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

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AC50

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Investment Management; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA), through the FCA Board, issued a final rule amending its regulations governing investments held by institutions of the Farm Credit System, as well as related regulations. In accordance with the law, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session.

DATES: Under the authority of 12 U.S.C. 2252, the regulation amending 12 CFR part 615 published on November 5, 2012 (77 FR 66362) is effective December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Timothy T. Nerdahl, Senior Financial Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, Virginia 22102–5090, (952) 854–7151 extension 5035, TTY (952) 854–2239, or Jennifer A. Cohn, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION: The Farm Credit Administration (FCA), through the FCA Board, issued a final rule amending its regulations governing investments held by institutions of the Farm Credit System, as well as related regulations. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is December 31, 2012. (12 U.S.C. 2252(a)(9) and (10))

Dated: January 8, 2013.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2013–00551 Filed 1–11–13; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1245; Directorate Identifier 2012–NE–41–AD; Amendment 39–17279; AD 2012–24–09]

RIN 2120–AA64

Airworthiness Directives; Lycoming Engines and Continental Motors, Inc. Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting an airworthiness directive (AD) that published in the **Federal Register**. That AD applies to Lycoming Engines TSIO–540–AK1A, and Continental Motors, Inc. TSIO–360–MB, TSIO–360–SB, and TSIO–360–RB reciprocating engines, with certain Hartzell Engine Technologies (HET) turbochargers, model TA0411, part number 466642–0001; 466642–0002; 466642–0006; 466642–9001; 466642–9002; or 466642–9006, or with certain HET model TA0411 turbochargers overhauled or repaired since August 29, 2012. The Summary paragraph and the Applicability paragraph list an incorrect engine model for Lycoming Engines. This document corrects those errors. In all other respects, the original document remains the same.

DATES: This final rule is effective January 14, 2013. The effective date for AD 2012–24–09 (77 FR 72203, December 5, 2012) remains December 20, 2012.

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

FOR FURTHER INFORMATION CONTACT: Christopher Richards, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 E. Devon Ave., Des Plaines, IL 60018; phone: 847–294–7156; fax: 847–294–7834; email: *christopher.j.richards@faa.gov.*

SUPPLEMENTARY INFORMATION: Airworthiness Directive 2012–24–09, Amendment 39–17279 (77 FR 72203, December 5, 2012), currently requires removing the affected turbochargers from service before further flight.

As published, the Summary paragraph and the Applicability paragraph are incorrect.

No other part of the preamble or regulatory information has been changed; therefore, only the changed portion of the final rule is being published in the **Federal Register**.

The effective date of this AD remains December 20, 2012.

Correction of Non-Regulatory Text

In the **Federal Register** of December 5, 2012, AD 2012–24–09; Amendment 39–17279 is corrected as follows:

On page 72203, in the second column, on line 3 of the Summary, change Lycoming Engines TSIO–540–AK1A to ''Lycoming Engines TIO–540–AK1A.''

Correction of Regulatory Text

§ 39.13 [Corrected]

■ In the **Federal Register** of December 5, 2012, on page 72204, in the third column, the first sentence of paragraph (c) of AD 2012–24–09 is corrected to read as follows:

* * * * *

(c) This AD applies to Lycoming Engines TIO–540–AK1A, and Continental Motors, Inc. TSIO–360–MB, TSIO–360–SB, and TSIO–360–RB reciprocating engines with any of the following turbochargers installed:

* * * * *

Issued in Burlington, Massachusetts, on January 7, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–00525 Filed 1–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–1099]

RIN 1625–AA00

Safety Zone; Bridge Demolition Project; Indiana Harbor Canal, East Chicago, IN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Indiana Harbor Canal in East Chicago, Indiana. This safety zone is intended to restrict vessels from a portion of the Indiana Harbor Canal due to the demolition Project on the Cline Avenue Bridge. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the demolition project.

DATES: This rule is effective from 12:00 p.m. on January 1, 2013 until 12:00 a.m. on February 1, 2013. The Captain of the Port, Sector Lake Michigan, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcasts.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–1099 and are available online by going to *www.regulations.gov,* inserting USCG–2012–1099 in the ''Keyword'' box, and then clicking ''search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground floor, Room W12–140, 1200 New Jersey Avenue SE., Washington DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414–747–7148 or *Joseph.P.McCollum@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

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

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

B. Basis and Purpose

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

During the month of January, 2013 Walsh Construction Company will be conducting demolition on the West span of the Cline Avenue Bridge in East Chicago, IN. The Captain of the Port, Sector Lake Michigan, has determined that this demolition project will pose a significant risk to public safety and property. Such hazards include loss of life and property in the proximity of explosives, and collisions among vessels and contractors involved in the demolition project.

The Coast Guard established the same safety zone for October 27 and November 10, for November 3 and 10, for December 2 and 8, and once again for December 23, 2012. In November of 2012, the discovery of steel beams within the area of the bridge to be demolished caused a change of schedule in the demolition. On December 2, 2012 the Construction Company conducted demolition on the East span of the bridge as scheduled. However, during this demolition, the East span fell into an unexpected position which required unscheduled clean up and presented a potential danger to passing vessel traffic. On December 23, 2012, high winds halted demolition of the West Span. The U.S. Coast Guard considered the history of unexpected delays associated with this demolition project and the delicate nature of explosive work on a transportation structure.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port, Sector Lake Michigan, has determined that this temporary safety zone is necessary to ensure the safety of persons and vessels during the demolition project on the Cline Avenue Bridge. This rule is effective from 12:00 p.m. on January 1, 2013 until 12:00 a.m. on February 1, 2013. The Captain of the Port, Sector Lake Michigan, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcasts. The safety zone will encompass all waters of the Indiana Harbor Canal in the vicinity of the Cline Avenue Bridge at approximate position 41°39′4.3″ N and 87°27′54.3″ W (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be small and enforced for only 24 hours. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Indiana Harbor Canal during the month of January, 2013.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be effective, and thus subject to enforcement, for only a 24 hour period. The U.S. Coast Guard has been in close contact with major waterway users during the entire phase of this project and continues to keep stakeholders informed of waterway conditions and projected operational plans for this demolition project. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the enforcement of the zone, the Captain of the Port or his Representative will issue local Broadcast Notice to Mariners. The Captain of the Port, at his discretion, may suspend enforcement of the safety zone prior to the end of the enforcement period. Notice of this change will be provided to the public.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Unfunded Mandates Reform Act

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

7. Taking of Private Property

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

8. Civil Justice Reform

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

9. Protection of Children

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

10. Indian Tribal Governments

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

11. Energy Effects

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

12. Technical Standards

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

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and,

therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–1099 to read as follows:

§ 165.T09–1099 Safety Zone; Bridge Demolition Project, Indiana Harbor Canal, East Chicago, Indiana.

(a) Location. The safety zone will encompass all waters of the Indiana Harbor Canal in the vicinity of the Cline Avenue Bridge at approximate position 41°39′4.3″ N and 87°27′54.3″ W (NAD 83).

(b) Effective and Enforcement Period. This rule is effective from 12:00 p.m. on January 1, 2013 until 12:00 a.m. on February 1, 2013. The Captain of the Port, Sector Lake Michigan, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcasts.

(c) Regulations.

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

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

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

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Sector Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port, Sector Lake Michigan or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, Sector Lake Michigan, or his on-scene representative.

Dated: December 28, 2012.

J.W. Davenport,

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

[FR Doc. 2013–00514 Filed 1–11–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 84

[Docket No. CDC–2012–0009; NIOSH–258]

RIN 0920–AA38

Self-Contained Breathing Apparatus Remaining Service-Life Indicator Performance Requirements

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Final rule.

SUMMARY: On June 25, 2012, the Department of Health and Human Services (HHS) published a notice of proposed rulemaking proposing to update respirator approval standards in response to a petition to amend our regulations, current requirements for self-contained breathing apparatus (SCBA) remaining service-life indicators or warning devices. These indicators are built into a respirator to alert the user that the breathing air provided by the respirator is close to depletion. In this final rule, HHS responds to public comment on the proposed rule and revises the current standard, employed by the National Institute for Occupational Safety and Health (NIOSH) located within the Centers for Disease Control and Prevention (CDC), to allow greater flexibility in the setting of the indicator alarm to ensure that the alarm more effectively meets the different worker protection needs of different work operations. This final rule sets a minimum alarm point at 25 percent of the rated service time and allows the manufacturer to offer remaining service life set point at a higher value or values appropriate to the purchaser's use scenario.

DATES: This final rule is effective February 13, 2013.

FOR FURTHER INFORMATION CONTACT: Jonathan Szalajda, NIOSH National Personal Protective Technology Laboratory (NPPTL), P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236, (412) 386–5200 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The preamble to this final rule is organized as follows:

I. Public Participation
II. Background
III. Summary of Final Rule and Response to Public Comments
IV. Regulatory Assessment Requirements
A. Executive Orders 12866 and 13563
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. Small Business Regulatory Enforcement Fairness Act
E. Unfunded Mandates Reform Act of 1995
F. Executive Order 12988 (Civil Justice)
G. Executive Order 13132 (Federalism)
H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)
I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)
J. Plain Writing Act of 2010
V. Final Rule

I. Public Participation

Interested persons or organizations were invited to participate in this rulemaking by submitting written views, arguments, recommendations, and data. Comments were invited on any topic related to this proposal, but comments were specifically solicited regarding whether: (1) 25 percent of the rated service time of the respirator is an appropriate default setting for the indicator to alarm; (2) the rule should specify an upper limit that would require that the indicator be set to alarm no earlier than a set amount, such as 50 percent of rated service time; and (3) there are possible emergency or rescue scenarios for which one would want an indicator to alarm at 50 percent or more of the rated service time?

HHS received 8 submissions from the public in response to this rulemaking. Commenters represented local fire departments, manufacturers of self-contained breathing apparatus (SCBA) used in the fire service, and a firefighters' union. A summary of comments and the HHS response are found in Section III, below.

II. Background

In 2003, NIOSH received a petition from David Bernzweig of the Columbus (OH) Professional Firefighters International Association of Fire Fighters (IAFF) Local 67 requesting that the agency initiate rulemaking to amend 42 CFR 84.83(f).[1] The current rule requires that the self-contained breathing apparatus (SCBA) service-life indicator (also known in the firefighter community as an end-of-service-time indicator (EOSTI), or a low-air alarm) give an alarm within the 20 to 25 percent range. Stakeholders in agreement with Mr. Bernzweig requested that HHS eliminate the lower value (20 percent) and require the indicator to alarm no later than at 25 percent of rated service time. NIOSH considered the request and facilitated discussion among stakeholders by holding a public meeting to discuss underlying issues and technical matters on December 2, 2008, in Pittsburgh, Pennsylvania (73 FR 65860, November 5, 2008).[2]

The National Fire Protection Association (NFPA), which sets standards for personal protective equipment used in the fire service, initiated an effort in 2008 to develop consensus on the matter and recently decided to amend NFPA 1981: Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services [3] to require that the indicator alarm at 33 percent.

For reasons discussed in the notice of proposed rulemaking published in the **Federal Register** on June 25, 2012 (77 FR 37862), HHS finds that amending § 84.83(f) to allow greater latitude with regard to setting the indicator alarm would not reduce the amount of protection afforded to firefighters and other SCBA users. In fact, HHS has determined that specifying a minimum setting of 25 percent and allowing manufacturers to offer different alarm settings more suited to purchasers' use scenarios will result in a more meaningful alarm that may offer greater protection for users.

III. Summary of Final Rule and Response to Public Comments

The amendment to 42 CFR 84.83(f) establishes that the low-air indicator must activate at a minimum setting of 25 percent of the SCBA's rated service time. If a purchaser has determined that an earlier alarm will benefit the specific occupational purpose for which the respirator is to be used, the purchaser may request that the manufacturer offer a remaining service-life indicator alarm set-point at a higher value (or values) appropriate to the purchaser's use scenario. If the manufacturer chooses to offer a respirator with a different set-point (at no less than 25 percent of the SCBA's rated service time), the modified respirator must be approved by NIOSH. Purchasers may also have the indicator setting modified for already fielded SCBA units by an authorized representative of the manufacturer, provided that the respirator model has received a new NIOSH approval specifying the new alarm set-point.

The final rule also codifies a long-standing NIOSH policy requiring the indicator for demand and pressure-demand open-circuit (OC)SCBA to alarm continuously until the respirator's breathing air supply is depleted.

Changes to the proposed rule text are made in response to public comment, to clarify our overall intent; to specify that the requirement for continuous alarming is intended for open-circuit, demand and pressure demand units only; and to require that manufacturers identify the indicator setting on each unit. Specific comments and responses are discussed below. The rule text is also amended slightly to better comply with Federal plain language requirements.

Comment: Two commenters were fully supportive of the rulemaking. One commenter stated that requiring fire service respirators to alarm when breathing air reaches 25 percent ''does not serve the needs or interests of today's fire service.'' According to the commenter, ''[t]here is no safety purpose served by not allowing an earlier set point for the EOSTI. An earlier set point would allow for a greater margin of safety for the end user. Not having an earlier set point would continue to place firefighters at risk by not having an adequate air reserve when the EOSTI activates.'' The commenter further agreed that the alarm should not be field-adjustable and that purchasers should be able to specify the setting at the time of purchase or service.

HHS response: We thank these commenters for their response.

Comment: We received two comments that appeared to confuse the standard proposed by HHS (a default of 25 percent unless the purchaser requests a different, higher, value) with the standard being developed by NFPA (alarm activation at 33 percent). One commenter expressed approval for giving purchasers the ability to set the remaining service-life indicator alarm between 33 percent and 50 percent. The other commenter expressed disapproval for changing the indicator to activate at 33 percent rather than 25 percent.

HHS response: The amended standard is responsive to the various concerns. Manufacturers are not required to modify existing approvals to comply with this rule; they may continue to market and sell respirators approved under the current standard, indefinitely. If, in response to purchaser needs, the manufacturer chooses to market and sell respirators that activate at the 25 percent minimum requirement or earlier, the manufacturer must obtain a new or revised NIOSH approval.

Comment: One commenter supported the inclusion of a 50 percent upper limit for the alarm set-point; other commenters neither supported nor opposed the upper limit.

HHS response: We did not receive justification for applying a 50 percent upper limit. It is conceivable that some use scenarios might warrant an earlier alarm point. Accordingly, we have not revised the proposal in response to the comment.

Comment: One commenter suggested that allowing individual fire departments to determine their own remaining service-life indicator setting may cause ''incident related'' problems. The commenter further stated that there was no discussion in the notice of proposed rulemaking about the use of the heads-up-display for monitoring breathing air depletion or the reliance on teamwork to maintain situational awareness.

HHS response: This comment raises training issues regarding the users' response to an alarm being activated. We understand that a change in the mechanical alarm setting may necessitate a change in training protocols. However, training for the proper use of these respirators is outside the scope of this rulemaking.

Comment: One commenter agreed with the intent of the proposed rule text but suggested a number of edits. The commenter stated that the proposed rule text did not account for the distinction between respirator models whose alarms are designed either to activate electronically or activate using the device's compressed air. According to

[1] National Institute for Occupational Safety and Health, National Personal Protective Technology Laboratory, transcript of public meeting held December 2, 2008. Available at *http://www.cdc.gov/niosh/docket/archive/pdfs/NIOSH-034-A/0034-A-120208-Transcript.pdf.* Last accessed October 25, 2011.

[2] The official transcript of this meeting as well as public comments are available on NIOSH Docket 34–A (See *http://www.cdc.gov/niosh/docket/archive/docket034A.html*). NIOSH had previously collected public comments on remaining service-life indicators in 2004 (See NIOSH Docket 34, *http://www.cdc.gov/niosh/docket/archive/docket034.html*).

[3] NFPA 1981: Standard on open-circuit self-contained breathing apparatus (SCBA) for emergency services, Chapter 4. 2007 Edition.

the commenter, ''[i]f the EOSTI is activated electrically then the alarm can sound continuously until the depletion of the breathing air supply. If the EOSTI is activated using the compressed air in the system then at some point the alarm sound will decrease in decibels and even cease to sound before the breathing air is depleted.'' The commenter suggested adding the text ''if electrically controlled or to a pressure of 10 bar (145 psi) if operated by the compressed air in the system'' to the text in § 84.83(f).

HHS response: The purpose of the alarm is to advise the user that the system is depleting its air supply. While the rule text does not specifically identify models that alarm either electronically or using compressed air, we intend for the indicator to alarm until the air supply runs out in order to warn the user of the situation so they can take appropriate action for their setting. That the indicator may not continue to alarm until the air supply is absolutely depleted is understood and is evaluated in NIOSH testing (see NIOSH standard testing procedure RCT–ASR–STP–0124, Determination of Remaining Service-Life Indicator—Open-Circuit, Demand and Pressure-Demand, Self-Contained Breathing Apparatus, at *http://www.cdc.gov/niosh/npptl/stps/pdfs/RCT-ASR-0124.pdf,* which will be updated to comport with this rulemaking).

Comment: Another comment referred to long duration closed-circuit breathing apparatus (CCBA), which are also regulated under Subpart H in Part 84. The commenter stated that ''it can be interpreted that even long duration CCBA would also need to meet the proposed new requirements. For example, this would require that a CCBA with a rated service time of 4 hours would need to have the EOSTI alarm continuously for 1 hour and this would be annoying to the users and may affect their activities in a negative manner.'' The commenter accordingly suggested that the text in § 84.83(f) should address only open-circuit devices, and offers a new § 84.83(g) which suggests that, for closed-circuit devices, the indicator should alarm for a limited time period when the reserve capacity of the apparatus is reached, and a continuous alarm when a prescribed pressure is reached.

HHS response: HHS did not intend for the continuous alarm requirement to pertain to long-duration closed-circuit devices. However, the open-circuit demand and pressure-demand devices are expected to alarm continuously once activated. Accordingly, we have amended the final rule text to require that only open-circuit demand and pressure-demand (as described in 42 CFR 84.70(a)(2)(i) and 42 CFR 84.70(a)(2)(ii)) respirators need to alarm continuously.

Comment: One commenter suggested that only purchasers who are required by a third-party standard to request an alarm set-point other than the default 25 percent be allowed to request a different alarm setting.

HHS response: We do not agree that the 25 percent default value should *only* be raised when prescribed by a third party standard. While § 84.83(f) is amended in response to a petition on behalf of the U.S. fire service, we note that OC–SCBAs are used by industries and in occupational settings other than firefighting. We intend to maintain flexibility with regard to the alarm setting requirement to avoid further limitations on the ability of purchasers to request an alarm set-point appropriate to their use scenarios and the ability of manufacturers to offer such respirators.

Comment: One commenter stated that the terms 'default' and 'adjusted' used in the rule summary are vague and ''cause policy or test requirement issues.'' The commenter recommended that the word 'default' be removed because it ''implies the product must meet the minimum setting and shall be capable of fulfilling a higher setting. We believe this is not the intent of the proposed changes and can lead to unnecessarily design-restrictive interpretations.'' The commenter requested that, in addition to adjustable designs, the rule should ''allow flexibility to permit others such as dedicated set point designs.'' The commenter suggested that the rule text should be modified to state: ''Each remaining service-life indicator or warning device shall give an alarm when the remaining service life of the apparatus is reduced to the manufacturers' specified range and shall alarm continuously until the breathing air supply approaches depletion. The manufacturer can specify either a set point of 25 or 33 percent of its rated service time in response to the user's specific request.''

HHS response: The terms 'default' and 'adjusted' do not occur in the rule text; however, HHS does intend for the product to be able to meet the 25 percent value as the minimum setting and/or any higher setting requested by the purchaser. During performance testing for approval, NIOSH will test the alarm setting identified by the manufacturer in its request for approval of the respirator system. If the manufacturer does not identify an alarm setting, the indicator will be tested to show that it activates at the value of 25 percent of its rated service life.

The rule does not specify or restrict how manufacturers must comply with its provisions; manufacturers who find it in their best interest may offer specific set-points. Manufacturers are not required to produce a device that is adjustable to different users' needs, and can continue to market and sell SCBA models approved by NIOSH prior to the effective date of this rule. However, should the manufacturer wish to modify such a model for any reason, including a change to their service-life indicator set point, the manufacturer is required to apply to NIOSH for a new approval.

Additionally, in evaluating this comment, HHS determined that the user should be able to readily identify a respirator's alarm setting to distinguish models from one another. Models that meet the revised performance requirements of this rule should have labels and/or markings that identify the alarm setting for that particular model. At the discretion of the manufacturer, these markings could be addressed as part of the cautions and limitations associated with these devices, or as an additional label. In accordance with this determination, the final rule text is amended to address labels and/or markings.

Comment: One commenter recommended that 42 CFR 84.82 ''include an additional section for a 33 percent'' remaining service-life indicator. According to the commenter, ''[a]llowing manufacturers the ability to utilize the same gauge for both alarm set points will reduce cost and complexity within the market.''

HHS response: HHS has determined that the provisions in 42 CFR 84.82 are sufficiently flexible to allow manufacturers to produce gauges that accurately indicate the amount of breathing air contained in a unit.

Comment: HHS received one comment on the E.O. 12866 and E.O. 13563 analysis in Section IV.A., below. According to the commenter, ''[i]t is important to realize that additional costs for multiple or adjustable set points are inevitable. In addition to added design and documentation costs, options introduced into production will increase assembly and inspection times. Inventory costs increase with optional material warehousing.* * *. While they may be independent, other pressure gauges and electronic systems must be designed to correlate with the RSLI and the system(s) must be thoroughly verified. Differing RSLI settings may require differing gauge faces and electronics/programming designs to

maintain correlation. For all these reasons, costs will increase.''

HHS response: The commenter misunderstands the requirement. HHS does not require manufacturers to produce products with new features allowing for adjustment of the service life indicator alarm set point, or for various product models with different set points. Any manufacturer can choose to meet product demand by either manufacturing products with fixed set points or by manufacturing products with manufacturer-adjustable set points. Alternatively, the manufacturer can choose to take no action, and continue to sell respirators under existing NIOSH approvals. HHS is reducing the longstanding constraint on these product designs for a single alarm set point. Accordingly, we continue to conclude that there are no costs associated with this rulemaking, and solely benefits in terms of greater flexibility for manufacturers to meet the diverse needs of their customers.

IV. Regulatory Assessment Requirements

A. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

This final rule is not being treated as a ''significant'' action under E.O. 12866. It modifies the settings for an indicator required by current regulation, as well as codifies a long-standing policy of requiring that the OC demand and pressure demand SCBA indicator alarm continuously once it has begun. The current rule requires that a remaining service-life indicator activate when the breathing air provided by an OC demand and pressure demand SCBA reaches between 20 and 25 percent of its rated limit. The final rule replaces the range with a default value of 25 percent, and allows manufacturers to offer indicator set-point values at a higher limit than 25 percent of remaining breathing air.

All approved OC demand and pressure demand SCBA models have a remaining service-life indicator for which alarm limits are set during manufacturing. Allowing respirator manufacturers to offer a respirator with an earlier activation set-point value will ensure that the alarm more effectively meets the varying worker protection needs of different work operations.

Although HHS determined that there are no costs and only benefits associated with this rulemaking, we received one comment on this economic analysis, summarized above. As discussed above, HHS continues to conclude that there are no costs associated with this rulemaking, and solely benefits in terms of greater flexibility for manufacturers to meet the diverse needs of their customers.

The rule does not interfere with State, local, or tribal governments in the exercise of their governmental functions.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations. As discussed above, all OC demand and pressure-demand SCBA models are equipped with a remaining service-life indicator that will not require additional expenditure of resources to set at the activation limit. This final rule allows small organizations such as local fire departments to request an earlier indicator activation set-point when purchasing new devices from the manufacturer. The Secretary of HHS has certified to the Chief Counsel, Office of Advocacy of the Small Business Administration, that this rule does not have a significant impact on a substantial number of small entities. Accordingly, no regulatory impact analysis is required.

C. Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* requires an agency to invite public comment on and to obtain OMB approval of any regulation that requires 10 or more people to report information to the agency or to keep certain records. This rule does not contain any information collection requirements; thus HHS has determined that the PRA does not apply to this rule.

D. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), HHS will report to Congress the promulgation of a final rule, once it is developed, prior to its taking effect. The report will state that HHS has concluded that the rule is not a ''major rule'' because it is not likely to result in an annual effect on the economy of $100 million or more.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' For purposes of the Unfunded Mandates Reform Act, this final rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by state, local or tribal governments in the aggregate, or by the private sector, adjusted annually for inflation. For 2012, the inflation-adjusted threshold is $139 million.

F. Executive Order 12988 (Civil Justice)

This final rule has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform, and will not unduly burden the Federal court system. The amendment to an existing respirator approval standard will apply uniformly to all applicants. This final rule has been reviewed carefully to eliminate drafting errors and ambiguities.

G. Executive Order 13132 (Federalism)

HHS has reviewed this final rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The 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.''

H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this final rule on children. HHS has determined that the final rule will have no effect on children.

I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, HHS has evaluated the effects of this final rule on energy supply, distribution, or use and has determined that the rule will not have a significant adverse effect.

J. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the final rule consistent with the Federal Plain Writing Act guidelines. HHS did not receive any public comments on this matter.

V. Final Rule

List of Subjects in 42 CFR Part 84

Occupational safety and health, Personal protective equipment, Respirators.

Text of the Rule

For the reasons discussed in the preamble, the Department of Health and Human Services amends 42 CFR part 84 as follows:

PART 84—APPROVAL OF RESPIRATORY PROTECTIVE DEVICES

■ 1. The authority citation for part 84 continues to read as follows:

Authority: 29 U.S.C. 577a, 651 *et seq.,* and 657(g); 30 U.S.C. 3, 5, 7, 811, 842(h), 844.

■ 2. In § 84.83, revise paragraph (f) to read as follows:

§ 84.83 Timers; elapsed time indicators; remaining service life indicators; minimum requirements.

* * * * *

(f) Each remaining service-life indicator or warning device must give an alarm when the remaining service life is reduced to a minimum of 25 percent of its rated service time or any higher minimum percent value or values as specified in the approval. Open-circuit demand and pressure-demand respirators must alarm continuously until depletion of the breathing air supply. The percent value set for indicator activation must be identified by labels and/or markings on each respirator unit.

