institution has a CAMELS composite rating but no CAMELS component ratings, its initial assessment rate shall be determined using the financial ratios method, as set forth in (a)(1) of this section, but its CAMELS composite rating will be substituted for its weighted average CAMELS component rating and, if the institution has not filed four quarterly reports of condition, then the assessment rate will be determined by annualizing, where appropriate, financial ratios from all quarterly reports of condition that have been filed.

(ii) *Large or highly complex institutions.* If a large or highly complex institution is considered established under § 327.8(k)(4) or (5), but does not have CAMELS component ratings, it will be given a weighted CAMELS rating of 2 for assessment purposes until actual CAMELS ratings are assigned.

(5) *Request for review.* An institution that disagrees with the FDIC's determination that it is a new institution may request review of that determination pursuant to § 327.4(c).

(h) *Assessment rates for bridge depository institutions and conservatorships.* Institutions that are bridge depository institutions under 12 U.S.C. 1821(n) and institutions for which the Corporation has been appointed or serves as conservator shall,

in all cases, be assessed at the Risk Category I minimum initial base assessment rate, which shall not be subject to adjustment under paragraphs (b)(3), (e)(1), (2), or (3) of this section.

■ 8. Add Appendix E to part 327 to read as follows:

Appendix E

Method To Derive Pricing Multipliers and Uniform Amount

I. Introduction

The uniform amount and pricing multipliers are derived from:

- A model (the Statistical Model) that estimates the probability of failure of an institution over a three-year horizon;
- The minimum initial base assessment rate;
- The maximum initial base assessment rate;
- Thresholds marking the points at which the maximum and minimum assessment rates become effective.

II. The Statistical Model

The Statistical Model estimates the probability of an insured depository institution failing within three years using a logistic regression and pooled time-series cross-sectional data; [1] that is, the dependent variable in the estimation is whether an insured depository institution failed during the following three-year period. Actual model parameters for the Statistical Model are an average of each of three regression estimates for each parameter. Each of the three regressions uses end-of-year data from insured depository institutions' quarterly reports of condition and income (Call Reports and Thrift Financial Reports or TFRs [2]) for every third year to estimate probability of failure within the ensuing three years. One regression (Regression 1) uses insured depository institutions' Call Report and TFR data for the end of 1985 and failures from 1986 through 1988; Call Report and TFR data for the end of 1988 and failures from 1989 through 1991; and so on, ending with Call Report data for the end of 2009 and failures from 2010 through 2012. The second regression (Regression 2) uses insured depository institutions' Call Report and TFR data for the end of 1986 and failures from 1987 through 1989, and so on, ending with Call Report data for the end of 2010 and failures from 2011 through 2013. The third regression (Regression 3) uses insured depository institutions' Call Report and TFR data for the end of 1987 and failures from 1988 through 1990, and so on, ending with Call Report data for the end of 2011 and failures from 2012 through 2014. The regressions include only Call Report data and failures for established small institutions.

Table E.1 lists and defines the explanatory variables (regressors) in the Statistical Model and the measures used in Sec. 327.16(a)(1).

TABLE E.1—DEFINITIONS OF MEASURES USED IN THE FINANCIAL RATIOS METHOD

Variables	Description
Tier 1 Leverage Ratio (%)	Tier 1 capital divided by adjusted average assets. (Numerator and denominator are both based on the definition for prompt corrective action.)
Net Income before Taxes/Total Assets (%)	Income (before applicable income taxes and discontinued operations) for the most recent twelve months divided by total assets.[1]
Nonperforming Loans and Leases/Gross Assets (%)	Sum of total loans and lease financing receivables past due 90 or more days and still accruing interest and total nonaccrual loans and lease financing receivables (excluding, in both cases, the maximum amount recoverable from the U.S. Government, its agencies or government-sponsored enterprises, under guarantee or insurance provisions) divided by gross assets.[2] [3]
Other Real Estate Owned/Gross Assets (%)	Other real estate owned divided by gross assets.[2]
Brokered Deposit Ratio	The ratio of the difference between brokered deposits and 10 percent of total assets to total assets. For institutions that are well capitalized and have a CAMELS composite rating of 1 or 2, reciprocal deposits are deducted from brokered deposits. If the ratio is less than zero, the value is set to zero.
Weighted Average of C, A, M, E, L, and S Component Ratings	The weighted sum of the ''C,'' ''A,'' ''M,'' ''E'', ''L'', and ''S'' CAMELS components, with weights of 25 percent each for the ''C'' and ''M'' components, 20 percent for the ''A'' component, and 10 percent each for the ''E'', ''L'', and ''S'' components. In instances where the ''S'' component is missing, the remaining components are scaled by a factor of 10/9.[4]
Loan Mix Index	A measure of credit risk described below.
Asset Growth (%)	Growth in assets (adjusted for mergers [5]) over the previous year in excess of 10 percent.[6] If growth is less than 10 percent, the value is set to zero.