Dated: December 28, 2012.

Kathleen Sebelius,

Secretary.

[FR Doc. 2013–00371 Filed 1–11–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–8265]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register.**

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this

rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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

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

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

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

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region I				
Connecticut:				
Clinton, Town of, Middlesex County	090061	March 2, 1973, Emerg; September 30, 1980, Reg; February 6, 2013, Susp.	Feb. 6, 2013	Feb. 6, 2013.
Essex, Town of, Middlesex County	090065	February 9, 1973, Emerg; July 16, 1980, Reg; February 6, 2013, Susp.	do*	Do.
Fenwick, Borough of, Middlesex County	090187	July 10, 1979, Emerg; July 10, 1979, Reg; February 6, 2013, Susp.	do	Do.
Killingworth, Town of, Middlesex County	090174	July 15, 1975, Emerg; March 15, 1982, Reg; February 6, 2013, Susp.	do	Do.
Old Saybrook, Town of, Middlesex County.	090069	March 31, 1972, Emerg; July 3, 1978, Reg; February 6, 2013, Susp.	do	Do.
Westbrook, Town of, Middlesex County	090070	March 9, 1973, Emerg; December 1, 1982, Reg; February 6, 2013, Susp.	do	Do.
Region III				
West Virginia:				
Clay County, Unincorporated Areas.	540022	July 24, 1975, Emerg; March 18, 1991, Reg; February 6, 2013, Susp.	do	Do.
Clay, Town of, Clay County	540023	March 25, 1975, Emerg; March 18, 1991, Reg; February 6, 2013, Susp.	do	Do.
Region IV				
Georgia:				
Grantville, City of, Coweta County	130443	N/A, Emerg; June 26, 2006, Reg; February 6, 2013, Susp.	do	Do.
Moreland, Town of, Coweta County	130300	December 16, 1976, Emerg; September 27, 1985, Reg; February 6, 2013, Susp.	do	Do.
Newnan, City of, Coweta County	130062	May 12, 1975, Emerg; November 15, 1978, Reg; February 6, 2013, Susp.	do	Do.
Senoia, City of, Coweta County	130301	December 15, 1986, Emerg; July 1, 1987, Reg; February 6, 2013, Susp.	do	Do.
Turin, Town of, Coweta County	130475	N/A, Emerg; June 26, 2006, Reg; February 6, 2013, Susp.	do	Do.
South Carolina:				
Darlington, City of, Darlington County	450061	April 29, 1975, Emerg; July 1, 1991, Reg; February 6, 2013, Susp.	do	Do.
Darlington County, Unincorporated Areas.	450060	May 15, 1989, Emerg; June 3, 1991, Reg; February 6, 2013, Susp.	do	Do.
Hartsville, City of, Darlington County	450062	June 20, 1975, Emerg; September 1, 1987, Reg; February 6, 2013, Susp.	do	Do.
Lamar, Town of, Darlington County	450063	June 16, 1995, Emerg; February 1, 2002, Reg; February 6, 2013, Susp.	do	Do.
Tennessee:				
Arlington, Township of, Shelby County	470262	September 10, 1981, Emerg; September 10, 1981, Reg; February 6, 2013, Susp.	do	Do.
Bartlett, City of, Shelby County	470175	December 28, 1973, Emerg; June 15, 1981, Reg; February 6, 2013, Susp.	do	Do.
Collierville, Town of, Shelby County	470263	September 29, 1975, Emerg; September 30, 1981, Reg; February 6, 2013, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Germantown, City of, Shelby County	470353	October 1, 1975, Emerg; January 20, 1982, Reg; February 6, 2013, Susp.	.....do	Do.
Lakeland, City of, Shelby County	470402	N/A, Emerg; June 20, 2002, Reg; February 6, 2013, Susp.	.....do	Do.
Memphis, City of, Shelby County	470177	August 23, 1974, Emerg; December 1, 1982, Reg; February 6, 2013, Susp.	.....do	Do.
Millington, City of, Shelby County	470178	November 1, 1974, Emerg; March 16, 1981, Reg; February 6, 2013, Susp.	.....do	Do.
Shelby County, Unincorporated Areas	470214	May 15, 1974, Emerg; December 1, 1982, Reg; February 6, 2013, Susp.	.....do	Do.
Region V				
Indiana:				
Attica, City of, Fountain County	180065	July 28, 1975, Emerg; September 1, 1988, Reg; February 6, 2013, Susp.	.....do	Do.
Covington, City of, Fountain County	180066	July 1, 1975, Emerg; September 1, 1988, Reg; February 6, 2013, Susp.	.....do	Do.
Fountain County, Unincorporated Areas	180064	December 21, 1978, Emerg; November 1, 2001, Reg; February 6, 2013, Susp.	.....do	Do.
Hillsboro, Town of, Fountain County	180328	June 29, 1976, Emerg; June 8, 1984, Reg; February 6, 2013, Susp.	.....do	Do.
Region VII				
Iowa:				
McIntire, City of, Mitchell County	190458	December 8, 2000, Emerg; May 1, 2011, Reg; February 6, 2013, Susp.	.....do	Do.
Mitchell County, Unincorporated Areas	190892	January 8, 1999, Emerg; March 1, 2000, Reg; February 6, 2013, Susp.	.....do	Do.
Stacyville, City of, Mitchell County	190461	February 18, 2011, Emerg; N/A, Reg; February 6, 2013, Susp.	.....do	Do.
Region VIII				
Colorado:				
Berthoud, Town of, Larimer County	080296	October 28, 1977, Emerg; May 26, 1978, Reg; February 6, 2013, Susp.	.....do	Do.
Larimer County, Unincorporated Areas	080101	July 2, 1974, Emerg; April 2, 1979, Reg; February 6, 2013, Susp.	.....do	Do.
Loveland, City of, Larimer County	080103	September 18, 1975, Emerg; September 1, 1978, Reg; February 6, 2013, Susp.	.....do	Do.
Montana:				
Lake County, Unincorporated Areas	300155	April 19, 1978, Emerg; December 17, 1987, Reg; February 6, 2013, Susp.	.....do	Do.
Polson, City of, Lake County	300119	N/A, Emerg; January 15, 1999, Reg; February 6, 2013, Susp.	.....do	Do.
Ronan, City of, Lake County	300122	May 16, 1986, Emerg; December 17, 1987, Reg; February 6, 2013, Susp.	.....do	Do.
Saint Ignatius, Town of, Lake County	300123	N/A, Emerg; May 8, 1997, Reg; February 6, 2013, Susp.	.....do	Do.

*-do- =Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: January 2, 2013.

David L. Miller,

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

[FR Doc. 2013–00526 Filed 1–11–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–8263]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information

identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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

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

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

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

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region V				
Michigan:				
Edenville, Township of, Midland County	260850	N/A, Emerg; June 4, 2009, Reg; Jan.uary 16, 2013, Susp.	Jan. 16, 2013 ...	Jan. 16, 2013.
Greendale, Township of, Midland County.	260870	March 13, 2009, Emerg; May 4, 2009, Reg; January 16, 2013, Susp.	.....do	Do.
Jerome, Township of, Midland County ..	260853	October 20, 2008, Emerg; May 4, 2009, Reg; January 16, 2013, Susp.	.....do	Do.
Lee, Township of, Midland County	260855	N/A, Emerg; December 30, 2009, Reg; January 16, 2013, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Lincoln, Township of, Midland County ..	260856	N/A, Emerg; May 24, 2012, Reg; January 16, 2013, Susp.	.....do	Do.
Sanford, Village of, Midland County	260859	N/A, Emerg; August 11, 2009, Reg; January 16, 2013, Susp.	.....do	Do.
Region VII				
Iowa:				
Riverside, City of, Washington County	190648	May 6, 1981, Emerg; August 1, 1986, Reg; January 16, 2013, Susp.	.....do	Do.
Wellman, City of, Washington County ..	190276	September 18, 1995, Emerg; October 6, 2000, Reg; January 16, 2013, Susp.	.....do	Do.
Missouri:				
Marshall, City of, Saline County	290403	March 24, 1975, Emerg; November 4, 1988, Reg; January 16, 2013, Susp.	.....do	Do.
Saline County, Unincorporated Areas ...	290834	May 1, 1984, Emerg; April 1, 1989, Reg; January 16, 2013, Susp.	.....do	Do.
Slater, City of, Saline County	290406	July 22, 1975, Emerg; September 10, 1984, Reg; January 16, 2013, Susp.	.....do	Do.

*-do- =Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: December 21, 2012.

David L. Miller,

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

[FR Doc. 2013–00502 Filed 1–11–13; 8:45 am]

BILLING CODE 9110–12–P

Proposed Rules

Federal Register
Vol. 78, No. 9
Monday, January 14, 2013

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

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580–AB13

Fees for Official Inspection and Official Weighing Services Under the United States Grain Standards Act (USGSA)

AGENCY: Grain Inspection Packers and Stockyards Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture (USDA), Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing several changes to the fee schedule for official inspection and weighing services performed under the United States Grain Standards Act (USGSA), as amended. The USGSA provides GIPSA's Federal Grain Inspection Service (FGIS) with the authority to charge and collect reasonable fees to cover the cost of performing official services. These fees also cover the costs associated with managing the program.

After a financial review of GIPSA's Fees for Official Inspection and Weighing Services, including a comparison of the costs and revenues associated with official inspection and weighing services, GIPSA is proposing to revise local and national tonnage fees (assessed in addition to all other applicable fees) for all export grain shipments serviced by GIPSA field offices.

DATES: Comments must be received on or before February 13, 2013.

ADDRESSES: You may submit your written or electronic comments on this proposed rule to:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail, hand deliver, or courier to:* Dexter Thomas, GIPSA, USDA, 1400 Independence Avenue SW. room 2526–S, Washington, DC 20250–3642.
- *Fax:* (202) 690–2173.

Instructions: All comments will become a matter of public record and should be identified as ''GIPSA inspection and weighing fees proposed rule comments,'' making reference to the date and page number of this issue of the **Federal Register**. All comments received become the property of the Federal government, are made a part of the public record, and will generally be posted to *www.regulations.gov* without change. If you send a comment directly to GIPSA without going through *www.regulations.gov*, or you submit a comment to GIPSA via fax, the originating address or telephone number will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet. Also, all personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

Electronic submissions should avoid the use of special characters, avoid any form of encryption, and be free of any defects or viruses, since these may prevent GIPSA from being able to read and understand, and thus consider your comment.

All comments will also be available for public inspection at the above address during regular business hours (7 CFR 1.27(b)). Please call the GIPSA Management and Budget Services staff (202) 720–6529 for an appointment to view the comments.

FOR FURTHER INFORMATION CONTACT: Eric J. Jabs, USDA–GIPSA–FGIS–QACD, 10383 N Ambassador Drive, Kansas City, Missouri 64153; Telephone: (816) 659–8408; Fax Number: (816) 872–1257; Email: *Eric.J.Jabs@usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

The USGSA (7 U.S.C. 71–87k) authorizes GIPSA to provide official grain inspection and weighing services, and to charge and collect reasonable fees for performing these services. The fees collected are to cover, as nearly as practicable, GIPSA's costs for performing these services, including associated administrative and supervisory costs.

The fees for official inspection and weighing services were last amended on May 13, 2004, and became effective on June 14, 2004 (69 FR 26476). After considering several alternatives in 2004, GIPSA adopted a fee structure to cover program-related costs based on a projected average tonnage of export grain inspected and/or weighed. This fee structure was adopted so that local export facilities financially support their field office administrative costs by evaluating field offices independently and encouraging FGIS customers to work directly with each field office to maximize grain handling efficiencies while raising the awareness of location program costs. In addition, national costs are collected regardless of where the grain is exported by assessing an identical fee to each field office to cover every ton of export grain inspected and/or weighed. This action was also taken to foster the further development and implementation of grain handling efficiencies by grain companies, to reduce the cost of GIPSA official grain inspection and weighing services, and to make GIPSA program costs more transparent to the grain industry.

When GIPSA established the current fee structure in 2004, GIPSA developed a fee rate to collect sufficient revenue to immediately cover operating expenses, while striving to create an operating reserve by fiscal year 2010. This fee structure was designed to collect sufficient revenue through fiscal year 2007 to achieve an average $1,000,000 balance annually. When GIPSA established the tonnage fees, certain assumptions were made to establish those fees, including the historic volume of grain moving through U.S. export facilities, and export projections. At the time, GIPSA assumed that the inspection volume would be based on 80 million metric tons (MMT) of grain exports inspected and/or weighed per year. The inspection volume, however, has fallen well short of the 80 MMT baseline, resulting in a revenue shortfall, precluding the maintenance of an operating reserve. For fiscal years 2006 to 2011, GIPSA inspected an average of 78.0 MMT of export grain. However, in fiscal year 2012, GIPSA only inspected 64.2 MMT, and expects to inspect 59.8 MMT during fiscal year

2013 and an average of 65.0 MMT for fiscal years 2014 to 2017.

GIPSA regularly reviews its user-fee programs to determine if the fees adequately cover the costs of program delivery. While GIPSA continuously seeks to reduce its operating costs, GIPSA has determined that the existing fee structure will not generate sufficient revenue to cover program costs through fiscal year 2017.

In fiscal year 2009, GIPSA's official inspection and weighing services program revenue was $31.2 million with program costs of $33.3 million, resulting in a $2.1 million program deficit. In fiscal year 2010, GIPSA revenue was $36.9 million with costs of $35.5 million, resulting in a $1.4 million margin. In fiscal year 2011, GIPSA revenue was $37.7 million with costs of $36.6 million, resulting in a $1.1 million margin. In fiscal year 2012, revenue is projected at $28.7 million and costs at $35.1 million, resulting in a projected $6.4 million program deficit. Program costs for fiscal years 2013 to 2017 are projected at $35.1 million. The costs include employee salaries and benefits including estimated annual cost of living adjustments, and future costs to replace and maintain aging program equipment in GIPSA offices. These fees also cover GIPSA's administrative and supervisory costs for the performance of GIPSA's official inspection and weighing services, including personnel compensation and benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment. Given the above discussion, GIPSA believes that the current fee structure will not fully fund the delivery of GIPSA's official inspection and weighing services in future fiscal years and will result in program deficits.

After reviewing the fees for official inspection and weighing services, including a comparison of the costs and revenue associated with official inspection and weighing services, and assessing how GIPSA accounts for workers compensation costs at the local and national levels, GIPSA proposes to change local and national tonnage fees (assessed in addition to all other applicable fees) for all export grain shipments serviced by GIPSA field offices. GIPSA proposes to increase local tonnage fees in fiscal year 2013 for 1) League City, Texas from $0.115 to $0.125 per metric ton; 2) New Orleans, Louisiana from $0.015 to $0.033 per metric ton; 3) Portland, Oregon from $0.084 to $0.124 per metric ton and; 4) Toledo, Ohio from $0.132 to $0.233 per metric ton.

GIPSA proposes to increase the national tonnage fee approximately 5 percent in fiscal year 2013 from $0.052 to $0.055 per metric ton of export grain inspected and/or weighed and approximately 2 percent per year for fiscal years 2014 to 2017. In addition, workers compensation costs would be shifted from the national to the local level in order to fully reflect where those program costs originate. In response to the Grain Inspection Advisory Committee resolution in November 2010, stating that GIPSA should establish an equitable tonnage fee for all export tonnage utilizing the official system, GIPSA would also begin charging the national tonnage fee of $0.055 per metric ton on export grain inspected and/or weighed (excluding land carrier shipments to Canada and Mexico) from delegated States and designated agencies. Currently, delegated States and designated agencies pay only a supervision fee of $0.011 per metric ton on export grain officially inspected and/or weighed as found in the current fee structure (see Schedule C of § 800.71 of the USGSA regulations).

GIPSA would also revise the fee structure for official inspection and weighing services performed in Canada, which currently appear in Schedule B of § 800.71 of the USGSA regulations. As a result, the separate unit fees for official inspection and weighing services performed in Canada would be changed to the prevailing U.S. non-contract rate, plus the prevailing Toledo field office tonnage fee, plus the actual cost of travel. GIPSA would further replace the ''Vomitoxin Qualitative'' and ''Vomitoxin Quantitative'' fees with one fee, ''All other Mycotoxins,'' in order to simplify the fee schedule for the testing of mycotoxins, other than aflatoxin. GIPSA also created separate fees for applicants that provide test kits for aflatoxin and all other mycotoxin testing. The existing fee structure in Schedule B would be deleted and the existing Schedule C fee structure would become Schedule B.

While GIPSA's proposed fee increase in fiscal year 2013 is projected to increase program revenue in fiscal year 2013, the proposed fee increase would not provide sufficient revenue through fiscal year 2017. As stated previously, GIPSA believes that an initial increase in fees followed by annual incremental increases is the appropriate course to mitigate the effects that a larger one-time fee increase would have on our customers. GIPSA's financial projections indicate that implementing the proposed fee increase would allow the official inspection and weighing services to recover its costs and build an operating reserve.

Fees for foreign travel would be changed from the current daily rate of $510.00 to the established hourly fee for special projects, plus the actual cost of travel, per diem, and related expenditures. All remaining fees (except fees for FGIS supervision of domestic official inspection and weighing services, including land carrier shipments to Canada and Mexico, performed by delegated States and/or designated agencies) would be increased approximately 5 percent for fiscal year 2013 and approximately 2 percent for fiscal years 2014 to 2017 to cover projected costs.

Tables 1, 2, and 3 below compare current fees and charges found in Schedule A of § 800.71(a) of the regulations under the USGSA (7 CFR 800.71(a)) with fee increases proposed to take effect on May 1, 2013; October 1, 2013; October 1, 2014, October 1, 2015; and October 1, 2016. Program fees in Table 1 show the combined national and local tonnage fee for field offices and the national tonnage fee for delegated states and designated agencies.

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY

Service	Service description	Current fees and charges	Proposed fees and charges FY 2013	Proposed fees and charges FY 2014	Proposed fees and charges FY 2015	Proposed fees and charges FY 2016	Proposed fees and charges FY 2017
Hourly Rates							
One-Year Contract ..	Monday–Friday (6 a.m. to 6 p.m.)	$36.00/hour	$37.80/hour	$38.60/hour	$39.40/hour	$40.20/hour	$41.10/hour
	Monday–Friday (6 p.m. to 6 a.m.)	$37.60/hour	$39.50/hour	$40.30/hour	$41.20/hour	$42.10/hour	$43.00/hour
	Saturday, Sunday, overtime	$43.00/hour	$45.20/hour	$46.20/hour	$47.20/hour	$48.20/hour	$49.20/hour
	Holiday	$64.00/hour	$67.20/hour	$68.60/hour	$70.00/hour	$71.40/hour	$72.90/hour
Non-Contract	Monday–Friday (6 a.m. to 6 p.m.)	$64.00/hour	$67.20/hour	$68.60/hour	$70.00/hour	$71.40/hour	$72.90/hour
	Monday–Friday (6 p.m. to 6 a.m.)	$64.00/hour	$67.20/hour	$68.60/hour	$70.00/hour	$71.40/hour	$72.90/hour

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY—Continued

Service	Service description	Current fees and charges	Proposed fees and charges FY 2013	Proposed fees and charges FY 2014	Proposed fees and charges FY 2015	Proposed fees and charges FY 2016	Proposed fees and charges FY 2017
	Saturday, Sunday, overtime	$64.00/hour	$67.20/hour	$68.60/hour	$70.00/hour	$71.40/hour	$72.90/hour
	Holiday	$64.00/hour	$67.20/hour	$68.60/hour	$70.00/hour	$71.40/hour	$72.90/hour
Additional Tests (cost per test, assessed in addition to the hourly rate)							
Aflatoxin (rapid test kit method)		$10.00	$10.50	$10.80	$11.10	$11.40	$11.70
Aflatoxin (rapid test kit method-applicant provides kit)		NA	$8.50	$8.80	$9.10	$9.40	$9.70
All other Mycotoxins (rapid test kit method)		NA	$19.50	$19.90	$20.30	$20.80	$21.30
All other Mycotoxins (rapid test kit method-applicant provides kit)		NA	$17.50	$17.90	$18.30	$18.80	$19.30
Corn protein, oil, and starch (one or any combination)		$2.25	$2.40	$2.50	$2.60	$2.70	$2.80
Soybean protein and oil (one or both)		$2.25	$2.40	$2.50	$2.60	$2.70	$2.80
Wheat protein (per test)		$2.25	$2.40	$2.50	$2.60	$2.70	$2.80
Waxy corn (per test)		$2.25	$2.40	$2.50	$2.60	$2.70	$2.80
Fees for other tests not listed above		Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate
Class Y Weighing (per carrier)							
Truck/Container		$0.30	$0.40	$0.50	$0.60	$0.70	$0.80
Railcar		$1.25	$1.40	$1.50	$1.60	$1.70	$1.80
Barge		$2.50	$2.70	$2.80	$2.90	$3.00	$3.10
Program Fees (Assessed on a per metric ton basis for all outbound carriers in addition to all other applicable fees. Only one program fee will be assessed when inspection and weighing services are performed on the same carrier.)							
League City		$0.167	$0.180	$0.184	$0.188	$0.192	$0.196
New Orleans		$0.067	$0.088	$0.090	$0.092	$0.094	$0.096
Portland		$0.136	$0.179	$0.183	$0.187	$0.191	$0.195
Toledo		$0.184	$0.288	$0.294	$0.300	$0.306	$0.313
Delegated States		$0.011	$0.055	$0.057	$0.059	$0.061	$0.063
Designated Agencies		$0.011	$0.055	$0.057	$0.059	$0.061	$0.063

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY

Original Inspection and Weighing (Class X Services) Stationary lots (sampling, grade/factor, and checkloading)						
Truck/trailer/container (per carrier)	$20.00	$21.00	$21.50	$22.00	$22.50	$23.00
Railcar (per carrier)	$29.70	$31.20	$31.90	$32.60	$33.30	$34.00
Barge (per carrier)	$187.50	$196.90	$200.90	$205.00	$209.10	$213.30
Sacked grain (per hour per service representative plus an administrative fee per hundred weight)	$0.04	$0.05	$0.06	$0.07	$0.08	$0.09
Lots sampled online during loading (sampling charge at applicable hourly rate applies)						
Truck/trailer/container (per carrier)	$12.00	$12.60	$12.90	$13.20	$13.50	$13.80
Railcar (per carrier)	$25.00	$26.30	$26.90	$27.50	$28.10	$28.70
Barge (per carrier)	$128.10	$134.60	$137.30	$140.10	$143.00	$145.90
Sacked grain (per hour per service representative plus an administrative fee per hundred weight)	$0.04	$0.05	$0.06	$0.07	$0.08	$0.09
Other Services						
Submitted sample (per sample-grade and factor)	$12.00	$12.60	$12.90	$13.20	$13.50	$13.80
Warehouseman inspection (per sample)	$21.00	$22.10	$22.60	$23.10	$23.60	$24.10
Factor only (per factor-maximum 2 factors)	$5.70	$6.00	$6.20	$6.40	$6.60	$6.80
Check-loading/condition examination (Use hourly rates from Table 1, plus an administrative fee per hundred weight if not previously assessed.)	$0.04	$0.05	$0.06	$0.07	$0.08	$0.09
Re-inspection (Grade and factor only. Sampling service additional)	$13.00	$13.70	$14.00	$14.30	$14.60	$14.90
Class X Weighing (per hour per service representative)	$64.00	$67.20	$68.60	$70.00	$71.40	$72.90
Additional Tests (Excludes Sampling)						
Aflatoxin (rapid test kit method)	$30.00	$31.50	$32.20	$32.90	$33.60	$34.30

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY—Continued

Aflatoxin (rapid test kit method-applicant provides kit)	NA	$29.50	$30.20	$30.90	$31.60	$32.30
All other Mycotoxins (rapid test kit method)	NA	$40.50	$41.40	$42.30	$43.20	$44.10
All other Mycotoxins (rapid test kit method-applicant provides kit)	NA	$38.50	$39.40	$40.30	$41.20	$42.10
Barley Protein (per test)	$10.00	$10.50	$10.80	$11.10	$11.40	$11.70
Corn protein, oil, and starch (one or any combination)	$10.00	$10.50	$10.80	$11.10	$11.40	$11.70
Soybean protein and oil (one or both)	$10.00	$10.50	$10.80	$11.10	$11.40	$11.70
Wheat protein (per test)	$10.00	$10.50	$10.80	$11.10	$11.40	$11.70
Sunflower oil (per test)	$10.00	$10.50	$10.80	$11.10	$11.40	$11.70
Waxy corn (per test)	$10.00	$10.50	$10.80	$11.10	$11.40	$11.70
Canola (per test-00 dip test)	$10.00	$10.50	$10.80	$11.10	$11.40	$11.70
Pesticide Residue Testing-routine compounds (per sample)	$216.00	$226.80	$231.40	$236.10	$240.90	$245.80
Pesticide Residue Testing-special compounds (Subject to availability)	$115.00	$120.80	$123.30	$125.80	$128.40	$131.00
Appeal Inspection and Review of Weighing Service						
Board Appeal and Appeals (Grade and Factor)	$82.00	$86.10	$87.90	$89.70	$91.50	$93.40
Factor only (per factor-maximum 2 factors)	$43.00	$45.20	$46.20	$47.20	$48.20	$49.20
Sampling service for appeals additional Use hourly rates from Table 1 Aflatoxin (rapid test kit method)	$30.00	$31.50	$32.20	$32.90	$33.60	$34.30
Aflatoxin (rapid test kit method-applicant provides kit)	NA	$29.50	$30.20	$30.90	$31.60	$32.30
All other Mycotoxins (rapid test kit method)	NA	$49.40	$50.40	$51.50	$52.60	$53.70
All other Mycotoxins (rapid test kit method-applicant provides kit)	NA	$47.40	$48.40	$49.50	$50.60	$51.70
Barley Protein (per test)	$17.70	$18.60	$19.00	$19.40	$19.80	$20.20
Corn protein, oil, and starch (one or any combination)	$17.70	$18.60	$19.00	$19.40	$19.80	$20.20
Soybean protein and oil (one or both)	$17.70	$18.60	$19.00	$19.40	$19.80	$20.20
Sunflower oil (per test)	$17.70	$18.60	$19.00	$19.40	$19.80	$20.20
Wheat protein (per test)	$17.70	$18.60	$19.00	$19.40	$19.80	$20.20
Mycotoxin (per test-HPLC)	$141.00	$148.10	$151.10	$154.20	$157.30	$160.50
Pesticide Residue Testing-routine compounds (per sample)	$216.00	$226.80	$231.40	$236.10	$240.90	$245.80
Pesticide Residue Testing-special compounds (Subject to availability)	$115.00	$120.80	$123.30	$125.80	$128.40	$131.00
Review of weighing (per hour per service representative)	$82.60	$86.80	$88.60	$90.40	$92.30	$94.20
Fees for other tests not listed above	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate
Stowage Examination (Service on Request)						
Ship (per stowage space)	$51.00	$53.60	$54.70	$55.80	$57.00	$58.20
Subsequent ship examinations (same as original)	$51.00	$53.60	$54.70	$55.80	$57.00	$58.20
Barge (per examination)	$41.00	$43.10	$44.00	$44.90	$45.80	$46.80
All other carriers (per examination)	$16.00	$16.80	$17.20	$17.60	$18.00	$18.40

TABLE 3—MISCELLANEOUS SERVICES

Grain grading seminars (per hour per service representative)	$64.00	$67.20	$68.60	$70.00	$71.40	$72.90
Certification of diverter-type mechanical samplers (per hour per service representative)	$64.00	$67.20	$68.60	$70.00	$71.40	$72.90
Scale testing and certification	$83.20	$87.40	$89.20	$91.00	$92.90	$94.80
Evaluation of weighing and material handling systems	$83.20	$87.40	$89.20	$91.00	$92.90	$94.80
Mass standards calibration and reverification	$83.20	$87.40	$89.20	$91.00	$92.90	$94.80
Special projects	$83.20	$87.40	$89.20	$91.00	$92.90	$94.80
NTEP prototype evaluation (Other than Railroad Track Scales)	$83.20	$87.40	$89.20	$91.00	$92.90	$94.80
NTEP prototype evaluation of Railroad Track Scales	$83.20	$87.40	$89.20	$91.00	$92.90	$94.80

TABLE 3—MISCELLANEOUS SERVICES—Continued

Use of GIPSA railroad track scale test equipment per facility for each requested service (except agreements) ..	$500.00	$525.00	$535.50	$546.30	$557.30	$568.50
Foreign Travel (hourly fee) plus travel, per diem, and related expenditures	$510.00/day	$87.40	$89.20	$91.00	$92.90	$94.80
Fees for any service or test not listed (per hour per service representative) ...	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate	Non-contract hourly rate
Online Customized Data Service:						
1. One data file per week for 1 year	$500.00	$525.00	$535.50	$546.30	$557.30	$568.50
2. One data file per month for 1 year	$300.00	$315.00	$321.30	$327.80	$334.40	$341.10
Samples provided to interested parties (per sample	$3.00	$3.20	$3.30	$3.40	$3.50	$3.60
Special mailing (actual cost)	Actual Cost	Actual Cost	Actual Cost	Actual Cost	Actual Cost	Actual Cost
Extra Copies of certificates, faxing per page, and divided lots	$1.75	$1.90	$2.00	$2.10	$2.20	$2.30

The following table reflects GIPSA's financial official inspection and weighing program projections through fiscal year 2017.

OFFICIAL INSPECTION AND WEIGHING SERVICES PROJECTIONS

[Million dollars]*

	Actual		Projected					
	Fiscal year 10	Fiscal year 11	Fiscal year 12	Fiscal year 13	Fiscal year 14	Fiscal year 15	Fiscal year 16	Fiscal year 17
Revenue	$36.9	$37.7	$28.7	$31.7	$35.3	$36.2	$36.9	$37.6
Obligations	35.5	36.6	35.1	35.1	35.1	35.1	35.1	35.1
Prior Year Adjustments	0.5	0.3	.....	.....	.....	.....	.....	.....
Cumulative Operating Reserve	6.6	8.0	1.6	(1.9)	(1.6)	(0.6)	1.2	3.6

* Figures may not sum due to rounding.

Based on the analysis of program costs, GIPSA proposes to increase the fees for official inspection and weighing service. GIPSA would continue to review program costs, revenue, and operating reserve levels to ensure that the fee increases for the noted fiscal years are required at the levels specified and sufficient to maintain official inspection and weighing services. In the event that a change in the fees is necessary, GIPSA would address any changes at that time.

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 (OMB).

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), GIPSA has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. This proposed action is being taken because additional user fee revenue is needed to cover the costs of providing current and future program operations and services.

The Small Business Administration (SBA) defines small businesses by their North American Industry Classification System Codes (NAICS).[1] This proposed rule affects customers of GIPSA's official inspection and weighing services in the domestic and export grain markets (NAICS code 115114). Fees for that program are in Schedules A (Tables 1–3), B, and C of § 800.71 of the USGSA regulations (7 CFR 800.71).

Under the provisions of the USGSA, grain exported from the U.S. must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA at 40 export facilities and by delegated States at 11 facilities, and seven facilities for U.S. grain transshipped through Canadian ports. All of these facilities are owned by multi-national corporations, large cooperatives, or public entities that do not meet the requirements for small entities established by the SBA. Further, the regulations are applied equally to all entities. The USGSA (7 U.S.C. 87f–1) requires the registration of all persons engaged in the business of buying grain for sale in foreign commerce. In addition, those persons who handle, weigh, or transport grain for sale in foreign commerce must also register. Section 800.30 of the USGSA regulations (7 CFR 800.30) define a foreign commerce grain business as persons who regularly engage in buying for sale, handling, weighing, or transporting grain totaling 15,000 metric tons or more during the preceding or current calendar year. At present, there are 129 registrants registered to export grain. While most of the 129 registrants are large businesses, we believe that some are small.

GIPSA also provides domestic and miscellaneous inspection and weighing services at other than export locations. Approximately 217 different applicants receive domestic inspection services each year and approximately 26 different locations receive track scale tests as a miscellaneous service each year. Most of these applicants are large businesses. Nonetheless, we believe that the proposed increases would not significantly affect small businesses requesting these official services. Furthermore, any applicant may use an alternative source for these services. Such a decision should not prevent the

[1] See: *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf.*

business from marketing its product or conducting business as usual.

GIPSA has determined that the total cost to the grain industry to implement the proposed changes will be approximately $5.3 million per year. These calculations are based on the assumption that GIPSA will collect revenue from 59.8 MMT in fiscal year 2013 and an average of 65.0 MMT per year for fiscal years 2014 to 2017, which was used to establish the proposed tonnage fee.

Most users of the official inspection and weighing services do not meet the requirements for small entities. Further, GIPSA is required by statute to make services available and to recover, as nearly as practicable, the costs of providing such services. There would be no additional reporting, record keeping, or other compliance requirements imposed upon small entities as a result of this proposed rule. GIPSA has not identified any other Federal rules which may duplicate, overlap or conflict with this proposed rule. GIPSA has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the RFA.

GIPSA regularly reviews its user-fee financed programs to determine if the fees are adequate. GIPSA has and will continue to seek out cost saving measures and implement appropriate changes to reduce its costs. Such actions can provide alternatives to fee increases. Even with these efforts, however, GIPSA's existing fee schedule would not generate sufficient revenue to cover program costs. In fiscal year 2009, GIPSA's official inspection and weighing services program revenue was $31.2 million with program costs of $33.3 million, resulting in a $2.1 million program deficit. In fiscal year 2010, GIPSA revenue was $36.9 million with costs of $35.5 million, resulting in a $1.4 million margin. In fiscal year 2011, GIPSA revenue was $37.7 million with costs of $36.6 million, resulting in a $1.1 million margin. In fiscal year 2012, revenue is projected at $28.7 million and costs at $35.1 million, resulting in a projected $6.4 million program deficit. Program costs for fiscal years 2013 to 2017 are projected at $35.1 million. The costs include employee salaries and benefits including estimated annual cost of living adjustments, future costs to replace and maintain aging official inspection and weighing services equipment in GIPSA offices. These fees also cover GIPSA's administrative and supervisory costs for the performance of GIPSA's official inspection and weighing services, including personnel compensation and benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment. The current fee structure will not fully fund GIPSA's official inspection and weighing services in future fiscal years, resulting in program deficits.

The proposed fee increase is projected to initially increase program revenue in fiscal year 2013, however this one time increase would not provide sufficient funds through fiscal year 2017. GIPSA needs to increase fees by approximately 5 percent in fiscal year 2013 and approximately 2 percent per year in fiscal years 2014 to 2017 in order to cover the program's operating cost and build an adequate operating reserve. The annual increases would apply to all fees (except for those fees charged for FGIS supervision of domestic official inspection and weighing services, including land carrier shipments to Canada and Mexico, performed by delegated States and/or designated agencies). GIPSA believes that an initial increase in fees followed by annual incremental increases is appropriate at this time. To minimize the impact of a fee increase, GIPSA has decided to propose a fee structure that would collect sufficient revenue over time to cover operating expenses, while striving to build an operating reserve by fiscal year 2017. GIPSA would continue to evaluate the financial status of the official inspection and weighing services to determine if it is meeting the goal of building an operating reserve and if other adjustments to the fee structure are necessary.

Without the proposed fee increase, the operating reserve for GIPSA's official inspection and weighing services is projected to equal negative 1.6 months of program obligations at the end of fiscal year 2013 and decline to negative 10.6 months of program obligations by the end of fiscal year 2017. Financial projections indicate that implementing the proposed fees would allow GIPSA's official inspection and weighing services program to cover its costs while building an operating reserve to ensure the financial stability of the FGIS program.

This rule proposes to revise local and national tonnage fees (assessed in addition to all other applicable fees) for all export shipments serviced by GIPSA field offices. In fiscal year 2013, GIPSA would increase the local tonnage fees for (1) League City, Texas from $0.115 to $0.125 per metric ton; (2) New Orleans, Louisiana from $0.015 to $0.033 per metric ton; (3) Portland, Oregon from $0.084 to $0.124 per metric ton and; (4) Toledo, Ohio from $0.132 to $0.233 per metric ton.

GIPSA proposes to increase the national tonnage fee approximately 5 percent in fiscal year 2013 from $0.052 to $0.055 per metric ton of export grain inspected and/or weighed and approximately 2 percent per year for fiscal years 2014 to 2017. In addition, workers compensation costs would be shifted from the national to the local level in order to fully reflect where those program costs originate. In response to the Grain Inspection Advisory Committee resolution in November 2010 that GIPSA should establish an equitable tonnage fee for all export tonnage utilizing the official system, GIPSA proposes to begin charging the national tonnage fee of $0.055 per metric ton on export grain inspected and/or weighed (excluding land carrier shipments to Canada and Mexico) from delegated states and designated agencies. Currently, delegated states and designated agencies only pay a supervision fee of $0.011 per metric ton on export grain inspected and/or weighed as found in Schedule C of § 800.71. Program fees in Table 1 above show the combined national and local tonnage fees for field offices, delegated states, and designated agencies.

GIPSA proposes to amend the fees for official inspection and weighing services performed in Canada. These fees currently appear in Schedule B of § 800.71. As a result, the separate unit fees for official inspection and weighing services performed in Canada would be changed to that of the prevailing U.S. non-contract rate, plus the prevailing Toledo field office tonnage fee, plus the actual cost of travel. GIPSA is also proposing to replace the ''Vomitoxin Qualitative'' and ''Vomitoxin Quantitative'' fees with one fee, ''All other Mycotoxins,'' in order to simplify the fee schedule for the testing of mycotoxins, other than aflatoxin. GIPSA also created separate fees for applicants that provide test kits for aflatoxin and all other mycotoxin testing. The existing Schedule B would be deleted and the existing Schedule C would become Schedule B.

Fees for foreign travel would be changed from the current daily rate of $510.00 to the same established hourly fee for special projects and the actual cost of travel, per diem, and related expenditures. All remaining fees (except those fees for FGIS supervision of domestic official inspection and weighing services, including land carrier shipments to Canada and Mexico, performed by delegated States and/or designated agencies) would be increased approximately 5 percent in fiscal year 2013 and approximately 2

percent in fiscal years 2014 to 2017 to cover projected costs. (See Tables 1, 2, and 3 above.)

This action is authorized under the USGSA which provides for the establishment and collection of fees that are reasonable and, as nearly as practicable, cover the costs of the services rendered, including associated administrative and supervisory costs. These fees cover the GIPSA administrative and supervisory costs for the performance of GIPSA's official inspection and weighing services, including personnel compensation and benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. The USGSA provides in section 87g that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the USGSA. Otherwise, this rule would not preempt any State or local laws, or regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Executive Order 13175

This proposed rule has been reviewed with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. This rule would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and record keeping requirements included in this proposed rule has been approved by the OMB under control number 0580–0013.

GIPSA is committed to complying with the Government Paperwork Elimination Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to maximum extent possible.

E-Government Compliance

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

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, exports, grains, reporting and recordkeeping requirements.

For the reasons set out in the preamble, we propose to amend 7 CFR Part 800 as follows:

PART 800—GENERAL REGULATIONS

■ 1. The authority citation for part 800 continues to read as follows:

Authority: 7 U.S.C. 71–87k.

■ 2. Section 800.71 is revised to read as follows:

§ 800.71 Fees assessed by the Service.

(a) *Official inspection and weighing services.* The fees shown in Schedule A apply to official inspection and weighing services performed by FGIS in the U.S. and Canada. The fees shown in Schedule B apply to official domestic inspection and weighing services performed by delegated States and designated agencies, including land carrier shipments to Canada and Mexico. The fees charged to delegated States by the Service are set forth in the State's Delegation of Authority document. Failure of a delegated State or designated agency to pay the appropriate fees to the Service within 30 days after becoming due will result in an automatic termination of the delegation or designation. The delegation or designation may be reinstated by the Service if fees that are due, plus interest and any further expenses incurred by the Service because of the termination, are paid within 60 days of the termination.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States and Canada[1]

Effective May 1, 2013 Through September 30, 2013

(Fiscal Year 2013)

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY[2]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 a.m. to 6 p.m.)	Saturday, Sunday, and overtime[3]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract ($ per hour)	$37.80	$39.50	$45.20	$67.20
Noncontract ($ per hour)	67.20	67.20	67.20	67.20
(2) Additional Tests (cost per test, assessed in addition to the hourly rate):[4]				
(i) Aflatoxin (rapid test kit method)				10.50
(ii) Aflatoxin (rapid test kit method-applicant provides kit)[5]				8.50
(iii) All other Mycotoxins (rapid test kit method)				19.50
(iv) All other Mycotoxins (rapid test kit method-applicant provides kit)[5]				17.50
(v) NIR or NMR Analysis (protein, oil, starch, etc.)				2.40
(vi) Waxy corn (per test)				2.40
(vii) Fees for other tests not listed above will be based on the lowest noncontract hourly rate				
(viii) Other services				
(a) Class Y Weighing (per carrier)				
(1) Truck/container				0.40
(2) Railcar				1.40
(3) Barge				2.70
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				
(a) League City				0.180
(b) New Orleans				0.088

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]—Continued

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 a.m. to 6 p.m.)	Saturday, Sunday, and overtime[3]	Holidays
(c) Portland				0.179
(d) Toledo				0.288
(e) Delegated States [6]				0.055
(f) Designated Agencies [6]				0.055

[1] Canada fees include the noncontract hourly rate, the Toledo field office administrative fee, and the actual cost of travel.
[2] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).
[3] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.
[4] Appeal and re-inspection services will be assessed the same fee as the original inspection service.
[5] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[6] Administrative fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1,2]

(1) Original Inspection and Weighing (Class X) Services	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	$21.00
(b) Railcar (per carrier)	31.20
(c) Barge (per carrier)	196.90
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.05
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	12.60
(b) Railcar (per carrier)	26.30
(c) Barge (per carrier)	134.60
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.05
(iv) Other services	
(a) Submitted sample (per sample—grade and factor)	12.60
(b) Warehouseman inspection (per sample)	22.10
(c) Factor only (per factor—maximum 2 factors)	6.00
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.05
(e) Re-inspection (grade and factor only. Sampling service additional, item (i) above)	13.70
(f) Class X Weighing (per hour per service representative)	67.20
(v) Additional tests (excludes sampling):	
(a) Aflatoxin (rapid test kit method)	31.50
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	29.50
(c) All other Mycotoxins (rapid test kit method)	40.50
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	38.50
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	10.50
(f) Waxy corn (per test)	10.50
(g) Canola (per test-00 dip test)	10.50
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	226.80
(2) Special Compounds (Subject to availability)	120.80
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service [5]	
(i) Board Appeals and Appeals (grade and factor)	86.10
(a) Factor only (per factor—max 2 factors)	45.20
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable tests):	
(a) Aflatoxin (rapid test kit method)	31.50
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	29.50
(c) All other Mycotoxins (rapid test kit method)	49.40
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	47.40
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	18.60
(f) Sunflower oil (per test)	18.60
(g) Mycotoxin (per test-HPLC)	148.10
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	226.80
(2) Special Compounds (Subject to availability)	120.80
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	86.80
(3) Stowage examination (service-on-request): [4]	
(i) Ship (per stowage space) (minimum $268.00 per ship)	53.60
(ii) Subsequent ship examinations (same as original) (minimum $160.80 per ship)	53.60
(iii) Barge (per examination)	43.10

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1,2]—Continued

(iv) All other carriers (per examination)	16.80

[1] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).
[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).
[3] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[4] If performed outside of normal business, 1½ times the applicable unit fee will be charged.
[5] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.20 per sample by the Service.

TABLE 3—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$67.20
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	67.20
(3) Special weighing services (per hour per service representative): [2]	
(i) Scale testing and certification	87.40
(ii) Scale testing and certification of railroad track scales	87.40
(iii) Evaluation of weighing and material handling systems	87.40
(iv) NTEP Prototype evaluation (other than Railroad Track Scales)	87.40
(v) NTEP Prototype evaluation of Railroad Track Scale	87.40
(vi) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.)	525.00
(vii) Mass standards calibration and re-verification	87.40
(viii) Special projects	87.40
(4) Foreign travel (hourly fee) [3]	87.40
(5) Online customized data service:	
(i) One data file per week for 1 year	525.00
(ii) One data file per month for 1 year	315.00
(6) Samples provided to interested parties (per sample)	3.20
(7) Divided-lot certificates (per certificate)	1.90
(8) Extra copies of certificates (per certificate)	1.90
(9) Faxing (per page)	1.90
(10) Special mailing	Actual Cost
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1)	

[1] Any requested service that is not listed will be performed at $67.20 per hour.
[2] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate. (See § 800.0(b)(14) for definition of "business day.")
[3] Foreign travel charged hourly fee of $87.40 plus travel, per diem, and related expenditures.

Schedule B—Fees for FGIS Supervision of Official Inspection and Weighing Services Performed by Delegated States and/or Designated Agencies in the U.S.

The supervision fee charged by the Service is $0.011 per metric ton of domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico.

(a) *Registration certificates and renewals.* (1) The nature of your business will determine the fees that your business must pay for registration certificates and renewals:

(i) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce, you must pay $135.00.

(ii) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce and you are also in a control relationship (see definition in section 17A(b)(2) of the Act) with respect to a business that buys, handles, weighs, or transports grain for sale in interstate commerce, you must pay $270.00.

(2) If you request extra copies of registration certificates, you must pay $1.90 for each copy.

(b) *Designation amendments.* If you submit an application to amend a designation, you must pay $75.00.

(c) If you submit an application to operate as a scale testing organization, you must pay $250.00.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States and Canada [1]

Effective October 1, 2013 Through September 30, 2014

(Fiscal Year 2014)

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [3]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract ($ per hour)	$38.60	40.30	46.20	68.60
Noncontract ($ per hour)	68.60	68.60	68.60	68.60
(2) Additional Tests (cost per test, assessed in addition to the hourly rate): [4]				
(i) Aflatoxin (rapid test kit method)				10.80
(ii) Aflatoxin (rapid test kit method-applicant provides kit) [5]				8.80

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]—Continued

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [3]	Holidays
(iii) All other Mycotoxins (rapid test kit method)				19.90
(iv) All other Mycotoxins (rapid test kit method-applicant provides kit) [5]				17.90
(v) NIR or NMR Analysis (protein, oil, starch, etc.)				2.50
(vi) Waxy corn (per test)				2.50
(vii) Fees for other tests not listed above will be based on the lowest noncontract hourly rate				
(viii) Other services				
(a) Class Y Weighing (per carrier)				
(1) Truck/container				0.50
(2) Railcar				1.50
(3) Barge				2.80
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				
(a) League City				0.184
(b) New Orleans				0.090
(c) Portland				0.183
(d) Toledo				0.294
(e) Delegated States [6]				0.057
(f) Designated Agencies [6]				0.057

[1] Canada fees include the noncontract hourly rate, the Toledo field office administrative fee, and the actual cost of travel.
[2] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).
[3] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.
[4] Appeal and re-inspection services will be assessed the same fee as the original inspection service.
[5] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[6] Administrative fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1 2]

(1) Original Inspection and Weighing (Class X) Services:	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	$21.50
(b) Railcar (per carrier)	31.90
(c) Barge (per carrier)	200.90
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.06
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	12.90
(b) Railcar (per carrier)	26.90
(c) Barge (per carrier)	137.30
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.06
(iv) Other services	
(a) Submitted sample (per sample—grade and factor)	12.90
(b) Warehouseman inspection (per sample)	22.60
(c) Factor only (per factor—maximum 2 factors)	6.20
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.06
(e) Re-inspection (grade and factor only. Sampling service additional, item (i) above)	14.00
(f) Class X Weighing (per hour per service representative)	68.60
(v) Additional tests (excludes sampling):	
(a) Aflatoxin (rapid test kit method)	32.20
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	30.20
(c) All other Mycotoxins (rapid test kit method)	41.40
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	39.40
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	10.80
(f) Waxy corn (per test)	10.80
(g) Canola (per test-00 dip test)	10.80
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	231.40
(2) Special Compounds (Subject to availability)	123.30
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service: [5]	
(i) Board Appeals and Appeals (grade and factor)	87.90
(a) Factor only (per factor—max 2 factors)	46.20
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable tests):	

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1] [2]—Continued

(a) Aflatoxin (rapid test kit method)	32.20
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	30.20
(c) All other Mycotoxins (rapid test kit method)	50.40
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	48.40
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	19.00
(f) Sunflower oil (per test)	19.00
(g) Mycotoxin (per test-HPLC)	151.10
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	231.40
(2) Special Compounds (Subject to availability)	123.30
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	88.60
(3) Stowage examination (service-on-request): [4]	
(i) Ship (per stowage space) (minimum $273.50 per ship)	54.70
(ii) Subsequent ship examinations (same as original) (minimum $164.10 per ship)	54.70
(iii) Barge (per examination)	44.00
(iv) All other carriers (per examination)	17.20

[1] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).

[3] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

[4] If performed outside of normal business, 1½ times the applicable unit fee will be charged.

[5] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.30 per sample by the Service.

TABLE 3—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$68.60
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	68.60
(3) Special weighing services (per hour per service representative): [2]	
(i) Scale testing and certification	89.20
(ii) Scale testing and certification of railroad track scales	89.20
(iii) Evaluation of weighing and material handling systems	89.20
(iv) NTEP Prototype evaluation (other than Railroad Track Scales)	89.20
(v) NTEP Prototype evaluation of Railroad Track Scale	89.20
(vi) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.).	535.50
(vii) Mass standards calibration and re-verification	89.20
(viii) Special projects	89.20
(4) Foreign travel (hourly fee) [3]	89.20
(5) Online customized data service:	
(i) One data file per week for 1 year	535.50
(ii) One data file per month for 1 year	321.30
(6) Samples provided to interested parties (per sample)	3.30
(7) Divided-lot certificates (per certificate)	2.00
(8) Extra copies of certificates (per certificate)	2.00
(9) Faxing (per page)	2.00
(10) Special mailing	Actual Cost.
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1)	

[1] Any requested service that is not listed will be performed at $68.60 per hour.

[2] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½; times the applicable hourly rate. (See § 800.0(b)(14) for definition of "business day.")

[3] Foreign travel charged hourly fee of $89.20 plus travel, per diem, and related expenditures.

Schedule B—Fees for FGIS Supervision of Official Inspection and Weighing Services Performed by Delegated States and/or Designated Agencies in the U.S.

The supervision fee charged by the Service is $0.011 per metric ton of domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico.

(a) *Registration certificates and renewals.* (1) The nature of your business will determine the fees that your business must pay for registration certificates and renewals:

(i) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce, you must pay $135.00.

(ii) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce and you are also in a control relationship (see definition in section 17A(b)(2) of the Act) with respect to a business that buys, handles, weighs, or transports grain for sale in interstate commerce, you must pay $270.00.

(2) If you request extra copies of registration certificates, you must pay $2.00 for each copy.

(b) *Designation amendments.* If you submit an application to amend a designation, you must pay $75.00.