[1] For purposes of calculating actual assessment rates (as opposed to model estimation), the ratio of Net Income before Taxes to Total Assets is bounded below by (and cannot be less than) −25 percent and is bounded above by (and cannot exceed) 3 percent. For purposes of model estimation only, the ratio of Net Income before Taxes to Total Assets is defined as income (before income taxes and extraordinary items and other adjustments) for the most recent twelve months divided by total assets.

[2] For purposes of calculating actual assessment rates (as opposed to model estimation), ''Gross assets'' are total assets plus the allowance for loan and lease financing receivable losses (ALLL); for purposes of estimating the Statistical Model, for years before 2001, when allocated transfer risk was not included in ALLL in Call Reports, allocated transfer risk is included in gross assets separately.

[3] Delinquency and non-accrual data on government guaranteed loans are not available for the entire estimation period. As a result, the Statistical Model is estimated without deducting delinquent or past-due government guaranteed loans from the nonperforming loans and leases to gross assets ratio.

[4] The component rating for sensitivity to market risk (the ''S'' rating) is not available for years before 1997. As a result, and as described in the table, the Statistical Model is estimated using a weighted average of five component ratings excluding the ''S'' component where the component is not available.

[5] Growth in assets is also adjusted for acquisitions of failed banks.

[6] For purposes of calculating actual assessment rates (as opposed to model estimation), the maximum value of the Asset Growth measure is 230 percent; that is, asset growth (merger adjusted) over the previous year in excess of 240 percent (230 percentage points in excess of the 10 percent threshold) will not further increase a bank's assessment rate.

[1] Tests for the statistical significance of parameters use adjustments discussed by Tyler Shumway (2001) ''Forecasting Bankruptcy More Accurately: A Simple Hazard Model,'' Journal of Business 74:1, 101–124.

[2] Beginning in 2012, all insured depository institutions began filing quarterly Call Reports and the TFR was no longer filed.

The financial variable measures used to estimate the failure probabilities are obtained from Call Reports and TFRs. The weighted average of the ''C,'' ''A,'' ''M,'' ''E'', ''L'', and ''S'' component ratings measure is based on component ratings obtained from the most recent bank examination conducted within 24 months before the date of the Call Report or TFR.

The Loan Mix Index assigns loans to the categories of loans described in Table E.2. For each loan category, a charge-off rate is calculated for each year from 2001 through 2014. The charge-off rate for each year is the aggregate charge-off rate on all such loans held by small institutions in that year. A weighted average charge-off rate is then calculated for each loan category, where the weight for each year is based on the number of small-bank failures during that year.[3] A Loan Mix Index for each established small institution is calculated by: (1) Multiplying the ratio of the institution's amount of loans in a particular loan category to its total assets by the associated weighted average charge-off rate for that loan category; and (2) summing the products for all loan categories. Table E.2 gives the weighted average charge-off rate for each category of loan, as calculated through the end of 2014. The Loan Mix Index excludes credit card loans.

TABLE E.2—LOAN MIX INDEX CATEGORIES

	Weighted charge-off rate percent
Construction & Development	4.4965840
Commercial & Industrial	1.5984506
Leases	1.4974551
Other Consumer	1.4559717
Loans to Foreign Government	1.3384093
Real Estate Loans Residual	1.0169338
Multifamily Residential	0.8847597
Nonfarm Nonresidential	0.7286274
1–4 Family Residential	0.6973778
Loans to Depository banks	0.5760532
Agricultural Real Estate	0.2376712
Agriculture	0.2432737

For each of the three regression estimates (Regression 1, Regression 2 and Regression 3), the estimated probability of failure (over a three-year horizon) of institution *i* at time *T* is

Equation 1

$$P_{iT} = 1/((1+\exp(-Z_{iT}))$$

Where

Equation 2

$$Z_{iT} = \beta_0 + \beta_1 (\text{Tier 1 leverage Ratio}_{iT}) + \beta_2 (\text{Nonperforming loans and leases ratio}_{iT}) + \beta_3 (\text{Other real estate owned ratio}_{iT}) + \beta_4 (\text{Net income before taxes ratio}_{iT}) + \beta_5 (\text{Brokered deposit ratio}_{iT}) + \beta_6 (\text{Weighted average CAMELS component rating}_{iT}) + \beta_7 (\text{Loan mix index}_{iT}) + \beta_8 (\text{Asset growth}_{iT})$$

where the β variables are parameter estimates. As stated earlier, for actual assessments, the β values that are applied are averages of each of the individual parameters over three separate regressions. Pricing multipliers (discussed in the next section) are based on Z_{iT}.[4]