(c) If you submit an application to operate as a scale testing organization, you must pay $250.00.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States and Canada [1]

Effective October 1, 2014 Through September 30, 2015

(Fiscal Year 2015)

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [3]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract ($ per hour)	$39.40	41.20	47.20	70.00
Noncontract ($ per hour)	70.00	70.00	70.00	70.00
(2) Additional Tests (cost per test, assessed in addition to the hourly rate): [4]				
(i) Aflatoxin (rapid test kit method)				11.10
(ii) Aflatoxin (rapid test kit method-applicant provides kit) [5]				9.10
(iii) All other Mycotoxins (rapid test kit method)				20.30
(iv) All other Mycotoxins (rapid test kit method-applicant provides kit) [5]				18.30
(v) NIR or NMR Analysis (protein, oil, starch, etc.)				2.60
(vi) Waxy corn (per test)				2.60
(vii) Fees for other tests not listed above will be based on the lowest noncontract hourly rate				
(viii) Other services				
(a) Class Y Weighing (per carrier)				
(1) Truck/container				0.60
(2) Railcar				1.60
(3) Barge				2.90
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				
(a) League City				0.188
(b) New Orleans				0.092
(c) Portland				0.187
(d) Toledo				0.300
(e) Delegated States [6]				0.059
(f) Designated Agencies [6]				0.059

[1] Canada fees include the noncontract hourly rate, the Toledo field office administrative fee, and the actual cost of travel.
[2] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).
[3] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.
[4] Appeal and re-inspection services will be assessed the same fee as the original inspection service.
[5] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[6] Administrative fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1,2]

(1) Original Inspection and Weighing (Class X) Services	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	$22.00
(b) Railcar (per carrier)	32.60
(c) Barge (per carrier)	205.00
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.07
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	13.20
(b) Railcar (per carrier)	27.50
(c) Barge (per carrier)	140.10
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.07
(iv) Other services	
(a) Submitted sample (per sample—grade and factor)	13.20
(b) Warehouseman inspection (per sample)	23.10
(c) Factor only (per factor—maximum 2 factors)	6.40
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.07
(e) Re-inspection (grade and factor only. Sampling service additional, item (i) above)	14.30
(f) Class X Weighing (per hour per service representative)	70.00

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1,2]—Continued

(v) Additional tests (excludes sampling):	
(a) Aflatoxin (rapid test kit method)	32.90
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	30.90
(c) All other Mycotoxins (rapid test kit method)	42.30
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	40.30
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	11.10
(f) Waxy corn (per test)	11.10
(g) Canola (per test-00 dip test)	11.10
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	236.10
(2) Special Compounds (Subject to availability)	125.80
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1	
(2) Appeal inspection and review of weighing service. [5]	
(i) Board Appeals and Appeals (grade and factor)	89.70
(a) Factor only (per factor—max 2 factors)	47.20
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable tests):	
(a) Aflatoxin (rapid test kit method)	32.90
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	30.90
(c) All other Mycotoxins (rapid test kit method)	51.50
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	49.50
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	19.40
(f) Sunflower oil (per test)	19.40
(g) Mycotoxin (per test-HPLC)	154.20
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	236.10
(2) Special Compounds (Subject to availability)	125.80
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	90.40
(3) Stowage examination (service-on-request): [4]	
(i) Ship (per stowage space) (minimum $279.00 per ship)	55.80
(ii) Subsequent ship examinations (same as original) (minimum $167.40 per ship)	55.80
(iii) Barge (per examination)	44.90
(iv) All other carriers (per examination)	17.60

[1] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).

[3] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

[4] If performed outside of normal business, 1½; times the applicable unit fee will be charged.

[5] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.40 per sample by the Service.

TABLE 3—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$70.00
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	70.00
(3) Special weighing services (per hour per service representative): [2]	
(i) Scale testing and certification	91.00
(ii) Scale testing and certification of railroad track scales	91.00
(iii) Evaluation of weighing and material handling systems	91.00
(iv) NTEP Prototype evaluation (other than Railroad Track Scales)	91.00
(v) NTEP Prototype evaluation of Railroad Track Scale	91.00
(vi) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.)	546.30
(vii) Mass standards calibration and re-verification	91.00
(viii) Special projects	91.00
(4) Foreign travel (hourly fee) [3]	91.00
(5) Online customized data service:	
(i) One data file per week for 1 year	546.30
(ii) One data file per month for 1 year	327.80
(6) Samples provided to interested parties (per sample)	3.40
(7) Divided-lot certificates (per certificate)	2.10
(8) Extra copies of certificates (per certificate)	2.10
(9) Faxing (per page)	2.10
(10) Special mailing	Actual Cost
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1)	

[1] Any requested service that is not listed will be performed at $70.00 per hour.

[2] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate. (See § 800.0(b)(14) for definition of "business day.")

[3] Foreign travel charged hourly fee of $91.00 plus travel, per diem, and related expenditures.

Schedule B—Fees for FGIS Supervision of Official Inspection and Weighing Services Performed by Delegated States and/or Designated Agencies in the U.S.

The supervision fee charged by the Service is $0.011 per metric ton of domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico.

(a) *Registration certificates and renewals.* (1) The nature of your business will determine the fees that your business must pay for registration certificates and renewals:

(i) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce, you must pay $135.00.

(ii) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce and you are also in a control relationship (see definition in section 17A(b)(2) of the Act) with respect to a business that buys, handles, weighs, or transports grain for sale in interstate commerce, you must pay $270.00.

(2) If you request extra copies of registration certificates, you must pay $2.10 for each copy.

(b) *Designation amendments.* If you submit an application to amend a designation, you must pay $75.00.

(c) If you submit an application to operate as a scale testing organization, you must pay $250.00.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States and Canada[1]

Effective October 1, 2015 Through September 30, 2016

(Fiscal Year 2016)

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY[2]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime[3]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract ($ per hour)	$40.20	42.10	48.20	71.40
Noncontract ($ per hour)	71.40	71.40	71.40	71.40
(2) Additional Tests (cost per test, assessed in addition to the hourly rate):[4]				
(i) Aflatoxin (rapid test kit method)				11.40
(ii) Aflatoxin (rapid test kit method-applicant provides kit)[5]				9.40
(iii) All other Mycotoxins (rapid test kit method)				20.80
(iv) All other Mycotoxins (rapid test kit method-applicant provides kit)[5]				18.80
(v) NIR or NMR Analysis (protein, oil, starch, etc.)				2.70
(vi) Waxy corn (per test)				2.70
(vii) Fees for other tests not listed above will be based on the lowest noncontract hourly rate.				
(viii) Other services.				
(a) Class Y Weighing (per carrier).				
(1) Truck/container				0.70
(2) Railcar				1.70
(3) Barge				3.00
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				
(a) League City				0.192
(b) New Orleans				0.094
(c) Portland				0.191
(d) Toledo				0.306
(e) Delegated States[6]				0.061
(f) Designated Agencies[6]				0.061

[1] Canada fees include the noncontract hourly rate, the Toledo field office administrative fee, and the actual cost of travel.

[2] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

[3] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.

[4] Appeal and re-inspection services will be assessed the same fee as the original inspection service.

[5] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

[6] Administrative fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY[1, 2]

(1) Original Inspection and Weighing (Class X) Services	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	$22.50
(b) Railcar (per carrier)	33.30
(c) Barge (per carrier)	209.10
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.08
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	13.50
(b) Railcar (per carrier)	28.10
(c) Barge (per carrier)	143.00
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.08

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1, 2]—Continued

(iv) Other services	
(a) Submitted sample (per sample—grade and factor)	13.50
(b) Warehouseman inspection (per sample)	23.60
(c) Factor only (per factor—maximum 2 factors)	6.60
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.08
(e) Re-inspection (grade and factor only. Sampling service additional, item (i) above)	14.60
(f) Class X Weighing (per hour per service representative)	71.40
(v) Additional tests (excludes sampling):	
(a) Aflatoxin (rapid test kit method)	33.60
(b) Aflatoxin (rapid test kit method—applicant provides kit) [3]	31.60
(c) All other Mycotoxins (rapid test kit method)	43.20
(d) All other Mycotoxins (rapid test kit method—applicant provides kit) [3]	41.20
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	11.40
(f) Waxy corn (per test)	11.40
(g) Canola (per test—00 dip test)	11.40
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	240.90
(2) Special Compounds (Subject to availability)	128.40
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1	
(2) Appeal inspection and review of weighing service.[5]	
(i) Board Appeals and Appeals (grade and factor)	91.50
(a) Factor only (per factor—max 2 factors)	48.20
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable tests):	
(a) Aflatoxin (rapid test kit method)	33.60
(b) Aflatoxin (rapid test kit method—applicant provides kit) [3]	31.60
(c) All other Mycotoxins (rapid test kit method)	52.60
(d) All other Mycotoxins (rapid test kit method—applicant provides kit) [3]	50.60
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	19.80
(f) Sunflower oil (per test)	19.80
(g) Mycotoxin (per test—HPLC)	157.30
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	240.90
(2) Special Compounds (Subject to availability)	128.40
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	92.30
(3) Stowage examination (service-on-request): [4]	
(i) Ship (per stowage space) (minimum $285.00 per ship)	57.00
(ii) Subsequent ship examinations (same as original) (minimum $171.00 per ship)	57.00
(iii) Barge (per examination)	45.80
(iv) All other carriers (per examination)	18.00

[1] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).

[3] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

[4] If performed outside of normal business, 1½ times the applicable unit fee will be charged.

[5] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.50 per sample by the Service.

TABLE 3—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$71.40
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	71.40
(3) Special weighing services (per hour per service representative): [2]	
(i) Scale testing and certification	92.90
(ii) Scale testing and certification of railroad track scales	92.90
(iii) Evaluation of weighing and material handling systems	92.90
(iv) NTEP Prototype evaluation (other than Railroad Track Scales)	92.90
(v) NTEP Prototype evaluation of Railroad Track Scale	92.90
(vi) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.)	557.30
(vii) Mass standards calibration and re-verification	92.90
(viii) Special projects	92.90
(4) Foreign travel (hourly fee) [3]	92.90
(5) Online customized data service:.	
(i) One data file per week for 1 year	557.30
(ii) One data file per month for 1 year	334.40
(6) Samples provided to interested parties (per sample)	3.50
(7) Divided-lot certificates (per certificate)	2.20
(8) Extra copies of certificates (per certificate)	2.20
(9) Faxing (per page)	2.20

TABLE 3—MISCELLANEOUS SERVICES [1]—Continued

(10) Special mailing	Actual Cost
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

[1] Any requested service that is not listed will be performed at $71.40 per hour.
[2] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate. (See § 800.0(b)(14) for definition of "business day.")
[3] Foreign travel charged hourly fee of $92.90 plus travel, per diem, and related expenditures.

Schedule B—Fees for FGIS Supervision of Official Inspection and Weighing Services Performed by Delegated States and/or Designated Agencies in the U.S.

The supervision fee charged by the Service is $0.011 per metric ton of domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico.

(a) *Registration certificates and renewals.* (1) The nature of your business will determine the fees that your business must pay for registration certificates and renewals:

(i) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce, you must pay $135.00.

(ii) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce and you are also in a control relationship (see definition in section 17A(b)(2) of the Act) with respect to a business that buys, handles, weighs, or transports grain for sale in interstate commerce, you must pay $270.00.

(2) If you request extra copies of registration certificates, you must pay $2.20 for each copy.

(b) *Designation amendments.* If you submit an application to amend a designation, you must pay $75.00.

(c) If you submit an application to operate as a scale testing organization, you must pay $250.00.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States and Canada [1]

Effective October 1, 2016 Through September 30, 2017

(Fiscal Year 2017)

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [3]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract ($ per hour)	$41.10	43.00	49.20	72.90
Noncontract ($ per hour)	72.90	72.90	72.90	72.90
(2) Additional Tests (cost per test, assessed in addition to the hourly rate): [4]				
(i) Aflatoxin (rapid test kit method)				11.70
(ii) Aflatoxin (rapid test kit method-applicant provides kit) [5]				9.70
(iii) All other Mycotoxins (rapid test kit method)				21.30
(iv) All other Mycotoxins (rapid test kit method-applicant provides kit) [5]				19.30
(v) NIR or NMR Analysis (protein, oil, starch, etc.)				2.80
(vi) Waxy corn (per test)				2.80
(vii) Fees for other tests not listed above will be based on the lowest noncontract hourly rate				
(viii) Other services				
(a) Class Y Weighing (per carrier)				
(1) Truck/container				0.80
(2) Railcar				1.80
(3) Barge				3.10
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				
(a) League City				0.196
(b) New Orleans				0.096
(c) Portland				0.195
(d) Toledo				0.313
(e) Delegated States [6]				0.063
(f) Designated Agencies [6]				0.063

[1] Canada fees include the noncontract hourly rate, the Toledo field office administrative fee, and the actual cost of travel.
[2] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).
[3] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.
[4] Appeal and re-inspection services will be assessed the same fee as the original inspection service.
[5] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[6] Administrative fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1,2]

(1) Original Inspection and Weighing (Class X) Services	
(i) Sampling only (use hourly rates from Table 1).	

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1,2]—Continued

(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	$23.00
(b) Railcar (per carrier)	34.00
(c) Barge (per carrier)	213.30
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.09
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	13.80
(b) Railcar (per carrier)	28.70
(c) Barge (per carrier)	145.90
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.09
(iv) Other services	
(a) Submitted sample (per sample—grade and factor)	13.80
(b) Warehouseman inspection (per sample)	24.10
(c) Factor only (per factor—maximum 2 factors)	6.80
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.09
(e) Re-inspection (grade and factor only. Sampling service additional, item (i) above)	14.90
(f) Class X Weighing (per hour per service representative)	72.90
(v) Additional tests (excludes sampling):	
(a) Aflatoxin (rapid test kit method)	34.30
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	32.30
(c) All other Mycotoxins (rapid test kit method)	44.10
(d) All other Mycotoxins (rapid test kit method-applicant provides kit)[3]	42.10
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	11.70
(f) Waxy corn (per test)	11.70
(g) Canola (per test-00 dip test)	11.70
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	245.80
(2) Special Compounds (Subject to availability)	131.00
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service [5]	
(i) Board Appeals and Appeals (grade and factor)	93.40
(a) Factor only (per factor—max 2 factors)	49.20
(b) Sampling service for Appeals additional (hourly rates from Table 1).	
(ii) Additional tests (assessed in addition to all other applicable tests):	
(a) Aflatoxin (rapid test kit method)	34.30
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	32.30
(c) All other Mycotoxins (rapid test kit method)	53.70
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	51.70
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	20.20
(f) Sunflower oil (per test)	20.20
(g) Mycotoxin (per test-HPLC)	160.50
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	245.80
(2) Special Compounds (Subject to availability)	131.00
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	94.20
(3) Stowage examination (service-on-request): [4]	
(i) Ship (per stowage space) (minimum $291.00 per ship)	58.20
(ii) Subsequent ship examinations (same as original) (minimum $174.60 per ship)	58.20
(iii) Barge (per examination)	46.80
(iv) All other carriers (per examination)	18.40

[1] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).

[3] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

[4] If performed outside of normal business, 1½ times the applicable unit fee will be charged.

[5] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.60 per sample by the Service.

TABLE 3—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$72.90
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	72.90
(3) Special weighing services (per hour per service representative): [2]	
(i) Scale testing and certification	94.80
(ii) Scale testing and certification of railroad track scales	94.80
(iii) Evaluation of weighing and material handling systems	94.80
(iv) NTEP Prototype evaluation (other than Railroad Track Scales)	94.80
(v) NTEP Prototype evaluation of Railroad Track Scale	94.80
(vi) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.)	568.50

TABLE 3—MISCELLANEOUS SERVICES [1]—Continued

(vii) Mass standards calibration and re-verification	94.80
(viii) Special projects	94.80
(4) Foreign travel (hourly fee) [3]	94.80
(5) Online customized data service:	
(i) One data file per week for 1 year	568.50
(ii) One data file per month for 1 year	341.10
(6) Samples provided to interested parties (per sample)	3.60
(7) Divided-lot certificates (per certificate)	2.30
(8) Extra copies of certificates (per certificate)	2.30
(9) Faxing (per page)	2.30
(10) Special mailing	Actual Cost
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

[1] Any requested service that is not listed will be performed at $72.90 per hour.
[2] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate. (See § 800.0(b)(14) for definition of "business day.")
[3] Foreign travel charged hourly fee of $94.80 plus travel, per diem, and related expenditures.

Schedule B—Fees for FGIS Supervision of Official Inspection and Weighing Services Performed by Delegated States and/or Designated Agencies in the U.S.

The supervision fee charged by the Service is $0.011 per metric ton of domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico.

(a) *Registration certificates and renewals.* (1) The nature of your business will determine the fees that your business must pay for registration certificates and renewals:

(i) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce, you must pay $135.00.

(ii) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce and you are also in a control relationship (see definition in section 17A(b)(2) of the Act) with respect to a business that buys, handles, weighs, or transports grain for sale in interstate commerce, you must pay $270.00.

(2) If you request extra copies of registration certificates, you must pay $2.30 for each copy.

(b) *Designation amendments.* If you submit an application to amend a designation, you must pay $75.00.

(c) If you submit an application to operate as a scale testing organization, you must pay $250.00.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards.

[FR Doc. 2013–00455 Filed 1–11–13; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1114; Directorate Identifier 2012–NE–21–AD]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain CFM International, S. A. (CFM) model CFM56–5 and CFM56–5B series turbofan engines. This proposed AD was prompted by corrosion of the delta P valve in the hydromechanical unit (HMU) caused by contaminants in type TS–1 fuel. This proposed AD would require cleaning, inspection and repair of affected HMUs. We are proposing this AD to prevent seizure of the HMU, leading to failure of one or more engines and damage to the airplane.

DATES: We must receive comments on this proposed AD by March 15, 2013.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

For service information identified in this proposed AD, contact CFM International Inc., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; International phone: 1–513–552–3272; USA phone: 877–432–3272; International fax: 1–513–552–3329; USA fax: 877–432–3329; email: *geae.aoc@ge.com;* or CFM International SA, Customer Support Center, International phone: 33 1 64 14 88 66; fax: 33 1 64 79 85 55; email: *snecma.csc@snecma.fr.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Martin Adler, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7157; fax: 781–238–7199; email: *martin.adler@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–2012–1114; Directorate Identifier 2012–NE–21–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

We have received reports over the past 18 months of CFM model CFM56–5 and CFM56–5B series turbofan engines, when operated on type TS–1 fuel, that have experienced an in-flight shutdown resulting from HMU failures. Investigation has determined that these HMU failures were caused by corrosion and seizure of the HMU delta P valve. Fuel samples from event airplanes also contained contaminants and corrosive catalysts. This condition, if not corrected, could result in seizure of the HMU, leading to failure of one or more engines and damage to the airplane.

Relevant Service Information

We reviewed CFM Service Bulletin (SB) CFM56–5 S/B 73–0182, Revision 7, dated September 25, 2012, and CFM SB CFM56–5B S/B 73–0122, Revision 9, dated September 25, 2012. The service information describes procedures for cleaning, inspection, and repair of the affected HMUs.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require removing, cleaning, inspection, and repair of the affected HMUs.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would not affect any products of U.S. registry. We also estimate that it would take about 4 hours per engine to comply with this proposed AD. The average labor rate is $85 per hour. Based on these figures, we estimate the proposed AD to have no cost impact to U.S. operators.

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 adding the following new airworthiness directive (AD):

CFM International S.A.: Docket No. FAA–2012–1114; Directorate Identifier 2012–NE–21–AD.

(a) Comments Due Date

We must receive comments by March 15, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to CFM International S.A. (CFM) CFM56–5 and CFM56–5B series turbofan engines with any of the hydromechanical unit (HMU) fuel control part numbers (P/Ns) in paragraphs (c)(1) and (c)(2) of this AD, installed:

(1) CFM56–5: CFM P/Ns 1348M79P02; 1348M79P03; 1348M79P04; 1348M79P06; 1348M79P07; 1348M79P08; 1348M79P09; 1348M79P10; 1348M79P11; 1348M79P12; 1348M79P13; and 1348M79P14.

(2) CFM56–5B: CFM P/Ns: 1348M79P08; 1348M79P09; 1348M79P10; 1348M79P11; 1348M79P12; 1348M79P13; and 1348M79P14.

(d) Unsafe Condition

This AD was prompted by corrosion of the delta P valve in the HMU fuel control caused by exposure to type TS–1 fuel. We are issuing this AD to prevent seizure of the HMU, leading to failure of one or more engines and damage to the airplane.

(e) Compliance

Unless already done, do the following:

(f) Record Type TS–1 Fuel Usage

(1) From the effective date of this AD, record all TS–1 fuel usage.

(2) If the HMU never uses TS–1 fuel, no further action is required.

(g) Initial Inspection

If the HMU has operated on TS–1 fuel, inspect the HMU for corrosion as follows:

(1) For an HMU that has operated for less than 8,000 hours since new (HSN) or hours since last overhaul, inspect the HMU before 10,000 HSN or hours since last overhaul, whichever comes later.

(2) For an HMU that has operated for 8,000 or more HSN or hours since last overhaul, inspect the HMU within 24 months or 2,000 hours after the effective date of this AD, whichever comes first.

(3) Use paragraph 3.A(2) of CFM Service Bulletin (SB) CFM56–5 S/B 73–0182, Revision 7, dated September 25, 2012, or CFM SB CFM56–5B S/B 73–0122, Revision 9, dated September 25, 2012, to do the inspection.

(h) Repetitive Inspections

Repeat the inspection required in paragraph (g)(3) of this AD before 10,000 hours since last overhaul if after last overhaul the HMU is exposed to TS–1 fuel.

(i) Paperwork Reduction Act Burden Statement

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

(j) Alternative Methods of Compliance (AMOCs)

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

(k) Related Information

(1) For more information about this AD, contact Martin Adler, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7157; fax: 781–238–7199; email: *martin.adler@faa.gov.*

(2) Refer to EASA Airworthiness Directive No. 2012–0123, dated July 9, 2012, and CFM SBs CFM56–5 S/B 73–0182, Revision 7, dated September 25, 2012, and CFM56–5B S/B 73–0122, Revision 9, dated September 25, 2012, for related information.

(3) For service information identified in this AD, contact CFM International Inc., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; International phone: 1–513–552–3272; USA phone: 877–432–3272; International fax: 1–513–552–3329; USA fax: 877–432–3329; email: *geae.aoc@ge.com;* or CFM International SA, Customer Support Center, International phone: 33 1 64 14 88 66; fax: 33 1 64 79 85 55; email: *snecma.csc@snecma.fr.*

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

Issued in Burlington, Massachusetts, on January 4, 2013.

Robert J. Ganley,

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

[FR Doc. 2013–00529 Filed 1–11–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0966; Airspace Docket No. 12–AWA–5]

RIN 2120–AA66

Proposed Modification of Class B Airspace; Las Vegas, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); Reopening of comment period.

SUMMARY: This action reopens the comment period for an NPRM that was published on October 26, 2012. In that document, the FAA proposed to modify the Las Vegas, NV, Class B airspace area to ensure the containment of large turbine-powered aircraft within Class B airspace.

DATES: The comment period for the NPRM published in the **Federal Register** on October 26, 2012 (77 FR 65332) closed on December 26, 2012, is reopened until February 13, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2012–0966 and Airspace Docket No. 12–AWA–5, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION:

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 (FAA Docket No. FAA–2012–0966 and Airspace Docket No. 12–AWA–5) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters 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 Nos. FAA–2012–0966 and Airspace Docket No. 12–AWA–5.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded 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 (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 office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 1601 Lind Ave. SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

In the **Federal Register** of October 26, 2012, the FAA issued a NPRM entitled

''Proposed Modification of Class B Airspace; Las Vegas, NV'' (77 FR 65332). The FAA requested that comments on that proposal be received on or before December 26, 2012. By letter dated December 7, 2012, the Aircraft Owners and Pilots Association (AOPA) requested that the FAA extend the comment period for at least 30 days. AOPA stated that the original comment period encompassed two Federal holidays and that no comments had been posted to the docket as of the date of their letter. AOPA added that an extension would provide additional time for the public to review the NPRM and submit substantive comments on the proposal.

Reopening of Comment Period

The FAA has reviewed AOPA's request for additional time to comment on the NPRM and has determined that reopening of the comment period is consistent with the public interest and that good cause exists for taking this action.

Accordingly, the comment period for Docket No. FAA–2012–0966; Airspace Docket No. 12–AWA–5, is reopened as indicated in the **DATES** section, above.

Issued in Washington, DC, on January 8, 2013.

Gary A. Norek,

Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2013–00646 Filed 1–10–13; 4:15 pm]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 872

[Docket No. FDA–2012–N–0677]

Dental Devices; Reclassification of Blade-Form Endosseous Dental Implant

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed order.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reclassify the blade- form endosseous dental implant, a preamendments class III device, into class II (special controls). On its own initiative, based on new information, FDA is proposing to revise the classification of blade-form endosseous dental implants.

DATES: Submit either electronic or written comments on this proposed order by April 15, 2013. See section XI of this document for the proposed effective date of a final order based on this proposed order.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2012–N–0677, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

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

Instructions: All submissions received must include the Agency name and Docket No. FDA–2012–N–0677 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert Docket No. FDA–2012–N–0677 into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Melissa Burns, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1646, Silver Spring, MD 20993, 301–796–5616, *melissa.burns@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (Pub. L. 101–629), the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), the Medical Devices Technical Corrections Act (Public Law 108–214), the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), and the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144), establish a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices), are automatically classified by section 513(f) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and 21 CFR part 807.

A preamendments device that has been classified into class III may be marketed by means of premarket notification procedures (510(k) process) without submission of a premarket approval application (PMA) until FDA issues a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval or until the device is subsequently reclassified into class I or class II.

On July 9, 2012, FDASIA was enacted. Section 608(a) of FDASIA (126 Stat. 1056) amended section 513(e) of the FD&C Act changing the process for reclassifying a preamendments device from rulemaking to an administrative order.

Section 513(e) of the FD&C Act governs reclassification of classified preamendments devices. This section provides that FDA may, by administrative order, reclassify a device based upon ''new information.'' FDA can initiate a reclassification under section 513(e) of the FD&C Act or an interested person may petition FDA to reclassify a preamendments device. The term ''new information,'' as used in section 513(e) of the FD&C Act, includes information developed as a result of a reevaluation of the data before the Agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos* v. *United States Department of Health, Education, and Welfare,* 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch,* 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard,* 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the Agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (see *Bell* v. *Goddard,* supra, 366 F.2d at 181; *Ethicon, Inc.* v. *FDA,* 762 F.Supp. 382, 389–391 (D.D.C. 1991)) or in light of changes in ''medical science.'' (See *Upjohn* v. *Finch,* supra, 422 F.2d at 951). Whether data before the Agency are past or new data, the ''new information'' to support reclassification under section 513(e) of the FD&C Act must be ''valid scientific evidence,'' as defined in section 513(a)(3) and 21 CFR 860.7(c)(2). (See, e.g., *General Medical Co.* v. *FDA,* 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Assoc.* v. *FDA,* 766 F.2d 592 (D.C. Cir.), cert. denied, 474 U.S. 1062 (1985).)

FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the valid scientific evidence upon which the Agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending PMA. (See section 520(c) of the FD&C Act (21 U.S.C. 360j(c)).) Section 520(h)(4) of the FD&C Act, added by FDAMA, provides that FDA may use, for reclassification of a device, certain information in a PMA 6 years after the application has been approved. This includes information from clinical and preclinical tests or studies that demonstrate the safety or effectiveness of the device but does not include descriptions of methods of manufacture or product composition and other trade secrets.

Section 513(e)(1) of the FD&C Act sets forth the process for issuing a final order. Specifically, prior to the issuance of a final order reclassifying a device, the following must occur: Publication of a proposed order in the **Federal Register**, a meeting of a device classification panel described in section 513(b) of the FD&C Act; and consideration of comments to a public docket.

FDAMA added a new section 510(m) to the FD&C Act. Section 510(m) of the FD&C Act provides that a class II device may be exempted from the premarket notification requirements under section 510(k) of the FD&C Act if the Agency determines that premarket notification is not necessary to assure the safety and effectiveness of the device.

II. Regulatory History of the Device

On December 30, 1980 (45 FR 86025), FDA published a proposed rule for classification of endosseous dental implants (without distinguishing implants based on geometry) as class III requiring premarket approval. The panel recommended class III because the device is implanted in the body and presents a potential unreasonable risk of illness or injury including risks of abnormal spontaneous pain due to nerve impingement and a risk of perforation of the lingual and labial bony plates of the upper and lower jaws. On August 12, 1987 (52 FR 30082), a final rule was published for endosseous dental implants (again without distinguishing implants based on geometry) classifying these devices as class III. On December 7, 1989 (54 FR 50592), FDA published a proposed rule to require PMA submissions for all dental implants. A reclassification petition was subsequently submitted requesting reclassification of dental implants.

FDA held a reclassification panel meeting on October 24, 1991, and the panel voted to deny the reclassification petition. At the request of FDA, additional panel meetings were held on November 4, 1997, and January 13, 1998, during which FDA presented new information regarding root-form endosseous dental implants. During the January 1998 panel meeting, the panel stated that sufficient clinical information was presented to the panel to justify reclassification of root-form implants, implants with special retention features, and temporary implants, as class II (special controls) requiring a 510(k) premarket notification. However, the panel also stated that sufficient evidence had not yet been presented to reclassify blade-form endosseous dental implants to class II.

On May 14, 2002 (67 FR 34416), and May 12, 2004 (69 FR 26302), proposed and final rules respectively were issued reclassifying only root-form implants into class II. Blade-form endosseous dental implant remained class III.

In 2009, FDA published an order under sections 515(i) and 519 of the FD&C Act (21 U.S.C. 360i) for the submission of information on blade-form endosseous dental implants (74 FR 16214, April 9, 2009). In response to that order, FDA received information from one device manufacturer; however, the information was related to other types of dental implants and was not relevant for this proposed rule.

III. Device Description

The blade-form endosseous dental implant is a device placed into the maxilla or mandible and composed of biocompatible material, such as titanium alloy or commercially pure (c.p.) titanium, with sufficient strength to support a dental restoration, such as a crown, bridge, or denture, intended for the purpose of replacing tooth (or teeth) roots and extending a support post through the gingival tissue into the oral cavity to restore chewing function. The blade-form implants are either one-piece or two-piece implants designed with one to three cylindrical abutment posts extending from the coronal aspect of the blade through the soft tissue and into the oral cavity. For the two-piece design, the separate abutment post is retained to the blade implant with a screw.

The blade-form implant is generally a rectangular shape or rounded corner rectangle shape (in the mesio-distal plane) with a narrow tapered (narrow at the apical edge) edge (in the bucco-lingual plane) similar in shape to a razor blade. Other blade designs, such as square, V-shaped, and triangles have also been used. The blade generally contains open vents of various shapes and various sizes.

IV. Proposed Reclassification

FDA is proposing that the device subject to this proposal be reclassified from class III to class II. In this proposed order, the Agency has identified special controls under section 513(a)(1)(B) of the FD&C Act that, together with general controls applicable to the devices, would provide reasonable assurance of their safety and effectiveness. FDA believes that the identified special controls in this proposed order, if finalized, together with general controls applicable to the device, would provide reasonable assurance of safety and

effectiveness. Absent the special controls identified in this proposed order, general controls applicable to the device are insufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, in accordance with sections 513(e) and 515(i) of the FD&C Act and 21 CFR 860.130, based on new information with respect to the devices and taking into account the public health benefit of the use of the device and the nature and known incidence of the risk of the device, FDA, on its own initiative, is proposing to reclassify this preamendments class III device into class II. FDA believes that this new information is sufficient to demonstrate that the proposed special controls can effectively mitigate the risks to health identified in the next section, and that these special controls, together with general controls, will provide a reasonable assurance of safety and effectiveness for blade-form endosseous dental implant devices.

FDA has also considered blade-form endosseous dental implant devices in accordance with the reserved criteria set forth in section 513(a) of the FD&C Act and decided that the device does require premarket notification. The Agency does not intend to exempt this proposed class II device from premarket notification (510(k)) submission as allowed under section 510(m) of the FD&C Act.

V. Risks to Health

After considering available information, including the recommendations of the advisory committees (panels) for the classification of these devices, FDA has evaluated the risks to health associated with the use of blade-form endosseous dental implant devices and determined that the following risks to health are associated with its use:

- *Local tissue or existing dentition degeneration:* Localized tissue and existing dentition degeneration may be caused by endosseous implants due to excessive mobility, loss of integration, incompatibility of device components, or structural failure of the device.
- *Pain:* Nerve impingement by the device may cause pain.
- *Bone or nerve damage:* Improper design or use of the device may cause injury during surgery related to sinus perforation, alveolar plate perforation, or nerve damage resulting in transient or chronic pain/facial nerve paresis.
- *Infection:* Implantable devices may introduce microorganisms that may cause local or systemic infections.
- *Adverse tissue reaction:* Inadequate tissue compatibility of the materials used in this device could cause an immune reaction.
- *Migration or thermal injury:* Incompatibility with magnetic resonance imaging may cause the device to migrate or heat.

VI. Summary of Reasons for Reclassification

If properly manufactured and used, blade-form endosseous dental implants can help restore the patient's chewing function by replacing tooth roots and extending a support post through the gingival tissue into the oral cavity in order to support a dental restoration, such as a crown, bridge, or denture. FDA believes that blade-form endosseous dental implant devices should be reclassified into class II because special controls, together with general controls, can be established to provide reasonable assurance of the safety and effectiveness of the device, and because general controls themselves are insufficient to provide reasonable assurance of its safety and effectiveness. In addition, there is now adequate effectiveness information sufficient to establish special controls to provide such assurance.

VII. Summary of Data Upon Which the Reclassification Is Based

Since the time of the panel recommendation, sufficient evidence has been developed to support a reclassification of blade-form endosseous dental implants to class II with special controls. FDA has been reviewing these devices for many years and their risks are well known. A review of the applicable clinical literature indicates that the device has a high success rate (remaining implanted/not removed) and that few relevant adverse events have been reported in the case of these devices or related devices suggesting that the device has a high long-term safety profile. FDA believes that the special controls identified in this proposed order, if finalized, together with general controls, can provide a reasonable assurance of the safety and effectiveness of blade-form endosseous dental implants.

VIII. Proposed Special Controls

FDA believes that the following special controls, together with general controls, are sufficient to mitigate the risks to health described in section V of this document:

- The design characteristics of the device must ensure that the geometry and material composition are consistent with the intended use;
- Mechanical performance (fatigue) testing under simulated physiological conditions to demonstrate maximum load (endurance limit) when the device is subjected to compressive and shear loads;
- Corrosion testing under simulated physiological conditions to demonstrate corrosion potential of each metal or alloy, couple potential for an assembled dissimilar metal implant system, and corrosion rate for an assembled dissimilar metal implant system;
- The device must be demonstrated to be biocompatible;
- Sterility testing must demonstrate the sterility of the device;
- Performance testing to evaluate the compatibility of the device in a magnetic resonance (MR) environment;
- Labeling must include a clear description of the technological features, how the device should be used in patients, detailed surgical protocol and restoration procedures, and relevant precautions and warnings based on the clinical use of the device;
- Patient labeling must contain a description of how the devices works, how the device is placed, how the patient needs to care for the implant, possible adverse events and how to report any complications; and
- Documented clinical experience must demonstrate safe and effective use and capture any adverse events observed during clinical use.

Blade-form endosseous dental implants are prescription devices restricted to patient use only upon the authorization of a practitioner licensed by law to administer or use the device. (Proposed 21 CFR 872.3640(a); see section 520(e) of the FD&C Act and 21 CFR 801.109 (Prescription devices)). Prescription-use restrictions are a type of general controls authorized under section 520(e) of the FD&C Act and defined as a general control in section 513(a)(1)(A)(i) of the FD&C Act; and under 21 CFR 807.81, the device would continue to be subject to 510(k) notification requirements.

IX. Environmental Impact

The Agency has determined under 21 CFR 25.34(b)) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

X. Paperwork Reduction Act of 1995

This proposed rule refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under

the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subpart B, have been approved under OMB control number 0910–0231; and the collections of information under 21 CFR part 801 have been approved under OMB control number 0910–0485.

XI. Proposed Effective Date

FDA is proposing that any final order based on this proposal become effective on the date of its publication in the **Federal Register** or at a later date if stated in the final order.

XII. Comments

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

List of Subjects in 21 CFR Part 872

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 872 be amended as follows:

PART 872—DENTAL DEVICES

■ 1. The authority citation for 21 CFR part 872 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 872.3640 is amended by revising paragraphs (a) and (b)(2) to read as follows:

§ 872.3640 Endosseous dental implant.

(a) *Identification.* An endosseous dental implant is a prescription device made of a material such as titanium or titanium alloy that is intended to be surgically placed in the bone of the upper or lower jaw arches to provide support for prosthetic devices, such as artificial teeth, in order to restore a patient's chewing function.

(b) * * *

(2) Class II (special controls). The device is classified as class II if it is a blade-form endosseous dental implant. The special controls for this device are:

(i) The design characteristics of the device must ensure that the geometry and material composition are consistent with the intended use;

(ii) Mechanical performance (fatigue) testing under simulated physiological conditions to demonstrate maximum load (endurance limit) when the device is subjected to compressive and shear loads;

(iii) Corrosion testing under simulated physiological conditions to demonstrate corrosion potential of each metal or alloy, couple potential for an assembled dissimilar metal implant system, and corrosion rate for an assembled dissimilar metal implant system;

(iv) The device must be demonstrated to be biocompatible;

(v) Sterility testing must demonstrate the sterility of the device;

(vi) Performance testing to evaluate the compatibility of the device in a magnetic resonance (MR) environment;

(vii) Labeling must include a clear description of the technological features, how the device should be used in patients, detailed surgical protocol and restoration procedures, and relevant precautions and warnings based on the clinical use of the device;

(viii) Patient labeling must contain a description of how the devices works, how the device is placed, how the patient needs to care for the implant, possible adverse events and how to report any complications; and

(ix) Documented clinical experience must demonstrate safe and effective use and capture any adverse events observed during clinical use.

Dated: January 4, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–00388 Filed 1–11–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–1082]

RIN 1625–AA00

Safety Zone, Atlantic Intracoastal Waterway; Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to extend the temporary safety zone established on the waters of the Atlantic Intracoastal Waterway at Wrightsville Beach, North Carolina. The safety zone is necessary to provide for the safety of mariners on navigable waters during maintenance on the US 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina. The safety zone extension will temporarily restrict vessel movement within the designated area starting on May 1, 2013 through July 27, 2013.

DATES: Comments and related material must be received by the Coast Guard on or before February 13, 2013.

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

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email CWO4 Joseph M. Edge, U.S. Coast Guard Sector North Carolina; telephone 252–247–4525, email *Joseph.M.Edge@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Public Participation and Request for Comments

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

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number (USCG–2012–1082) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2012–1082) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

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

B. Regulatory History and Information

The Coast Guard is proposing to extend a safety zone originally established by a final rule published July 17, 2002, entitled ''Safety Zones: Atlantic Intracoastal Waterway; Wrightsville Beach, NC'' (77 FR 41911, docket number USCG–2012–0368).

C. Basis and Purpose

North Carolina Department of Transportation has awarded a contract to American Bridge Company of Coraopolis, PA to perform bridge maintenance on the U.S. 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina. The contract provides for cleaning, painting, steel repair, and grid floor replacement to commence on September 1, 2012. The original completion date was May 1, 2013, however, the contractor was granted an extension on the completion date by North Carolina Department of Transportation to July 27, 2013.

The contractor will utilize a 40 foot deck barge with a 40 foot beam as a work platform and for equipment staging. This safety zone will provide a safety buffer to transiting vessels as bridge repairs present potential hazards to mariners and property due to reduction horizontal clearance.

D. Discussion of Proposed Rule

The proposed temporary safety zone would encompass the waters directly under the U.S. 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina (34°13′07″ N, 077°48′46″ W). All vessels transiting the this section of the waterway requiring a horizontal clearance of greater than 50 feet would be required to make a one hour advanced notification to the U.S. 74/76 Bascule Bridge tender while the safety zone is in effect. The initial safety zone, which began on 8 a.m. September 1, 2012, is scheduled to be in effect through 8 p.m. May 1, 2013. The proposed extension would be in effect from 8 p.m. May 1, 2013, through 8 p.m. July 27, 2013.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule does not restrict traffic from transiting through the noted portion of the Atlantic Intracoastal Waterway; it only imposes a one hour notification to ensure the waterway is clear of impediment to allow passage to vessels requiring a horizontal clearance of greater than 50 feet.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of commercial tug and barge companies, recreational and commercial fishing vessels intending to transit the specified portion of Atlantic Intracoastal Waterway from 8 p.m. May 1, 2013 through 8 p.m. July 27, 2013.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone will apply to the entire width of this section of the Atlantic Intracoastal Waterway, vessel traffic will be able to request passage by providing a one hour advanced notification. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway. If you think that your business,

organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the ''For Further Information Contact'' section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a temporary safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–1082 to read as follows:

§ 165.T05–1082 Safety Zone; Atlantic Intracoastal Waterway, Wrightsville Beach, NC.

(a) *Regulated area.* The following area is a safety zone: This zone includes the waters directly under and 100 yards either side of the U.S. 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina (34°13′07″ N/ 077°48′46″ W).

(b) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05–1082. In addition the following regulations apply:

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Coast Guard Captain of the Port North Carolina.

(2) All vessels requiring greater than 50 feet horizontal clearance to safely transit through the U.S. 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville

Beach, North Carolina must contact the bridge tender on VHF–FM marine band radio channels 13 and 16 one hour in advance of intended transit.

(3) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port North Carolina or his designated representative by telephone at (910) 343–3882 or on VHF–FM marine band radio channel 16.

(4) All Coast Guard assets enforcing this safety zone can be contacted on VHF–FM marine band radio channels 13 and 16.

(5) The operator of any vessel within or in the immediate vicinity of this safety zone shall: (i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(c) *Definitions.* (1) Captain of the Port North Carolina means the Commander, Coast Guard Sector North Carolina or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

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

(d) *Enforcement.* The U.S. Coast Guard may be assisted by Federal, State and local agencies in the patrol and enforcement of the zone. (e) Enforcement period. This section will be enforced from 8 p.m. May 1, 2013 through 8 p.m. July 27, 2013 unless cancelled earlier by the Captain of the Port.

Dated: December 21, 2012.

A. Popiel,

Captain, U.S. Coast Guard, Captain of the Port Sector North Carolina.

[FR Doc. 2013–00513 Filed 1–11–13; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 10–254; DA 13–6]

Comment Deadline Extended for Updated Information and Comment on Review of Hearing Aid Compatibility Regulations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In this document, the Wireless Telecommunications Bureau (Bureau) extends the time within which to file comments on the Public Notice seeking updated information and comment on review of hearing aid compatibility regulations.

DATES: Comments are due on or before January 22, 2013.

ADDRESSES: You may submit comments, identified by WT Docket No. 10–254, by any of the following methods:

- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail.*
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jennifer Flynn, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, (202) 418–0612 or by email *Jennifer.Flynn@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in WT Docket No. 10–254, DA 13–6, released January 3, 2013. The full text of the Order is available for public inspection and copying during business hours in the FCC's Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Copies may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, 202–488–5300 or 800–378–3160 (voice), 202–488–5562 (TTY), 202–488–5563 (fax), or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI, please provide the appropriate FCC document number, for example, DA 13–6. The *Comment Deadline Extended for Updated Information and Comment Sought on Review of Hearing Aid Compatibility Regulations Public Notice* is available on the Internet at the Commission's Web site at *http://www.fcc.gov/document/hearing-aid-compatibility-review-additional-comments-sought* and related documents are also available by using the search function for WT Docket No. 10–254 on the Commission's Electronic Comment Filing System (ECFS) Web page at *http://apps.fcc.gov/ecfs/.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at 202–418–0530 (voice) or 202–418–0432 (TTY).

Summary

1. On November 27, 2012, the Wireless Telecommunications Bureau released a Public Notice in which it granted, on its own motion, an extension of time to file comments in its ongoing review of the wireless hearing aid compatibility rules (77 FR 72294, December 5, 2012). That Public Notice set the deadline for filing comments on January 7, 2013.

2. On December 31, 2012, the law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP (BloostonLaw) filed a request to extend the comment deadline until January 22, 2013. BloostonLaw states that the extension will alleviate the ''conflicting time demands'' on counsel who must both file comments in this proceeding and prepare Form 655 reports that are due from service providers on January 15, 2013. BloostonLaw further states that the January 7th comment deadline will deprive the Commission and the public of the benefit of comments based on experiences encountered during the Form 655 reporting window.

3. The Commission does not routinely grant extensions of time, 47 CFR 1.46(a). However, given the proximity of the filing deadline to the end of the Form 655 filing window, the Wireless Telecommunications Bureau finds that an extension of time for filing comments is warranted.

Procedural Matters

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may

be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

• *Paper Filers:* Parties who choose to file by paper must file an original and four copies 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 (although we continue to experience delays in receiving 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 at 236 Massachusetts Avenue NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes 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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street SW., Washington, DC 20554.

One copy of each pleading must be delivered electronically, by email or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to the Commission's duplicating contractor, Best Copy and Printing, Inc., at *FCC@BCPIWEB.COM* or (202) 488–5563 (facsimile).

Federal Communications Commission.

Jane E. Jackson,

Associate Chief, Wireless Telecommunications Bureau.

[FR Doc. 2013–00552 Filed 1–11–13; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 78, No. 9
Monday, January 14, 2013

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

Uinta-Wasatch-Cache National Forest; Utah; Ogden Travel Plan Project

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare a supplement to the final supplemental Environmental Impact Statement.

SUMMARY: The Ogden Ranger District of the Uinta-Wasatch-Cache National Forest announces its intent to prepare a supplement to the Ogden Travel Plan Revision Final Supplemental Environmental Impact Statement (FSEIS). The Ogden Travel Plan Revision FSEIS evaluated six alternatives for possible travel management of motorized trails and roads.

DATES: Scoping will not be conducted in accordance with 40 CFR 1502.9(c)(4). The draft supplement to the FSEIS is expected in May 2013 and the final supplement to the FSEIS is expected in September 2013.

ADDRESSES: Send written comments to: Renee Flanagan, Ogden District Ranger, 507 25th Street, Ogden, UT 84401. Comments can also be hand delivered Monday through Friday 8 a.m. to 4:30 p.m. at the address above. Comments can be submitted electronically to *rflanagan@fs.fed.us* or submitted via facsimile to (801) 625–5914.

FOR FURTHER INFORMATION CONTACT: District Ranger Renee Flanagan, (801) 625–5112, Ogden Ranger District, 507 25th Street, Ogden, Utah 84401.

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:

Proposed Action

On March 20, 2006, District Ranger Chip Sibbernsen made a decision designating routes open for motorized travel use, seasonal and other closures, development of two gravel sources, improvements to two concentrated use areas, and new trail construction on the Ogden Ranger District. The decision also allowed limited use of motor vehicles within 150 feet of designated roads to access dispersed camping sites.

The record of decision for the project was appealed by four separate parties. After review, the appeal deciding officer reversed the decision, based on her finding that the environmental analysis and supporting information in the project record were not adequate to support the decision in regard to cumulative effects analysis.

Subsequent analysis resulted in a FSEIS that did not replace the final environmental impact statement (FEIS) in its entirety, but which replaced discrete sections of the FEIS and provided additional information to augment the analysis in the FEIS. A record of decision for the FSEIS was signed on September 12, 2007. The record of decision was appealed and the decision was affirmed and implemented.

As a result of litigation, on March 7, 2012, the United States District Court for the District of Utah issued a decision order. The Court held that the record of decision and FSEIS had three deficiencies: (1) It failed to provide notice of available support for the public to understand the information cataloguing illegal routes; (2) it failed to adequately support its assumptions about the impact of illegal user-created routes; and (3) it failed to explain explicitly its evaluation of the cumulative impacts of its decision on the Shoshone Trail system. As a result, the currently proposed supplement to the FSEIS will be directed to address the deficiencies.

Responsible Official

Renee Flanagan, District Ranger, Ogden Ranger District.

Dated: January 3, 2013.

Renee Flanagan,

District Ranger.

[FR Doc. 2013–00565 Filed 1–11–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Evaluations of Coastal Zone Management Act Programs: State Coastal Management Programs and National Estuarine Research Reserves.

OMB Control Number: None.

Form Number(s): NA.

Type of Request: Regular submission (request for a new information collection).

Number of Respondents: 468.

Average Hours per Response: Information from program managers, 55 (every five years); stakeholder surveys, 30 minutes.

Burden Hours: 943.

Needs and Uses: This request is for a new information collection.

The Coastal Zone Management Act of 1972, as amended (CZMA; 16 U.S.C. 1451 *et seq.*) requires that state coastal management programs and national estuarine research reserves developed pursuant to the CZMA and approved by the Secretary of Commerce be evaluated periodically. This request is for to collect information to accomplish those evaluations.

Section 1458 of the CZMA and implementing regulations at 15 CFR part 923, subpart L, require that state coastal management programs be evaluated concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in 16 U.S.C. 1452(2)(A) through (K), and adhered to the terms of any grant, loan, or cooperative agreement funded under the CZMA. Section 1461(f) of the CZMA and implementing regulations at 15 CFR part 921, subpart E, require that national estuarine research reserves be evaluated with regard to their operation and management, including education and interpretive activities, the research being conducted within the reserve, and be evaluated in accordance with section

1458 of the CZMA and procedures set forth in 15 CFR part 923.

NOAA's Office of Ocean and Coastal Resource Management (OCRM) conducts periodic evaluations of the 34 coastal management programs and 28 research reserves and produces written findings for each evaluation. OCRM has access to documents submitted in cooperative agreement applications, performance reports, and certain documentation required by the CZMA and implementing regulations. However, additional information from each coastal management program and research reserve, as well as information from the program and reserve partners and stakeholders with whom each works, is necessary to evaluate against statutory and regulatory requirements. Different information collection subsets are necessary for (1) coastal management programs, (2) their partners and stakeholders, (3) research reserves, and (4) their partners and stakeholders.

Affected Public: State, local and tribal government; not-for-profit institutions.

Frequency: Conducted annually, but each program manager submits information only every five years.

Respondent's Obligation: Required to obtain or retain benefits; voluntary.

OMB Desk Officer: OIRA_Submission@omb.eop.gov.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: January 9, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–00568 Filed 1–11–13; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Construction Progress Reporting Survey

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before March 15, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Erica M. Filipek, U.S. Census Bureau, MCD, CENHQ Room 7K057, 4600 Silver Hill Road, Washington, DC 20233–6900, telephone (301) 763–5161 (or via email at *erica.mary.filipek@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request a three-year extension of a currently approved collection for forms C–700, Private Construction Projects; C–700(R), Multifamily Residential Projects; C–700(SL), State and Local Government Projects; and C–700(F) Federal Government Projects. These forms are used to conduct the Construction Progress Reporting Surveys (CPRS) to collect information on the dollar value of construction put in place by private companies, individuals, private multifamily residential buildings, state and local governments and the Federal government.

The Census Bureau is the preeminent collector and provider of timely, relevant and quality data about the people and economy of the United States. The Form C–700, Private Construction Projects, collects construction put in place data for nonresidential projects owned by private companies or individuals. The Form C–700(R), Multifamily Residential Projects, collects construction put in place data for private multifamily residential buildings. The Form C–700(SL), State and Local Government Projects, collects construction put in place data for state and local government projects. The Form C–700(F), Federal Government Projects collects construction put in place for federal government projects.

The Census Bureau uses the information from these surveys to publish the value of construction put in place series. Published estimates are used by a variety of private business and trade associations to estimate the demand for building materials and to schedule production, distribution, and sales efforts. They also provide various government agencies with a tool to evaluate economic policy and to measure progress towards established goals. For example, Bureau of Economic Analysis staff use data to develop the construction components of gross private domestic investment in the gross domestic product. The Federal Reserve Board and the Department of the Treasury use the value in place data to predict the gross domestic product, which is presented to the Board of Governors and has an impact on monetary policy.

II. Method of Collection

An independent systematic sample of projects is selected each month according to predetermined sample rates. Once a project is selected, it remains in the sample until completion of the project. Preprinted forms are mailed monthly to respondents to fill in current month data and any revisions to previous months. Respondents also have the option to report online using a password protected site. Nonrespondents are later called by a Census interviewer and report data over the phone. Having the information available from a database at the time of the interview greatly helps reduce the time respondents spend on the phone. Interviews are scheduled at the convenience of the respondent, which further reduces their burden.