III. Derivation of uniform amount and pricing multipliers

The uniform amount and pricing multipliers used to compute the annual initial base assessment rate in basis points, R_{iT}, for any such institution *i* at a given time *T* will be determined from the Statistical Model as follows:

Equation 3

$$R_{iT} = \alpha_0 + \alpha_1 * Z_{iT} \text{ subject to } Min \leq R_{iT} \leq Max^{5}$$

where α_0 and α_1 are a constant term and a scale factor used to convert Z_{iT} to an assessment rate, *Max* is the maximum initial base assessment rate in effect and *Min* is the minimum initial base assessment rate in effect. (R_{iT} is expressed as an annual rate, but the actual rate applied in any quarter will be $R_{iT}/4$.)

Solving equation 3 for minimum and maximum initial base assessment rates simultaneously,

Min = $\alpha_0 + \alpha_1 * Z_N$ and *Max* = $\alpha_0 + \alpha_1 * Z_X$

where Z_X is the value of Z_{iT} above which the maximum initial assessment rate (*Max*) applies and Z_N is the value of Z_{iT} below which the minimum initial assessment rate (*Min*) applies, results in values for the constant amount, α_0, and the scale factor, α_1,

[3] An exception is ''Real Estate Loans Residual,'' which consists of real estate loans held in foreign offices. Few small insured depository institutions report this item and a statistically reliable estimate of the weighted average charge-off rate could not be obtained. Instead, a weighted average of the weighted average charge-off rates of the other real estate loan categories is used. (The other categories are construction & development, multifamily residential, nonfarm nonresidential, 1–4 family residential, and agricultural real estate.) The weight for each of the other real estate loan categories is based on the aggregate amount of the loans held by small insured depository institutions as of December 31, 2014.

[4] The Z_{iT} values have the same rank ordering as the probability measures P_{iT}.

[5] R_{iT} is also subject to the minimum and maximum assessment rates applicable to established small institutions based upon their CAMELS composite ratings.

Equation 4

$$\alpha_0 = Min - \frac{Z_N * (Max - Min)}{Z_X - Z_N}$$

and *Equation 5*

$$\alpha_1 = \frac{Max - Min}{Z_X - Z_N}$$

The values for Z_X and Z_N will be selected to ensure that, for an assessment period shortly before adoption of a final rule, aggregate assessments for all established small institutions would have been approximately the same under the final rule as they would have been under the assessment rate schedule that—under rules in effect before adoption of the final rule—will automatically go into effect when the reserve ratio reaches 1.15 percent. As an example, using aggregate assessments for all established small institutions for the third quarter of 2013 to determine Z_X and Z_N, and assuming that *Min* had equaled 3 basis points and *Max* had equaled 30 basis points, the value of Z_X would have been 0.87 and the value of Z_N −6.36. Hence based on equations 4 and 5,

$\alpha_0 = 26.751$ and

$\alpha_1 = 3.734$.

Therefore from equation 3, it follows that

Equation 6

$$R_{iT} = 26.751 + 3.734 * Z_{iT} \text{ subject to } 3 \leq R_{iT} \leq 30$$

Substituting equation 2 produces an annual initial base assessment rate for institution *i* at time *T,* R_{iT}, in terms of the uniform amount, the pricing multipliers and model variables:

Equation 7

$$R_{iT} = [26.751 + 3.734 * \beta_0] + 3.734 * [\beta_1 (\text{Tier 1 leverage ratio}_{iT})] + 3.734 * \beta_2 (\text{Nonperforming loans and leases ratio}_{iT}) + 3.734 * \beta_3 (\text{Other real estate owned ratio}_{iT}) + 3.734 * \beta_4 (\text{Net income before taxes ratio}_{iT}) + 3.734 * \beta_5 (\text{Brokered deposit ratio}_{iT}) + 3.734 * \beta_6 (\text{Weighted average CAMELS component rating}_{iT}) + 3.734 * \beta_7 (\text{Loan mix index}_{iT}) + 3.734 * \beta_8 (\text{Asset growth}_{iT})$$

again subject to $3 \leq R_{iT} \leq 30$ [6]

where $26.751 + 3.734 * \beta_0$ equals the uniform amount, $3.734 * \beta_j$ is a pricing multiplier for the associated risk measure *j,* and *T* is the date of the report of condition corresponding to the end of the quarter for which the assessment rate is computed.

[6] *As stated above, R_{iT} is also subject to the minimum and maximum assessment rates applicable to established small institutions based upon their CAMELS composite ratings.*

By order of the Board of Directors.

Dated at Washington, DC, this 21st day of January, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

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