III. Data

OMB Control Number: 0607–0153.

Form Number: C–700, C–700(R), C–700(SL), C–700(F).

You can obtain information on the proposed content at this Web site: www.census.gov/mcd/clearance.

Type of Review: Regular submission.

Affected Public: Individuals, Businesses or Other for Profit, Not-for-Profit Institutions, Small Businesses or Organizations, State and Local Governments and the Federal Government.

Estimated Number of Respondents:

C–700 = 4,500
C–700(R) = 2,000
C–700(SL) = 12,500
C–700(F) = 2,000
TOTAL = 21,000

Estimated Time per Response: 5 to 15 minutes per month.

Estimated Total Annual Burden Hours: 54,600.

Estimated Total Annual Cost: $2 million.

Respondents Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 9, 2013.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–00550 Filed 1–11–13; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–2–2013]

Foreign-Trade Zone 196—Fort Worth, TX, Foreign-Trade Subzone 196A—TTI, Inc.; Application for Additional Subzone Site

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Alliance Corridor, Inc., grantee of FTZ 196, requesting an additional site for Subzone 196A located in Fort Worth, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on January 4, 2013.

Subzone 196A was approved on September 6, 2012 (S–102–2012) with a site located at 2601 Sylvania Cross Drive in Fort Worth (Site 1, 13 acres) subject to a three-year ASF sunset provision to September 30, 2015. An additional site located at 2441 Northeast Parkway in Fort Worth was approved on a temporary basis on December 13, 2012 (S–139–2012) (Temporary Site 2, 14.419 acres, expires 6/30/2013).

The applicant is now requesting authority to include Temporary Site 2 in Subzone 196A on a longer-term basis. The proposed subzone site would be subject to the existing activation limit of FTZ 196 and to the existing sunset provision applicable to Site 1 of the subzone. No authorization for production activity has been requested at this time.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is February 25, 2013. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to March 11, 2013.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: January 4, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–00584 Filed 1–11–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 30–2011]

Foreign-Trade Zone 141—Rochester, NY, Application for Manufacturing Authority, Firth Rixson, Inc. d/b/a Firth Rixson Monroe, Comment Period on Revised Preliminary Recommendation

On April 29, 2011, an application was submitted by Monroe County, New York, grantee of FTZ 141, requesting authority on behalf of Firth Rixson, Inc. d/b/a Firth Rixson Monroe (Firth Rixson) to manufacture aircraft turbine components under FTZ procedures within FTZ 141 (76 FR 25300–25301, 5/4/2011). In January 2012, the applicant was notified of the FTZ Board staff examiner's preliminary recommendation for approval of the request with a restriction requiring that foreign-origin titanium be admitted to Firth Rixson's FTZ operation in privileged foreign status (19 CFR § 146.63) (absent that restriction, at the time that U.S. customs entry is made on aircraft turbine components produced in the FTZ incorporating foreign-sourced titanium, Firth Rixson would be able to apply to the foreign-sourced titanium the lower duty rates applicable to aircraft turbine components—an ''inverted tariff'' benefit). In June 2012, the applicant submitted new evidence and information in response to the factors considered in the preliminary recommendation. Firth Rixson's June 2012 submission was the subject of a **Federal Register** notice (77 FR 43572–43573, 7/25/2012) inviting public comment. Firth Rixson subsequently made a rebuttal submission in response to comments received during the comment period.

After a full review of the evidence and information on the record to date (including all submissions by the applicant and other parties) in the context of the applicable criteria from the FTZ Board's regulations (15 CFR part 400), the examiner issued a revised preliminary recommendation on December 28, 2012. The examiner's revised preliminary recommendation is to approve the requested authority—*i.e.,* to allow unrestricted FTZ benefits on foreign titanium used in production for the U.S. market and export—for a period of five years. Any authority beyond the five year period would require an additional application to the FTZ Board.

The examiner's revised preliminary recommendation also includes a requirement for Firth Rixson to provide data on an ongoing basis to enable the FTZ Staff to conduct enhanced monitoring of the actual impact of Firth Rixson's FTZ use. If there were to be evidence of negative effects resulting from the company's FTZ use, the FTZ Board could review the activity and determine whether negative public interest impacts existed that warranted the imposition of a prohibition or restriction (see 15 CFR § 400.49).

The examiner's analysis indicates that allowing unrestricted FTZ benefits on foreign titanium used in production for the U.S. market and export for an initial five-year period should result in significant public benefits—such as maintained or increased U.S. employment—without negative economic effects (*e.g.,* would not result in increased imports of titanium alloy that otherwise would not have

occurred). In particular, the revised preliminary recommendation is based on an assessment that the requested authority is unlikely to have a negative impact on related domestic industry—such as reduced purchases of U.S.-produced titanium products—because key customers' contracts with Firth Rixson involve ''directed buys'' wherein the customer dictates the specific supplier of the titanium to be used by Firth Rixson in the production of its aircraft turbine components for the customer's use. ''Directed buy'' contracts enable the customer to retain tight control over the specifications and quality of the titanium used to produce components for that customer. Key ''directed buy'' contractual provisions include a designated source (*i.e.,* the actual supplier of the titanium alloy to be processed by Firth Rixson) and a transaction price(s) (*i.e.,* unit price(s) for titanium alloy pre-established by negotiations solely involving Firth Rixson's customer and the producer of the titanium alloy selected by that customer). Under longstanding ''directed buy'' practices within the aerospace industry, Firth Rixson does not control the sourcing of titanium alloy and the price of that material for key contracts. What Firth Rixson does control in that situation is whether the production will occur at a company facility in the United States or abroad.

The examiner's analysis indicates that, given that certain ''directed buy'' contracts mandate the use of titanium from a specific foreign producer, the competitiveness of Firth Rixson's Rochester plant would be improved (relative to Firth Rixson's plants offshore and to competitors' plants abroad) through unrestricted FTZ benefits on its processing of foreign-origin titanium. (In that situation, because Firth Rixson's potential ''directed buy'' customer is seeking a company to process the specific, foreign-produced titanium already selected by the customer, there should be no impact on U.S. titanium producers.) In the absence of FTZ benefits, Firth Rixson would be more likely to need to conduct significant portions of its activity at one of its overseas plants in order to secure or retain a contract to process the specific foreign-origin titanium mandated by a potential customer. This would ultimately produce negative effects on employment at the U.S. plant and potentially on the plant's overall viability. FTZ authority should reduce the apparent risk of loss of that activity (and associated employment) to foreign locations. Further, helping to maintain Firth Rixson's production and employment at the Monroe County plant through FTZ authority would likely promote positive secondary economic effects (particularly through maintained or increased purchases of titanium alloy from U.S. mills for contracts that do not mandate the use of specific, foreign-produced titanium alloy).

Public comment is invited through February 13, 2013, on the revised preliminary recommendation and its underlying bases. Rebuttal comments may be submitted during the subsequent 15-day period, until February 28, 2013. Submissions shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002.

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: January 9, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–00587 Filed 1–11–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–830]

Carbon and Certain Alloy Steel Wire Rod From Mexico: Rescission of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') is rescinding its administrative review of the antidumping duty order on carbon and certain alloy steel wire rod (''wire rod'') from Mexico for the period October 1, 2011, through September 30, 2012.

DATES: *Effective Date:* January 14, 2013.

FOR FURTHER INFORMATION CONTACT: Patricia Tran at 202–482–1503 or Eric Greynolds at 202–482–6071, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2012, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on wire rod from Mexico for the period of review, October 1, 2011, through September 30, 2012.[1] On October 31, 2012, Nucor Corporation (''Nucor'') requested that the Department conduct a review of Deacero S.A. de C.V. (''Deacero''), Ternium S.A, (including Ternium Mexico S.A. de C.V. and Hylsa S.A. de C.C.) (collectively ''Ternium''), and ArcelorMittal Las Truchas, S.A. de C.V. and its affiliate, ArcelorMittal International America LLC (collectively ''AMLT''), or any of their affiliates.[2] On December 3, 2012, in accordance with 19 CFR 351.221(c)(1)(i), the Department initiated an administrative review of the antidumping duty order on wire rod from Mexico covering Deacero, Ternium, and AMLT.[3] On December 18, 2012, Nucor withdrew its request for an administrative review.[4]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice initiating the review. Nucor withdrew its request for review within the 90-day deadline. No other interested party requested an administrative review of Deacero, Ternium, and AMLT, or any other entity. 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 antidumping duties on all entries of wire rod from Mexico at rates equal to the cash deposit of estimated antidumping 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.

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[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 77 FR 59894 (October 1, 2012).

[2] *See* Letter from Nucor Corporation, ''Request for Administrative Review'' (October 31, 2012).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 77 FR 71575 (December 3, 2012).

[4] *See* Letter from Nucor Corporation, ''Withdrawal of Request for Administrative Review'' (December 18, 2012).

Notification Regarding Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under an APO in accordance with 19 CPR 351.305(a)(3). 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 terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 75l(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CPR 351.213(d)(4).

Dated: January 7, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–00583 Filed 1–11–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before February 4, 2013. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 12–060. Applicant: Vanderbilt University, 2201 West End Ave., Nashville, TN 37235. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument will be used for the characterization of the structure and elemental distribution of nanomaterials such as quantum dots, nanostructured photovoltaic devices, and bio accumulation of nanomaterials in tissue cells. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 11, 2012.

Docket Number: 12–061. Applicant: Purdue University, 401 S. Grant St., West Lafayette, IN 47907–2024. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument will be used to understand the morphology, such as size, shape of components, elemental composition, and relationships between structures of plant tissues, animal tissues, microorganisms, nanomaterials, and chemical compounds. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: August 21, 2012.

Docket Number: 12–067. Applicant: University of Pennsylvania, 3231 Walnut St., Philadelphia, PA 19104. Instrument: Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended Use: The instrument will be used to study the morphology or shape, composition, crystal structure, local bonding environment, hardness, and electrical properties of inorganic materials such as oxides, metals, ceramics, polymers, as well as organic materials such as tissue samples, in the size range from tenths of a nanometer to tens of micrometers. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 14, 2012.

Docket Number: 12–068. Applicant: National Center for Toxicological Research, USFDA, 3900 NCTR Rd., Jefferson, Arkansas 72079. Instrument: Electron Microscope. Manufacturer: Carl Zeiss, Germany. Intended Use: The instrument will be used to quantify the toxicological properties of nanoscale materials that are being regulated by the FDA, including metal oxides and carbon-based nanomaterials. The experiments will include determining the toxicity of nanoscale metal oxides in cultured cells, quantifying the distribution and toxicity of nanoscale silver and metal oxides in animals, and studying the migration of nanoscale materials from plastic materials. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 20, 2012.

Docket Number: 12–069. Applicant: Temple University, 1947 North 12th St., Philadelphia, PA 19122. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used for several projects such as improving the fabrication quality of a planar MgB_2/TiB_2/MgB_2 Josephson junction, the development of a smart needling device for image-guided percutaneous intervention and delivery of therapeutic agents in prostate, and fracture mechanics in development of enhanced geothermal energy resources. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 20, 2012.

Dated: January 8, 2013.

Gregory W. Campbell,

Director of Subsidies Enforcement, Import Administration.

[FR Doc. 2013–00586 Filed 1–11–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB152

Endangered Species; File No. 16645

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the Georgia Department of Natural Resources (GA DNR) has been issued a permit for the incidental take of shortnose (*Acipenser brevirostrum*) and Atlantic sturgeon (*A. oxyrinchus*) associated with the otherwise lawful commercial shad fishery in Georgia.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office:

Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13626, Silver Spring, MD 20910; phone (301) 427–8403; fax (301) 713–4060.

FOR FURTHER INFORMATION CONTACT: Kristy Beard or Angela Somma, (301) 427–8403.

SUPPLEMENTARY INFORMATION: On April 11, 2012, notice was published in the **Federal Register** (77 FR 21751) that a request for a permit for the incidental take of shortnose and Atlantic sturgeon associated with the otherwise lawful commercial shad fishery in Georgia had

been submitted by GA DNR. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The permit authorizes take of ESA-listed shortnose and Atlantic sturgeon that are caught incidental to the Georgia commercial shad fishery. Incidental capture by fisherman will not exceed 140 shortnose sturgeon per year (no more than 420 in a 3-year period) and 140 Atlantic sturgeon per year (no more than 420 in a 3-year period) in the Altamaha River, 70 shortnose sturgeon per year (no more than 210 in a 3-year period) and 35 Atlantic sturgeon per year (no more than 110 in a 3-year period) in the Savannah River, and 5 shortnose sturgeon per year (no more than 20 in a 3-year period) and 5 Atlantic sturgeon per year (no more than 20 in a 3-year period) in the Ogeechee River. Mortalities of incidentally captured sturgeon will not exceed 3 shortnose sturgeon per year or 8 per 3-year period and 3 Atlantic sturgeon per year or 5 per 3-year period in the Altamaha River, 2 shortnose sturgeon per year or 6 per 3-year period and 1 Atlantic sturgeon per year or 1 per 3-year period in the Savannah River, and 1 shortnose sturgeon per year or 1 per 3-year period and 1 Atlantic sturgeon per year or 1 per 3-year period in the Ogeechee River. The State of Georgia has amended its commercial fishing regulations for the Georgia commercial shad fishery to minimize the incidental capture of ESA-listed shortnose sturgeon and the South Atlantic, Carolina, Chesapeake Bay, New York Bight, and Gulf of Maine DPSs of Atlantic sturgeon. The new regulations restrict fishing to the lower portions of the Savannah, Ogeechee, and Altamaha Rivers and close the fishery in the Satilla and St. Mary's River. The Georgia shad fishery is open from January 1 to as late as April 30 each year, but would typically end March 31. In addition, GA DNR will implement measures described in the conservation plan that accompanies the permit to minimize, monitor, and mitigate the incidental take of ESA-listed sturgeon. The conservation plan includes continued implementation of Georgia's amended commercial fishing regulations for the Georgia shad fishery, which are expected to minimize the bycatch of sturgeon by closing to shad fishing sections of the rivers that previously had the highest bycatch rates. These closures would also protect known and suspected sturgeon spawning sites. Georgia regulations require that sturgeon captured in shad nets be released unharmed into the waters from which they were taken. In addition to sturgeon incidentally captured by fisherman, GA DNR is also expected to incidentally capture sturgeon during monitoring of the shad run. GA DNR will set drift nets in the Altamaha River during the fishing season to monitor the shad run and approximate the rate of incidentally captured shortnose and Atlantic sturgeon. Up to 10 shortnose and 10 Atlantic sturgeon will be captured during annual monitoring activities in the Altamaha River, with no more than 50 shortnose sturgeon and 50 Atlantic sturgeon captured during any three consecutive years. No mortalities are anticipated. GA DNR will insert passive integrated transponder (PIT) tags and collect genetic samples from Atlantic sturgeon incidentally captured during monitoring in order to better determine what DPSs of Atlantic sturgeon are being captured in the fishery.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: January 9, 2013.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–00553 Filed 1–11–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority Board Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open public meeting.

SUMMARY: This notice announces an open public meeting of the Board of the First Responder Network Authority (FirstNet).

DATES: The meeting will be held on February 12, 2013, from 9 a.m. to 12:30 p.m. Mountain Standard Time.

ADDRESSES: Board members will meet at the National Institute of Standards and Technology (NIST) Radio Building 1 (Room 1107), 325 Broadway, Boulder, CO 80305–3328.

FOR FURTHER INFORMATION CONTACT: Uzoma Onyeije, Senior Advisor for Public Safety, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, (202) 482–0016, *uzoma@firstnet.gov*. Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION: *Background:* The Middle Class Tax Relief and Job Creation Act of 2012 (Act), Public Law 112–96, 126 Stat. 156 (2012), created FirstNet as an independent authority within the National Telecommunications and Information Administration (NTIA). The Act directs FirstNet to establish a nationwide, interoperable public safety broadband network. The FirstNet Board is responsible for making strategic decisions regarding FirstNet's operations. The FirstNet Board held its first public meeting on September 25, 2012, and its second meeting on December 11, 2012, in Washington, DC.

Matters to Be Considered: NTIA will post a detailed agenda on its Web site, *http://www.ntia.doc.gov/category/firstnet* prior to the meeting. The agenda topics are subject to change.

Time and Date: The meeting will be held on February 12, 2013, from 9 a.m. to 12:30 p.m. Mountain Standard Time. The time is subject to change.

Place: Board members will meet at the National Institute of Standards and Technology (NIST) Radio Building 1 (Room 1107), 325 Broadway, Boulder, CO 80305–3328.

Other Information: The meeting is open to the public, including the press. Given the space limitations of the FirstNet Board's Conference Room, members of the public and the press attending the meeting in person will be directed to the B Auditorium (Room 1–1108) at the NIST campus, 325 Broadway, Boulder, CO 80305–3328. The public participants will observe the meeting by video.

Due to security requirements, in order to gain access to the meeting site, by February 4, 2013, all participants must register online and complete the NIST 1260 form at *https://www-s.nist.gov/CRS/conf_disclosure.cfm?conf_id=5910.* All attendees are required to have two forms of identification, and one MUST include a photo.

Questions about registration should be addressed to Teresa Vicente, (301) 975–3883, *teresa.vicente@nist.gov*. Upon completion of registration, participants will receive a map with

instructions on how to enter the NIST campus in Boulder. Details regarding access to the facility are available at *http://www.boulder.nist.gov/police/Foreign_Nationals.html.*

The meeting is accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Uzoma Onyeije, Senior Advisor for Public Safety, at (202) 482–0016 or *uzoma@firstnet.gov* at least seven (7) business days before the meeting (by February 1, 2013).

The meeting will also be webcast. Please refer to NTIA's Web site at *http://www.ntia.doc.gov/category/firstnet* for webcast instructions and other information. If you have technical questions regarding the webcast, please contact Charles Franz at (202) 482–1835 or *cfranz@ntia.doc.gov.*

Records: NTIA will post records of all Board open meetings. Board minutes will be available at *http://www.ntia.doc.gov/category/firstnet.*

Dated: January 8, 2013.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2013–00501 Filed 1–11–13; 8:45 am]

BILLING CODE 3510–60–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before February 13, 2013.

ADDRESSES: Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses below. Please refer to OMB Control No. 3038–0091 in any correspondence.

Martin B. White, Office of the General Counsel, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Comments may also be submitted by any of the following methods:

The agency's Web site, at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.

Mail: Sauntia Warfield, Assistant Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

Hand Delivery/Courier: Same as mail above.

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

Please submit your comments using only one method and identity that it is for the renewal of 3038–0091.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

FOR FURTHER INFORMATION OR A COPY CONTACT: Martin B. White, Office of the General Counsel, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418–5303; FAX: (202) 418–5527; email: *mwhite@cftc.gov* and refer to OMB Control No. 3038–0091.

SUPPLEMENTARY INFORMATION:

Title: Disclosure and Retention of Certain Information Related to Cleared Swaps Customer Collateral (OMB Control No. 3038–0091). This is a request for extension of a currently approved information collection.

Abstract: Part 22 of the Commission's regulations under the Commodity Exchange Act (Act) establish rules for the protection of customer collateral held by futures commission merchants and derivatives clearing organizations to serve as margin in cleared swaps transactions. As part of this regulatory scheme, sections 22.2(g), 22.5(a), 22.11, 22.12, and 22.16 of these rules impose recordkeeping and third-party disclosure requirements on futures commission merchants and designated clearing organizations. In addition, section 22.13(c)(2) indirectly requires futures commission merchants who post excess collateral with designated clearing organizations to perform certain computations regarding such collateral, although it is not expected to materially affect the total paperwork burden associated with Part 22.

The reporting and recordkeeping requirements of Part 22 constitute the collection of information within the meaning of the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The Part 22 rules were promulgated earlier this year and the associated collection of information was assigned OMB control number 3038–0091. See Final Rule, 77 FR 6336, 6370–71 (February 7, 2012). The **Federal Register** notice for the 60-day comment period on this renewal of a collection of information was published on October 2, 2012 (77 FR 60114). That notice included a description of the specific recordkeeping and third-party disclosure required by the relevant rule provisions. No comments were received in response to the 60-day notice.

Burden statement: The Commission estimates the burden of this collection of information as follows:

RECORDKEEPING BURDEN

Regulations (17 CFR)	Estimated number of entities	Estimated annual responses per entity	Total annual responses	Estimated number of hours per response	Estimated average cost per response	Total annual burden-hours	Total annual burden-cost
22.2(g)	100	250	25,000	0.4	$10	10,000	$250,000

[1] *See* 17 CFR 145.9.

RECORDKEEPING BURDEN—Continued

Regulations (17 CFR)	Estimated number of entities	Estimated annual responses per entity	Total annual responses	Estimated number of hours per response	Estimated average cost per response	Total annual burden-hours	Total annual burden-cost
22.5(a)	100	1	100	5	125	500	12,500

Regulations (17 CFR)	Estimated number of entities	Estimated annualized start-up cost per entity	Estimated annual operating and maintenance cost per entity	Estimated total annualized start-up costs	Estimated total annual operating and maintenance cost per entity
22.12	100	$750–1,500	$750–1,500	$75,000–150,000	$75,000–150,000

THIRD-PARTY DISCLOSURE BURDEN

Regulations (17 CFR)	Estimated number of entities	Annual responses per entity	Total annual responses	Estimated number of hours per response	Estimated average cost per response	Total annual burden-hours	Total annual burden-cost
22.16	100	1,000	100,000	0.2	$5	20,000	$500,000

Regulations (17 CFR)	Estimated number of entities	Estimated annualized start-up cost per entity	Estimated annual operating and maintenance cost per entity	Estimated total annualized start-up costs	Estimated total annual operating and maintenance cost per entity
22.11	100	$750–1,500	$750–1,500	$75,000–150,000	$75,000–150,000

Notes: 1. There is no reporting (in the sense of reporting information to the government as opposed to third-party disclosure to private parties) requirement or burden in connection with information collection under 17 CFR part 22 and Control Number 3038–0091.

2. In the 60-notice for this renewal of a collection of information, the CFTC stated that there were estimated to be no capital costs or operating and maintenance costs associated with this collection. Upon further consideration, the CFTC has determined that the costs associated with rules 22.11 and 22.12 are appropriately classified as start-up costs and operating and maintenance costs as those terms are used with regard to Paperwork Reduction Act burden estimates in the Office of Management and Budget regulatory information system. This reclassification does not alter the substance of the recordkeeping and third-party disclosure requirements in question or the associated total cost set forth in the 60-day notice.

Dated: January 8, 2013.

Stacy D. Yochum,

Counsel to the Executive Director.

[FR Doc. 2013–00521 Filed 1–11–13; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2009–0044]

Proposed Extension of Approval of Information Collection; Comment Request: Safety Standard for Cigarette Lighters

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed request for an extension of approval of a collection of information from manufacturers and importers of disposable and novelty cigarette lighters. This collection of information consists of testing and recordkeeping requirements in certification regulations implementing the Safety Standard for Cigarette Lighters (16 CFR part 1210). The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from the Office of Management and Budget (OMB).

DATES: The Office of the Secretary must receive comments not later than March 15, 2013.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2009–0044, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email), except through *www.regulations.gov.*

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other

personal information provided, to *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION: In 1993, the Commission issued the Safety Standard for Cigarette Lighters (16 CFR part 1210) under provisions of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 *et seq.*) to eliminate or reduce risks of death and burn injury from fires accidentally started by children playing with cigarette lighters. The standard contains performance requirements for disposable and novelty lighters that are intended to make cigarette lighters that are subject to the standard resist operation by children younger than 5 years of age.

A. Certification Requirements

Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, importers, and private labelers of a consumer product subject to a consumer product safety standard under the CPSA or similar rule, ban, standard, or regulation under any other act enforced by the Commission to issue a certificate stating that the product complies with all applicable rules, bans, standards, or regulations. Section 14(a) of the CPSA also requires that the certificate of compliance must be based on a test of each product or upon a reasonable testing program and specify each such rule, ban, standard or regulation applicable to the product.

Section 14(b) of the CPSA (15 U.S.C. 2063(b)) authorizes the Commission to issue regulations to prescribe a reasonable testing program to support certificates of compliance with a consumer product safety standard under the CPSA or similar rule, ban, standard, or regulation under any other act enforced by the Commission. Section 16(b) of the CPSA (15 U.S.C 2065(b)) authorizes the Commission to issue rules to require that firms ''establish and maintain'' records to permit the Commission to determine compliance with rules issued under the authority of the CPSA.

The Commission has issued regulations prescribing requirements for a reasonable testing program to support certificates of compliance with the standard for cigarette lighters. These regulations require manufacturers and importers to submit a description of each model of lighter, results of surrogate qualification tests for compliance with the standard, and other information before the introduction of each model of lighter in commerce. These regulations also require manufacturers, importers, and private labelers of disposable and novelty lighters to establish and maintain records to demonstrate successful completion of all required tests to support the certificates of compliance that they issue. 16 CFR part 1210, Subpart B.

The Commission uses the information compiled and maintained by manufacturers, importers, and private labelers of disposable and novelty lighters to protect consumers from risks of accidental deaths and burn injuries associated with those lighters. More specifically, the Commission uses this information to determine whether lighters comply with the standard by resisting operation by young children. The Commission also uses this information to obtain corrective actions if disposable or novelty lighters fail to comply with the standard in a manner that creates a substantial risk of injury to the public.

OMB approved the collection of information in the certification regulations for cigarette lighters under control number 3041–0116. OMB's most recent extension of approval will expire on February 28, 2013. The Commission proposes to request an extension of approval for this collection of information requirements.

B. Estimated Burden

The cost of the rule's testing requirement is the cost of testing, either by the firm or by outside contractors. In fiscal year 2012, 30 firms submitted new lighter models. The total number of models that were child-tested (new models) was 13, and the number of lighters that were comparable to previously tested models (comparable models) was 132. If tested through outside contractors, CPSC staff estimates the cost per test to be between $15,000 and $25,000, and $20,000 on average. If 13 total tests are done annually by outside contractors, the cost would be approximately $260,000. If tests are conducted in-house, CPSC staff estimates that testing a new model is expected to take about 90 hours per model. The total testing time for 13 models, if conducted in-house, would be 1,170 hours. Based on an hourly compensation for the time required for testing is $61.75 per hour (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' June 2012, Table 9, total compensation for management, professional, and related workers in goods-producing industries: *http://www.bls.gov/ncs*), the in-house testing cost would be approximately 72,245. The total industry cost of the testing component for this regulation would be in the range of $72,248 to $260,000 per year, depending on the method chosen.

The cost of the recordkeeping requirement is composed of two separate components: recordkeeping for new models and recordkeeping for comparable models. The time consumed in recordkeeping for new models has been estimated at 20 hours per model. Thus, the total time consumed for recordkeeping of new models would be 260 hours (20 hours × 13 models). We estimate the hourly compensation for the time required for recordkeeping is $27.64 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' June 2012, Table 9, total compensation for all sales and office workers in goods-producing, private industries: *http://www.bls.gov/ncs*). The estimated annual cost of recordkeeping for new models is about $7,186 (260 hours × $27.64).

In fiscal year 2012, 132 comparable models were submitted to the CPSC. While firms would bear no testing costs for the comparable models, the time for recordkeeping is estimated at 3 hours per model. Thus, an estimated 396 hours (132 models × 3 hours). We estimate the hourly compensation for the time required for record keeping is $27.64 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' June 2012, Table 9, total compensation for all sales and office workers in goods-producing, private industries: *http://www.bls.gov/ncs*). The estimated annual cost of recordkeeping for comparable models is about $10,945 (396 hours × $27.64). The estimated total recordkeeping costs for new models and comparable models would be approximately $18,131 ($7,186 + $10,945).

Because the number of responses to the CPSC includes paperwork associated with the testing for new models, as well as comparable models, we expect that the total number of responses will be 145 per year (13 tested + 132 comparisons). The total number of hours consumed for these responses would be 1,826 hours per year, including new model tests (1,170 hours

if done in-house), new model recordkeeping (260 hours), and recordkeeping for comparable models (396 hours). The Commission estimates the total cost for firms to test, and prepare, maintain, and submit records to the CPSC in compliance with the lighter regulation would be in the range of $90,379 to $278,132, depending upon the test method chosen.

The estimated total cost of this collection to the federal government is $344,618. This represents two full-time employees annually for compliance activities. This estimate uses an annual total compensation of $119,238 (the equivalent of a GS–14 Step 5 employee) with an additional 30.8 percent added for benefits (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' September 2012, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees), for a total annual compensation per full-time employee of $172,309.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: January 9, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–00522 Filed 1–11–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Minority-Serving Institution Field-Initiated Projects

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information: National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Minority-Serving Institution (MSI) Field-Initiated (FI) Projects.

Notice inviting applications for new awards for fiscal year (FY) 2013.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.133G–4 (Research) and 84.133G–5 (Development).

DATES:

Applications Available: January 14, 2013.

Date of Pre-Application Meeting: February 4, 2013.

Deadline for Transmittal of Applications: March 15, 2013.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the FI Projects program is to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. Another purpose of the FI Projects program is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Act).

The purpose of this competition is to improve the capacity of minority entities to conduct high-quality disability and rehabilitation research by limiting eligibility for FI research and development grants to minority entities and Indian tribes. Section 21(b)(2)(A) of the Act authorizes NIDRR to make awards to minority entities and Indian tribes to carry out activities authorized under Title II of the Act.

NIDRR makes two types of awards under the FI Projects program: Research grants and development grants. The MSI FI Projects research grants will be awarded under CFDA 84.133G–4, and the development grants will be awarded under CFDA 84.133G–5.

Note: Different selection criteria are used for FI Project research grants (84.133G–4) and development grants (84.133G–5). An applicant must clearly indicate in the application whether it is applying for a research grant (84.133G–4) or a development grant (84.133G–5) and must address the selection criteria relevant for its grant type. Without exception, NIDRR will review each application based on the grant designation made by the applicant. Applications will be determined ineligible and will not be reviewed if they do not include a clear designation as a research grant or a development grant.

In carrying out a research activity under an FI Projects research grant, a grantee must identify one or more hypotheses and, based on the hypotheses identified, perform an intensive, systematic study directed toward (1) new or full scientific knowledge, or (2) understanding of the subject or problem studied.

In carrying out a development activity under an FI Projects development grant, a grantee must use knowledge and understanding gained from research to create materials, devices, systems, or methods beneficial to the target population, including design and development of prototypes and processes. ''Target population'' means the group of individuals, organizations, or other entities expected to be affected by the project. More than one group may be involved since a project may affect those who receive services, provide services, or administer services.

Section 21:

Note: This program is in concert with NIDRR's currently approved long-range plan (the Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research. The Plan, which was published in the **Federal Register** on February 15, 2006 (71 FR 8165), can be accessed on the Internet at: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to (1) improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training methods to facilitate the advancement of knowledge and understanding of the unique needs of individuals with disabilities from traditionally underserved populations; (3) determine the best strategies and programs to improve rehabilitation outcomes for individuals with disabilities from underserved populations; (4) identify research gaps; (5) identify mechanisms for integrating research and practice; and (6) disseminate findings.

Program Authority: 29 U.S.C. 764 and 29 U.S.C. 718.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, and 97. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 350.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $106,817,000 for NIDRR for FY 2013, of which we intend to use an estimated $200,000 for the MSI FI competition. The actual funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2014 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $195,000–$200,000.

Estimated Average Size of Awards: $200,000.

Maximum Award: We will reject any application that proposes a budget exceeding $200,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Note: The maximum amount includes direct and indirect costs.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Maximum Project Period: We will reject any application that proposes a project period exceeding 36 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum project period through a notice published in the **Federal Register**.

III. Eligibility Information

1. *Eligible Applicants:* Parties eligible to apply for MSI FI Projects grants are limited to minority entities and Indian tribes as authorized by section 21(b)(2)(A) of the Act. A minority entity is defined as a historically black college or university (a part B institution, as defined in section 322(2) of the Higher Education Act of 1965, as amended), a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent.

2. *Cost Sharing or Matching:* Cost sharing is required by 34 CFR 350.62 and will be negotiated at the time of the grant award.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html*.

To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.133G–4 or 84.133G–5.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section.

The application package will provide instructions for completing all components to be included in the application. Each application must include a cover sheet (Standard Form 424); budget requirements (ED Form 524) and narrative justification; other required forms; an abstract, Human Subjects narrative, and Part III narrative; resumes of staff; and other related materials, if applicable.

Each applicant should consult NIDRR's Plan when preparing its application. The Plan is organized around the following research domains and arenas: (1) Community Living and Participation; (2) Health and Function; (3) Technology; (4) Employment; and (5) Demographics. An applicant should indicate, for each application, the domain or arena under which it is applying.

3. *Submission Dates and Times:*

Applications Available: January 14, 2013.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDRR staff. The pre-application meeting will be held on February 4, 2013. Interested parties may participate in this meeting by conference call with NIDRR staff from the Office of Special Education and Rehabilitative Services between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference call or for an individual consultation, contact either Lynn Medley or Marlene Spencer as follows:

Lynn Medley, U.S. Department of Education, 400 Maryland Avenue SW., Potomac Center Plaza (PCP), room 5140, Washington, DC 20202–2700.

Telephone: (202) 245–7338 or by email: *lynn.medley@ed.gov.*

Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., PCP, room 5133, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

Deadline for Transmittal of Applications: March 15, 2013.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and Central Contractor Registry:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR)—and, after July 24, 2012, with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR or SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR or SAM registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days to complete. Information about SAM is available at SAM.gov.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/aapplicants/get_registered.jsp.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the MSI FI Projects program, CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development), must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the MSI FI Projects program—CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development)—at www.Grants.gov. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.133, not 84.133G).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described

elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (a Department-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under *For Further Information Contact* in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Lynn Medley, U.S. Department of Education, 400 Maryland Avenue SW., room 5140, PCP, Washington, DC 20202–2700. FAX: (202) 245–7323.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: Applicants must identify either CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development) depending on the designation of their proposed project.
LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: Applicants must identify either CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development) depending on the designation of their proposed project. 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between

8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 350.54 and 350.55 and are listed in the application package.

Note: There are two different sets of selection criteria for FI projects: One set to evaluate applications proposing to carry out research activities (CFDA 84.133G–4), and a second set to evaluate applications proposing to carry out development activities (CFDA 84.133G–5). Each applicant will be evaluated using the selection criteria for the type of project the applicant designates in its application.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are as follows:

The Secretary is interested in outcomes-oriented research or development projects that use rigorous scientific methodologies. To address this interest, applicants are encouraged to articulate goals, objectives, and expected outcomes for the proposed research or development activities. Proposals should describe how results and planned outputs are expected to contribute to advances in knowledge, improvements in policy and practice, and public benefits for individuals with disabilities. Applicants should propose projects that are designed to be consistent with these goals. We encourage applicants to include in their application a description of how results will measure progress towards achievement of anticipated outcomes (including a discussion of measures of effectiveness), the mechanisms that will be used to evaluate outcomes associated with specific problems or issues, and how the proposed activities will support new intervention approaches and strategies. Submission of the information identified in this section is voluntary, except where required by the selection criteria listed in the application package.

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

Note: NIDRR will provide information by letter to grantees on how and when to submit the performance report.

4. *Performance Measures:* NIDRR assesses the quality of its funded projects through review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine:

- The number of products (e.g., new or improved tools, methods, discoveries, standards, interventions, programs, or devices) developed or tested with NIDRR funding that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award based on NIDRR-funded research and development activities in refereed journals.
- The percentage of new grants that assess the effectiveness of interventions, programs, and devices using rigorous and appropriate methods.

Each grantee must annually report on its performance through NIDRR's Annual Performance Report (APR) form. NIDRR uses APR information submitted by grantees to assess progress on these measures.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial

assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Lynn Medley or Marlene Spencer as follows:

Lynn Medley, U.S. Department of Education, 400 Maryland Avenue SW., room 5140, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7338 or by email: *lynn.medley@ed.gov.*

Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

If you use a TDD or TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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: January 9, 2013.

Michael Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–00569 Filed 1–11–13; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0957; FRL–9769–8]

Waste Import and Export; Inquiry To Learn Whether Businesses Assert Business Confidentiality Claims

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: The Environmental Protection Agency (EPA) receives from time to time Freedom of Information Act (FOIA) requests for documentation received or issued by EPA or data contained in EPA database systems pertaining to the export and import of Resource Conservation and Recovery Act (RCRA) hazardous waste from/to the United States, the export of cathode ray tubes (CRTs) and spent lead acid batteries (SLABs) from the United States, and the export and import of RCRA universal waste from/to the United States. These documents and data may identify or reference multiple parties, and describe transactions involving the movement of specified materials in which the parties propose to participate or have participated. The purpose of this notice is to inform ''affected businesses'' about the documents or data sought by these types of FOIA requests in order to provide the businesses with the opportunity to assert claims that any of the information sought that pertains to them is entitled to treatment as confidential business information (CBI), and to send comments to EPA supporting their claims for such treatment. Certain businesses, however, do not meet the definition of ''affected business,'' and are not covered by today's notice. They consist of any business that actually submitted to EPA any document at issue pursuant to applicable RCRA regulatory requirements and did not assert a CBI claim as to information that pertains to that business in connection with the document at the time of its submission; they have waived their right to do so at a later time. Nevertheless, other businesses identified or referenced in the documents that were submitted to EPA by the submitting business may have a right to assert a CBI claim concerning information that pertains to them and may do so in response to this notice.

DATES: Comments must be received on or before February 13, 2013. The period for submission of comments may be extended if, before the comments are due, you make a request for an extension of the comment period and it is approved by the EPA legal office. Except in extraordinary circumstances, the EPA legal office will not approve such an extension without the consent of any person whose request for release of the information under the FOIA is pending.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2012–0957, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: kreisler.eva@epa.gov.*
- *Address:* Eva Kreisler, International Compliance Assurance Division, Office of Federal Activities, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, Mailcode: 2254A, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OECA–2012–0957. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Instructions about how to submit comments claimed as CBI are given later in this notice.

The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. Please include your name and other contact information with any disk or CD–ROM you submit by mail. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or

viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index.

Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the HQ EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the docket for this notice is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Eva Kreisler, International Compliance Assurance Division, Office of Federal Activities, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, Mailcode: 2254A, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8186; email address: *kreisler.eva@epa.gov*.

SUPPLEMENTARY INFORMATION: Today's notice relates to any documents or data in the following areas: (1) Export of Resource Conservation and Recovery Act (RCRA) hazardous waste, during calendar year 2012 or before, under 40 CFR part 262, subparts E and H; (2) import of RCRA hazardous waste, during calendar year 2012 or before, under 40 CFR part 262, subparts F and H; (3) transit of RCRA hazardous waste, during calendar year 2012 or before, under 40 CFR part 262, subpart H, through the United States and foreign countries; (4) export of cathode ray tubes, during calendar year 2012 or before, under 40 CFR part 261, subpart E; (5) exports of non-crushed spent lead acid batteries with intact casings, during calendar year 2012 or before, under 40 CFR part 266 subpart G; (6) export and import of RCRA universal waste, during calendar year 2012 or before, under 40 CFR part 273, subparts B, C, D, and F; (7) submissions from transporters, during calendar year 2012 or before, under 40 CFR part 263, or from treatment, storage or disposal facilities under 40 CFR parts 264 and 265, related to exports or imports of hazardous waste which occurred during calendar year 2012 or before, including receiving facility notices under 40 CFR 264.12(a)(1) and 265.12(a)(1) and import consent documentation under 40 CFR 264.71(a)3) and 265.71(a)(3).

I. General Information

EPA has previously published notices similar to this one in the **Federal Register**, the latest one being at 77 FR 25475, April 30, 2012 that address issues similar to those raised by today's notice. The Agency did not receive any comments on the previous notices. Since the publication of the April 30, 2012 notice, the Agency has continued to receive FOIA requests for documents and data contained in EPA's database related to hazardous waste exports and imports.

II. Issues Covered by This Notice

Specifically, EPA receives FOIA requests from time to time for documentation or data related to hazardous waste exports and imports that may identify or reference multiple parties, and that describe transactions involving the movement of specified materials in which the parties propose to participate or have participated. This notice informs ''affected businesses,'' [1] which could include, among others, ''transporters'' [2] and ''consignees,'' [3] of the requests for information in EPA database systems and/or contained in one or more of the following documents: (1) Documents related to the export of Resource Conservation and Recovery Act (RCRA) hazardous waste, during calendar year 2012 or before, under 40 CFR part 262, subparts E and H, including but not limited to the ''notification of intent to export,'' [4] ''manifests,'' [5] ''annual reports,'' [6] ''EPA acknowledgements of consent,[7] '' ''any subsequent communication withdrawing a prior consent or objection,'' [8] ''responses that neither consent nor object,'' ''exception reports,'' [9] ''transit notifications,'' [10] and ''renotifications;'' [11] (2) documents related to the import of hazardous waste, during calendar year 2012 or before, under 40 CFR part 262, subparts F and H, including but not limited to notifications of intent to import hazardous waste into the U.S. from foreign countries; (3) documents related to the transit of hazardous waste, during calendar year 2012 or before, under 40 CFR part 262, subpart H, including notifications from U.S. exporters of intent to transit through foreign countries, or notifications from foreign countries of intent to transit through the U.S.; (4) documents related to the export of cathode ray tubes (CRTs), during calendar year 2012 or before, under 40 CFR part 261, subpart E, including but not limited to notifications of intent to export CRTs; (5) documents related to the export of non-crushed spent lead acid batteries (SLABs) with intact casings, during calendar year 2012 or before, under 40 CFR part 266 subpart G, including but not limited to notifications of intent to export SLABs; (6) submissions from transporters under 40 CFR part 263, or from treatment, storage or disposal facilities under 40 CFR parts 264 and 265, related to exports or imports of hazardous waste which occurred during calendar year 2012 or before, including receiving facility notices under 40 CFR 264.12(a)(1) and 265.12(a)(1) and import consent documentation under 40 CFR 264.71(a)(3) and 265.71(a)(3), and (7) documents related to the export and import of RCRA ''universal waste'' [12] under 40 CFR part 273, subparts B, C, D, and F.

Certain businesses, however, do not meet the definition of ''affected business,'' and are not covered by today's notice. They consist of any business that actually submitted information responsive to a FOIA request, under the authority of 40 CFR parts 260 through 266 and 268, and did not assert a claim of business confidentiality covering any of that information at the time of submission. As set forth in the RCRA regulations at 40 CFR 260.2(b), ''if no such [business confidentiality] claim accompanies the information when it is received by EPA, it may be made available to the public without further notice to the person submitting it.'' Thus, for purposes of

[1] The term ''affected business'' is defined at 40 CFR 2.201(d), and is set forth in this notice, below.

[2] The term ''transporter'' is defined at 40 CFR 260.10.

[3] The term ''consignee'' is defined, for different purposes, at 40 CFR 262.51 and 262.81(c).

[4] The term ''notification of intent to export'' is described at 40 CFR 262.53.

[5] The term ''manifest'' is defined at 40 CFR 260.10.

[6] The term ''annual reports'' is described at 40 CFR 262.56.

[7] The term ''EPA acknowledgement of consent'' is defined at 40 CFR 262.51.

[8] The requirement to forward to the exporter ''any subsequent communication withdrawing a prior consent or objection'' is found at 42 U.S.C. § 6938(e)

[9] The term ''exception reports'' is described at 40 CFR 262.55.

[10] The term ''transit notifications'' is described at 40 CFR 262.53(e).

[11] The term ''renotifications'' is described at 40 CFR 262.53(c).

[12] The term ''universal waste'' is defined at 40 CFR 273.9.

this notice and as a general matter under 40 CFR 260.2(b), a business that submitted to EPA the documents at issue, pursuant to applicable regulatory requirements, and that failed to assert a claim as to information that pertains to it at the time of submission, cannot later make a business confidentiality claim.[13] Nevertheless, other businesses identified or referenced in the same documents that were submitted to EPA by the submitting business may have a right to assert a CBI claim concerning information that pertains to them and may do so in response to this notice.

In addition, EPA may develop its own documents and organize into its database systems information that was originally contained in documents from submitting businesses relating to exports and imports of hazardous waste. If a submitting business fails to assert a CBI claim for the documents it submits to EPA at the time of submission, not only does it waive its right to claim CBI for those documents, but it also waives its right to claim CBI for information in EPA's documents or databases that is based on or derived from the documents that were originally submitted by that business.[14]

In accordance with 40 CFR 2.204(c) and (e), this notice inquires whether any affected business asserts a claim that any of the requested information constitutes CBI, and affords such business an opportunity to comment to EPA on the issue. This notice also informs affected businesses that, if a claim is made, EPA would determine under 40 CFR part 2, subpart B, whether any of the requested information is entitled to business confidential treatment.

1. Affected Businesses

EPA's FOIA regulations at 40 CFR 2.204(c)(1) require an EPA office that is responsible for responding to a FOIA request for the release of business information (''EPA office'') ''to determine which businesses, if any, are affected businesses * * *.'' ''Affected business'' is defined at 40 CFR 2.201(d) as, ''* * * with reference to an item of business information, a business which has asserted (and not waived or withdrawn) a business confidentiality claim covering the information, or a business which could be expected to make such a claim if it were aware that disclosure of the information to the public was proposed.''

2. The Purposes of This Notice

This notice encompasses two distinct steps in the process of communication with affected businesses prior to EPA's making a final determination concerning the business confidentiality of the information at issue: The preliminary inquiry and the notice of opportunity to comment.

a. Inquiry To Learn Whether Affected Businesses (Other Than Those Businesses That Previously Asserted a CBI Claim) Assert Claims Covering Any of the Requested Information

Section 2.204(c)(2)(i) provides, in relevant part:

If the examination conducted under paragraph (c)(1) of this section discloses the existence of any business which, although it has not asserted a claim, might be expected to assert a claim if it knew EPA proposed to disclose the information, the EPA office shall contact a responsible official of each such business to learn whether the business asserts a claim covering the information.

b. Notice of Opportunity To Submit Comments

Sections 2.204(d)(1)(i) and 2.204(e)(1) of Title 40 of the Code of Federal Regulations require that written notice be provided to businesses that have made claims of business confidentiality for any of the information at issue, stating that EPA is determining under 40 CFR part 2, subpart B, whether the information is entitled to business confidential treatment, and affording each business an opportunity to comment as to the reasons why it believes that the information deserves business confidential treatment.

*3. The Use of Publication in the **Federal Register***

Section 2.204(e)(1) of Title 40 of the Code of Federal Regulations requires that this type of notice be furnished by certified mail (return receipt requested), by personal delivery, or by other means which allows verification of the fact and date of receipt. EPA, however, has determined that in the present circumstances the use of a **Federal Register** notice is a practical and efficient way to contact affected businesses and to furnish the notice of opportunity to submit comments. The Agency's decision to follow this course was made in recognition of the administrative difficulty and impracticality of directly contacting potentially thousands of individual businesses.

4. Submission of Your Response in the English Language

All responses to this notice must be in the English language.

5. The Effect of Failure To Respond to This Notice

In accordance with 40 CFR 2.204(e)(1) and 2.205(d)(1), EPA will construe your failure to furnish timely comments in response to this notice as a waiver of your business's claim(s) of business confidentiality for any information in the types of documents identified in this notice.

6. What To Include in Your Comments

If you believe that any of the information contained in the types of documents which are described in this notice and which are currently, or may become, subject to FOIA requests, is entitled to business confidential treatment, please specify which portions of the information you consider business confidential. Information not specifically identified as subject to a business confidentiality claim may be disclosed to the requestor without further notice to you.

For each item or class of information that you identify as being subject to your claim, please answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as business confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for business confidentiality, please specify that event.

2. Information submitted to EPA becomes stale over time. Why should the information you claim as business confidential be protected for the time period specified in your answer to question no. 1?

3. What measures have you taken to protect the information claimed as business confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered business confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available data bases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could

[13] However, businesses having submitted information to EPA relating to the export and import of RCRA universal waste are not subject to 40 CFR 260.2(b) since they submitted information in accordance with 40 CFR part 273, and not parts 260 through 266 and 268, as set forth in 40 CFR 260.2(b). They are therefore affected businesses that could make a claim of CBI at the time of submission or in response to this notice.

[14] With the exception, noted above, of the submission of information relating to the export and import of RCRA universal waste.

obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the business confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as business confidential, explain with specificity why and how release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If the business asserts that the information is voluntarily submitted information, please explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

8. Any other issue you deem relevant.

Please note that you bear the burden of substantiating your business confidentiality claim. Conclusory allegations will be given little or no weight in the determination. If you wish to claim any of the information in your response as business confidential, you must mark the response ''BUSINESS CONFIDENTIAL'' or with a similar designation, and must bracket all text so claimed. Information so designated will be disclosed by EPA only to the extent allowed by, and by means of, the procedures set forth in, 40 CFR part 2, subpart B. If you fail to claim the information as business confidential, it may be made available to the requestor without further notice to you.

III. What should I consider as I prepare my comments for EPA?

1. Submitting CBI. Do not submit this information to EPA through *http://www.regulations.gov* or email. Please submit this information by mail to the address identified in the ADDRESSES section of today's notice for inclusion in the non-public CBI docket. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2, subpart B. In addition to the submission of one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

2. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the notice by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Make sure to submit your comments by the comment period deadline identified.

Dated: January 7, 2013.

Susan E. Bromm,

Director, Office of Federal Activities.

[FR Doc. 2013–00575 Filed 1–11–13; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice: 2013–0101]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP078595XX, AP078595XA, AP078595XB

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction.

Reference: AP078595XX, AP078595XA, AP078595XB.

Purpose and Use

Brief description of the purpose of the transaction:

To support the export of U.S. manufactured commercial aircraft to South Korea.

Brief non-proprietary description of the anticipated use of the items being exported:

To be used for long-haul passenger and cargo air service between South Korea and other countries.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported may be used to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties

Principal Supplier: The Boeing Company.

Obligor: Korean Air Lines.

Guarantor(s): N/A.

Description of Items Being Exported

Boeing 777 aircraft and Boeing 747 aircraft.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://www.exim.gov/articles.cfm/board%20minute.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

DATES: Comments must be received on or before February 8, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *www.regulations.gov.* To submit a comment, enter EIB–2013–0002 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2013–0002 on any attached document.

Sharon A. Whitt,

Records Clearance Officer.

[FR Doc. 2013–00534 Filed 1–11–13; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice: 2013–0102]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP087730XX, AP087730XA

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction.

Reference: AP087730XX, AP087730XA

Purpose and Use

Brief description of the purpose of the transaction:

To support the export of U.S. manufactured commercial aircraft to Chile.

Brief non-proprietary description of the anticipated use of the items being exported:

To be used for long-haul passenger and cargo air service from Chile and Brazil to other countries.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported may be used to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties

Principal Supplier: The Boeing Company

Obligor: LATAM Airlines Group S.A.

Guarantor(s): N/A.

Description of Items Being Exported

Boeing 777 aircraft and Boeing 767 aircraft

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://www.exim.gov/articles.cfm/board%20minute*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

DATES: Comments must be received on or before February 8, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2013–0003 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2013–0003 on any attached document.

Sharon A. Whitt,

Records Clearance Officer.

[FR Doc. 2013–00537 Filed 1–11–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Statement of Federal Financial Accounting Standards 44

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Statement of Federal Financial Accounting Standard 44, *Accounting for Impairment of General Property, Plant, and Equipment Remaining in Use.*

The Standard is available at *http://www.fasab.gov/accounting-standards/authoritative-source-of-gaap/accounting-standards/fasab-handbook/.*

For assistance in accessing the document contact FASAB at (202) 512–7350.

FOR FURTHER INFORMATION CONTACT: Wendy Payne, Executive Director, at (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: January 9, 2013.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. 2013–00571 Filed 1–11–13; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). 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 burden for 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 Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 15, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0743.

Title: Implementation of the Pay Telephone Reclassification and

Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 4,471 respondents; 10,071 responses.

Estimated Time per Response: .50 hours to 100 hours.

Frequency of Response: On occasion, quarterly and monthly reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. section 276 of the Communications Act of 1934, as amended.

Total Annual Burden: 118,137 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe are confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the full, three-year clearance from them. The Commission is seeking an extension for these requirements. There is no change in the Commission's previous burden estimates.

The collection of information implements the following reporting, recordkeeping and/or third party disclosure requirements under section 276 of the Telecommunications Act of 1996. They are: (a) State showing of proof of market failure for exception to market-rate local coin call requirement; (b) state review of adequacy of provision of public interest payphone; (c) payphone providers' transmission of specific payphone coding digits; (d) LEC verification of disputed ANIS and maintaining and making available the verification data; (e) LEC timely notification of payphone disconnection; (f) LEC indication on the payphone's monthly bill that the amount due is for payphone service; (g) LEC tariff filing; (h) reclassification of LEC-owned payphones; (i) payphone provider's verification of its status to payer of compensation; (j) payphone providers' posting of local coin call rate on each payphone placard; and (k) LEC provision of list of emergency numbers to carrier-payers will know that they do not have to compensate payphone providers for those calls.

OMB Control Number: 3060–0292.

Title: Section 69.605, Reporting and Distribution of Pool Access Revenues, Part 69, Access Charges.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,250 respondents; 15,000 responses.

Estimated Time per Response: .75 hours (45 minutes).

Frequency of Response: On occasion, annual and monthly reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154, 201, 202, 203, 205, 218 and 403 of the Communications Act of 1934, as amended.

Total Annual Burden: 11,250 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for an extension (no change in the reporting and/or third party disclosure requirements. There is no change to the Commission's previous burden estimates.

Part 69 of the Commission's rules and regulations establishes the rules for access charges for interstate or foreign access provided by telephone companies on or after January 1, 1984, Part 69 essentially consists of rules or the procedures for the computation of access charges which are not information collections as defined by OMB's rules, 5 CFR 1320. Any reporting or disclosure occurs in connection with particular tariff filings and other reporting requirements with the FCC, National Exchange Carriers Association (NECA), or state commissions or with records maintained in accordance with the Uniform System of Accounts (USOA). OMB approval of tariff filings and USOA records required by the FCC is contained under OMB Control Numbers 3060–0298, 3060–0370 and 3060–0400.

Section 69.605 requires that access revenues and cost data shall be reported by participants in association tariffs to the association for computation of monthly pool revenues distributions. The association shall submit a report on or before February 1 of each calendar year as well as the results of that process. For any revisions to the cost study results made or recommended by the association that would change the respective carrier's calculated annual common line or traffic sensitive revenue requirement by ten percent or more, the report shall include the following information: (1) Name of the carrier; (2) a detailed description of the revisions; (3) the amount of the revisions; (4) the impact of the revisions on the carrier's calculated common line and traffic sensitive revenue requirements; and (5) the carrier's total annual common line and traffic sensitive revenue requirement.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–00555 Filed 1–11–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). 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 burden

for 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 Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 15, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B.Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0952.

Title: Proposed Demographic Information and Notifications, Second Further Notice of Proposed Rulemaking (FNPRM), CC Docket No. 98–147 and Fifth NPRM (NPRM), CC Docket No. 96–98.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,200 respondents; 1,200 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirements and third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 201, 202, 251–254, 256 and 271 of the Communications Act of 1934, as amended.

Total Annual Burden: 4,800 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the FCC. If the applicants wish to submit information which they believe is confidential, they may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is seeking an extension of this information collection in order to obtain the full three year approval from OMB. There is no change to the reporting and third party disclosure requirements.

The Commission asked whether physical collocation in remote terminals presents technical or security concerns, and if so, whether these concerns warrant modification of its collocation rules. The Commission asked whether incumbent LECs should be required to provide requesting carriers with demographic and other information regarding particular remote terminals similar to the information available regarding incumbent LEC central offices. Requesting carriers use demographic and other information obtained from incumbent LECs to determine whether they wish to collocate at particular remote terminals.

This proposed information collection in the Second Further Notice of Proposed Rulemaking, FCC 98–147, will be used by the Commission, state commissions, and competitive carriers to facilitate the deployment of advanced services and other telecommunications services in implementation of section 251(c)(6) of the Communications Act of 1934, as amended.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–00554 Filed 1–11–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for interlocking directorates required by the 1990 amendment of Section 8 of the Clayton Act. Section 8 prohibits, with certain exceptions, one person from serving as a director or officer of two competing corporations if two thresholds are met. Competitor corporations are covered by Section 8 if each one has capital, surplus, and undivided profits aggregating more than $10,000,000, with the exception that no corporation is covered if the competitive sales of either corporation are less than $1,000,000. Section 8(a)(5) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product. The new thresholds, which take effect immediately, are $28,883,000 for Section 8(a)(1), and $2,888,300 for Section 8(a)(2)(A).

DATES: *Effective Date:* January 14, 2013.

FOR FURTHER INFORMATION CONTACT: James F. Mongoven, Bureau of Competition, Office of Policy and Coordination, (202) 326–2879.

Authority: 15 U.S.C. 19(a)(5).

By direction of the Commission.

Richard C. Donohue,

Acting Secretary.

[FR Doc. 2013–00482 Filed 1–11–13; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mandatory Guidelines for Federal Workplace Drug Testing Programs

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), Department of Health and Human Services.

ACTION: HHS Approval of Entities that Certify Medical Review Officers (MRO).

SUMMARY: The current version of the Department of Health and Human Services (HHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines), effective on October 1, 2010, addresses the role and qualifications of Medical Review Officers (MROs) and HHS approval of entities that certify MROs.

Subpart M-Medical Review Officer (MRO), Section 13.1(b), ''Who may serve as an MRO?'' states as follows: ''Nationally recognized entities that certify MROs or subspecialty boards for physicians performing a review of Federal employee drug testing results that seek approval by the Secretary must submit their qualifications and a sample examination. Based on an annual objective review of the qualifications and content of the examination, the Secretary shall publish a list in the **Federal Register** of those entities and boards that have been approved.''

HHS has completed its review of entities that train and certify MROs, in accordance with requests submitted by such entities to HHS.

(1) The HHS Secretary approves the following MRO certifying entities that offer both MRO training and certification through examination:

American Association of Medical Review Officers (AAMRO), P.O. Box 12873, Research Triangle Park, NC 27709, Phone: (800) 489–1839, Fax:

(919) 490–1010, Email: *cferrell@aamro.com*, Web site: *http://www.aamro.com/*;

Medical Review Officer Certification Council (MROCC), 836 Arlington Heights Road, #327, Elk Grove Village, IL 60007, Phone: (847) 631–0599, Fax: (847) 483–1282, Email: *mrocc@mrocc.org*, Web site: *http://www.mrocc.org/*.

(2) Additionally, the HHS Secretary lists the following entities that offer MRO training as a prerequisite for MRO certification by the above-listed approved entities:

American College of Occupational and Environmental Medicine (ACOEM), 25 Northwest Point Boulevard, Suite 700, Elk Grove Village, IL 60007–1030, Phone: (847) 818–1800, Fax: (847) 818–9266, Contact Form: *http://www.acoem.org/contactacoem.aspx*, Web site: *http://www.acoem.org/*;

American Society of Addiction Medicine (ASAM), 4601 N. Park Avenue, Upper Arcade #101, Chevy Chase, MD 20815, Phone: (301) 656–3920, Fax: (301) 656–3815, Email: *email@asam.org*, Web site: *http://www.asam.org/*.

DATES: HHS approval is effective January 14, 2013.

FOR FURTHER INFORMATION CONTACT: Jennifer Fan, Pharm.D., J.D., Division of Workplace Programs (DWP), Center for Substance Abuse Prevention (CSAP), Substance Abuse and Mental Health Services Administration (SAMHSA), 1 Choke Cherry Road, Room 7–1038, Rockville, MD 20857; Telephone: (240) 276–1759; Email: *jennifer.fan@samhsa.hhs.gov.*

Dated: January 4, 2013.

Kathleen Sebelius,

Secretary.

[FR Doc. 2013–00476 Filed 1–11–13; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0045]

Draft Guidance for Industry on Abuse-Deterrent Opioids—Evaluation and Labeling; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Abuse-Deterrent Opioids—Evaluation and Labeling.'' The draft guidance describes how abuse-deterrent properties of opioid analgesic products should be studied and evaluated, and what claims regarding such properties may be suitable for inclusion in labeling. In addition to general input on this draft guidance, FDA is seeking input on the research topics outlined in the final section of the draft guidance. FDA also intends to hold a public meeting to solicit additional input from affected stakeholders on the draft guidance.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by March 15, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Matthew Sullivan, Center for Drug Evaluation and Research (HFD–170), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 3160, Silver Spring, MD 20993, 301–796–1245, *matthew.sullivan@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Abuse-Deterrent Opioids—Evaluation and Labeling.'' Prescription opioid analgesics are an important component of modern pain management, but abuse and misuse of these products remains a serious and growing public health problem. One important effort in reducing abuse and misuse is the development of opioid analgesics specially formulated to deter abuse. FDA considers development of abuse-deterrent opioid analgesics to be a public health priority and is encouraging their development.

This draft guidance is intended to provide industry with a framework for evaluating and labeling abuse-deterrent opioid products. The draft guidance discusses how the potentially abuse-deterrent properties of an opioid analgesic formulated to deter abuse should be studied, specifically addressing in vitro studies, pharmacokinetic studies, human abuse potential studies, and postmarket studies. The draft guidance also describes the types of information and claims that may be suitable for inclusion in labeling.

Providing a clear framework for the evaluation and labeling of the abuse-deterrent properties of opioid analgesics intended to deter abuse should help to incentivize the development of safer, less abusable opioid analgesics, and should also facilitate the dissemination of fair and accurate information regarding such products. FDA also expects that the publication of this draft guidance will stimulate a productive discussion among FDA, industry, and other stakeholders concerning the appropriate development, evaluation, and labeling of these products. In the final section of the draft guidance, FDA also lists several areas where additional scientific research and analysis would be especially helpful.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). FDA also intends to hold a public meeting to solicit additional input from affected stakeholders on the draft guidance. The guidance, when finalized, will represent the Agency's current thinking on evaluation and labeling of abuse-deterrent opioids. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

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

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm or http://www.regulations.gov.*

Dated: January 8, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–00474 Filed 1–11–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

DATES: *Date and Time:* The meeting will be held on February 12, 2013, from 8:30 a.m. to 5 p.m.

Location: 5630 Fishers Lane, FDA Conference Room 1066, Rockville, MD 20857. For those unable to attend in person, the meeting will also be webcast. The webcast will be available at the following link: *http://fda.yorkcast.com/webcast/Viewer/?peid=9e38bbbbc4ae4327ab895d98a845fdd11d.*

Contact Person: Bryan Emery or Pearline Muckelvene, Center for Biologics Evaluation and Research, HFM–71, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–1277 or 301–827–1281, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On February 12, 2013, the Committee will meet in open session to discuss Cangene's biologics license application for Botulism Antitoxin Heptavalent (A, B, C, D, E, F, G)-(Equine) seeking licensure under FDA's authority to approve a product based on evidence of safety in humans and effectiveness from studies in animals when human efficacy studies are not ethical or feasible.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 5, 2013. On February 12, 2013, oral presentations from the public will be scheduled between approximately 2:30 p.m. and 3:30 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before January 28, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by January 29, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets. Seating for this meeting may be limited, so the public is encouraged to watch the free webcast if you are unable to attend. The link for the webcast will be available at 8 a.m. the morning of February 12, 2013.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Bryan Emery at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 8, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–00491 Filed 1–11–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Joint Meeting of the Advisory Committee for Reproductive Health Drugs and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committees: Advisory Committee for Reproductive Health Drugs and the Drug Safety and Risk Management Advisory Committee.

General Function of the Committees: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 5, 2013, from 8 a.m. to 4 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may

be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm*; under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Kalyani Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *ACRHD@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On March 5, 2013, the committees will discuss whether the benefit of calcitonin salmon for the treatment of postmenopausal osteoporosis (thinning and weakening of bones that increase the chance of having a broken bone) outweighs a potential risk of cancer. Calcitonin salmon products approved for the treatment of osteoporosis include: Miacalcin (calcitonin salmon) injection and nasal spray, submitted by Novartis Pharmaceuticals Corporation; Fortical (calcitonin salmon recombinant) nasal spray, submitted by Upsher Smith Laboratories; and the generic equivalents of these products.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 15, 2013. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 7, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 8, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kalyani Bhatt at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 8, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–00507 Filed 1–11–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request (60-Day FRN): The National Cancer Institute (NCI) SmokefreeTXT (Text Message) Program Evaluation (NCI)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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, including the validity of the methodology and assumptions used; (3) The quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To submit comments in writing, request more information on the proposed project, or to obtain a copy of the data collection plans and instruments, contact: Erik Augustson, Ph.D., MPH, Behavioral Scientist/Health Science Administrator, Division of Cancer Control and Population Sciences, 6130 Executive Blvd., EPN–4034, Bethesda, MD 20892–7337 or call non-toll-free number 301–435–7610 or Email your request, including your address to: *augustse@mail.nih.gov*.

Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: The National Cancer Institute (NCI) SmokefreeTXT Program Evaluation (NCI), 0925–NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a request for OMB to approve the new submission titled, ''The National Cancer Institute (NCI) SmokefreeTXT Program Evaluation'' for 3 years. The supporting statements and various attachments accompany this memorandum.

This study seeks to assess the efficacy of the SmokefreeTXT program, a text message smoking cessation intervention designed for young adult smokers ages 18–29. The SmokefreeTXT program is a component of a larger series of eHealth/mHealth tobacco cessation intervention programs. SmokefreeTXT has been developed (and is managed) by the

National Cancer Institute (NCI) Tobacco Control Research Branch (TCRB) at the request of the Office of the Assistant Secretary for Health (OASH) at the Department of Health and Human Services (DHHS).

The study seeks to recruit a large sample of young adult smokers ages 18–29 to examine how exposure to the SmokefreeTXT intervention affects participants' success at quitting smoking. There will be 3-arms to the study; participants will be enrolled for a maximum of 8 weeks of treatment in the SmokefreeTXT program, with frequency and duration of the treatment varying by study arm. The SmokefreeTXT Study will collect self-reported cessation data using the bidirectional aspect of text-messaging service and a series of web-based surveys. All web-based survey data will be collected and stored by a third-party, Research Triangle Institute International (RTI). Respondents will complete the following 5 web-based surveys for a total of 7,136 burden hours: (1) Pre-treatment baseline survey; (2) one week post quit date questionnaire; (3) end of active cessation treatment questionnaire; (4) 12-week post-treatment questionnaire; (5) 24-weeks post-treatment questionnaire.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 8,353.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Survey instrument	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total burden hours
Young Adults	Screener/recruitment	21,000	1	5/60	1,750
	Baseline	4,248	1	30/60	2,124
	1 week post-quit date	3,399	1	15/60	850
	6 weeks post quit date	2,721	1	30/60	1,361
	12 weeks post-treatment	2,178	1	15/60	545
	24 weeks post treatment	1,308	1	15/60	327
	Exit Survey/Script	16,752	1	5/60	1,396
	Total				8,353

Dated: January 8, 2013.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, NCI, NIH.

[FR Doc. 2013–00572 Filed 1–11–13; 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: Infectious Diseases and Microbiology Integrated Review Group; Vector Biology Study Section

Date: February 6, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton DFW Airport, 4440 W. John Carpenter Frwy., Irving, TX 75063.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–402–5671, *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR: Selected Topics in Transfusion Medicine.

Date: February 6–7, 2013.

Time: 11:30 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, (Virtual Meeting).

Contact Person: Bukhtiar H. Shah, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, 301–806–7314, *shahb@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Synapses, Cytoskeleton and Trafficking Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Chicago Hotel, 505 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Jonathan K. Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7850, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Molecular Oncogenesis Study Section.

Date: February 11–12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Nywana Sizemore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, 301–435–1718, *sizemoren@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Hepatobiliary Pathophysiology Study Section.

Date: February 11–12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bonnie L. Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Adult Psychopathology and Disorders of Aging Study Section.

Date: February 11–12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–500–5829, *sechu@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Development and Disease Study Section.

Date: February 11–12, 2013.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Priscilla B. Chen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787, *chenp@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Biology of the Visual System Study Section.

Date: February 11–12, 2013.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael H. Chaitin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.

Date: February 11, 2013.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Mandarin Oriental, 1330 Maryland Avenue SW., Washington, DC 20024.

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 594–3163, *champoum@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Nuclear and Cytoplasmic Structure/Function and Dynamics Study Section.

Date: February 11–12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Glia Study Section.

Date: February 11, 2013.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Toby Behar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Community-Level Health Promotion Study Section.

Date: February 11–12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: John H. Newman, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, 301 267 9270, *newmanjh@mail.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Arthritis, Connective Tissue and Skin Study Section.

Date: February 11–12, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–237–9931, *ansaria@csr.nih.gov*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Lipids and Glia.

Date: February 11, 2013.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Toby Behar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@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 8, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–00500 Filed 1–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(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 Heart, Lung, and Blood Institute Special Emphasis Panel; K23, K24, K25 Research Career Development Awards.

Date: February 6–7, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Stephanie J. Webb, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301–435–0291, *stephanie.webb@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 8, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–00496 Filed 1–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Special Emphasis Panel; Validation and Advanced Development of Emerging Technologies for Cancer Research (R33).

Date: February 13–14, 2013.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jeffrey E. DeClue, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8059, Bethesda, MD 20892–8329, 301–496–7904, *decluej@mail.nih.gov*.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 8, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–00498 Filed 1–11–13; 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; Osteoarthritis and Rheumatoid Arthritis.

Date: February 1, 2013.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rajiv Kumar, Ph.D., Chief, MOSS IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Innate Immunity and Inflammation Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Suites by Hilton Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.

Contact Person: Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–594–6375, *mcintyrt@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Clinical Research and Field Studies of Infectious Diseases Study Section.

Date: February 7–8, 2013.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marina Del Rey Hotel, 13534 Bali Way, Marina del Rey, CA 90292.

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.

Date: February 11, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Weijia Ni, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 237–9918, *niw@csr.nih.gov*.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Kidney Molecular Biology and Genitourinary Organ Development KMBD.

Date: February 12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Development—1 Study Section.

Date: February 12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202.

Contact Person: Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Molecular and Cellular Endocrinology Study Section.

Date: February 12, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John Bleasdale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170 MSC 7892, Bethesda, MD 20892, 301–435–4514, *bleasdaleje@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Pain and Hearing

Date: February 12–13, 2013.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Services Organization and Delivery Study Section.

Date: February 12, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Kathy Salaita, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7770, Bethesda, MD 20892, 301–451–8504, *salaitak@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry A Study Section.

Date: February 12, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, 1515 Rhode Island Ave., NW., Washington, DC 20005.

Contact Person: Mike Radtke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Radiation Oncology.

Date: February 12, 2013.

Time: 12:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed M. Quadri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, 301–435–1211, *quadris@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 8, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–00499 Filed 1–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the National Cancer Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

A portion of 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 Cancer Advisory Board; Ad hoc Subcommittee on Global Cancer Research.

Open: February 7, 2013, 6:30 p.m. to 8:00 p.m.

Agenda: Discussion on Global Cancer.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Contact Person: Dr. Ted Trimble, Executive Secretary, NCAB Ad hoc Subcommittee on Global Cancer Research, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, EPN/7025, Rockville, MD 20892–8345, (301) 496–2522, *trimblet@mail.nih.gov*.

Name of Committee: National Cancer Advisory Board.

Open: February 8, 2013, 9:00 a.m. to 3:30 p.m.

Agenda: Program reports and presentations; business of the Board.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Closed: February 8, 2013, 3:30 p.m. to 5:00 p.m.

Agenda: Review of grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Dr. Paulette S. Gray, Executive Secretary, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8001, Bethesda, MD 20892–8327, (301) 496–5147.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 8, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–00497 Filed 1–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Evaluation of Emergency Department Crisis Center Follow-up—New

The Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Mental Health Services (CMHS) will conduct an evaluation to assess the impact of crisis center follow-up with patients admitted to emergency departments following a suicide attempt.

The overarching purpose of the proposed Evaluation of Emergency Department Crisis Center Follow-up—New is to examine the impact of crisis

center follow-up with patients admitted to emergency departments following a suicide attempt on subsequent emergency department readmissions. In total this evaluation effort includes two data collection activities.

Clearance is being requested to abstract patient hospital data and companion crisis center data to examine the impact of crisis center follow-up on readmissions to the emergency department for suicidal behavior. The data collected through this project will ultimately help SAMHSA to understand and direct crisis center follow-up lifesaving initiatives. The data collection activities are described below.

Two funded crisis centers, working in collaboration with two hospital emergency departments, will provide follow-up services to patients seen in the emergency department following a suicide attempt. Patient data will be collected for patients admitted for a suicide attempt in the two years prior to collaboration between the emergency department and crisis center and for patients admitted for a suicide attempt for the 2-year period after collaboration.

(1) The Hospital Data Abstraction Form will be utilized to collect systematic patient data for patients seen in one of the two participating hospital emergency departments. Information to be abstracted from patient data include: Demographic data, historical data, and subsequent suicidal behavioral and admission data. Data will be de-identified. Hospital staff will review patient data for qualifying (i.e., admission to the emergency department for suicide attempt) records. Records to be reviewed will include emergency department admissions for the two years prior to crisis center and hospital emergency department collaboration and for two years following collaboration. It is expected that a total of 2,000 records will be abstracted by hospital staff and provided to the evaluation team.

(2) The Crisis Center Data Abstraction Form will be utilized to collect systematic crisis center data for patient records for whom hospital data were collected. Data will be de-identified and will only contain a patient identification number to match to the patient ID provided through hospital records.

The estimated response burden to collect this information is as follows annualized over the requested 3-year clearance period is presented below:

Instrument	Number of respondents	Responses per respondent*	Total number of responses	Burden per response	Annual burden*
Hospital Data Abstraction Form	2	334	667	.04	27
Crisis Center Data Abstraction Form	2	167	333	.04	13
Total	4				40

* Rounded to the nearest whole number.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 and email her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received within 60 days of this notice.

Summer King,

SAMHSA Reports Clearance Officer.

[FR Doc. 2013–00523 Filed 1–11–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2012–0772]

Carriage Standards for Bridge Navigational Watch Alarm Systems (BNWAS) Aboard U.S. Flagged Vessels

AGENCY: Coast Guard, DHS.

ACTION: Notice of International Standards.

SUMMARY: The Coast Guard announces the implementation date of carriage standards for Bridge Navigational Watch Alarm Systems (BNWAS), in accordance with the Articles of the International Convention for the Safety of Life at Sea (SOLAS) Chapter V, Regulation 19, for U.S. flagged vessels engaged on international voyages. The purpose of a BNWAS is to detect operator disability that could lead to marine accidents.

DATES: The effective date for the BNWAS standard, according to the terms of SOLAS Chapter V, Regulation 19, was January 1, 2011. The implementation schedule for carriage of a BNWAS is listed below in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: To view the documents mentioned in this notice, go to *http://www.regulations.gov* and use ''USCG–2012–0772'' as your search term. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact LCDR Christopher Gagnon, U.S. Coast Guard, Commercial Vessel Compliance Division (CG–CVC–1), telephone 202–372–1224 or email *CG-cvc-1@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Background

The purpose of a BNWAS is to detect operator disability that could lead to marine accidents. A BNWAS monitors the awareness of the Officer of the Watch (OOW) and automatically alerts the Master or another qualified OOW if, for any reason, the on-duty OOW becomes incapable of performing his or her duties. This purpose is achieved through a series of indications and alarms to alert the on-duty OOW and, if he or she does not respond, then to alert the Master or another qualified OOW at a remote location onboard the vessel. Additionally, a BNWAS may provide the on-duty OOW with a means of calling for immediate assistance, if required. A BNWAS should be operational whenever the ship's heading or track control system is engaged, unless inhibited by the Master.

The International Maritime Organization (IMO) established BNWAS carriage requirements in order to enhance safety of navigation. The BNWAS performance standards are outlined in IMO Resolution MSC.128(75), adopted on May 20, 2002. Effective as of January 1, 2011, IMO Resolution MSC.282(86) amended SOLAS Chapter V, Regulation 19, and established an implementation schedule for the carriage of a BNWAS (SOLAS V,

Reg.19.2.2.3) for new and existing ships as follows:

- Cargo ships [1] of 150 gross tonnage and upwards and passenger ships irrespective of size constructed on or after July 1, 2011;
- Passenger ships [2] irrespective of size constructed before July 1, 2011, not later than the first survey after July 1, 2012;
- Cargo ships of 3,000 gross tonnage and upwards constructed before July 1, 2011, not later than the first survey [3] after July 1, 2012;
- Cargo ships of 500 gross tonnage and upwards but less than 3,000 gross tonnage constructed before July 2011, not later than the first survey after July 1, 2013; and
- Cargo ships of 150 gross tonnage and upwards but less than 500 gross tonnage constructed before July 1, 2011, not later than the first survey after July 1, 2014.

IMO Resolution MSC.282(86) also amended SOLAS Chapter V, Regulation 19 by stating that the BNWAS shall be in operation whenever the ship is underway at sea. Additionally, a BNWAS installed prior to July 1, 2011 may subsequently be exempted from full compliance with IMO standards at the discretion of the vessel's flag state.

In addition, section 1.1 of SOLAS Chapter V, Regulation 19 provides that BNWAS requirements apply to ships constructed after July 1, 2002. We note, however, that the IMO has received proposed amendments from the Bahamas and Denmark to amend this applicability section to include vessels constructed before July 1, 2002.[4] Unless and until the IMO updates the applicability provisions of SOLAS Chapter V, Regulation 19, the Coast Guard will recognize vessels constructed before July 1, 2002 as exempt from the SOLAS BNWAS requirements.

Voluntary Compliance

The Coast Guard has not yet adopted domestic regulations to implement the SOLAS BNWAS requirements. Accordingly, carriage of a BNWAS on U.S. flagged vessels is voluntary. Note that any vessel operating on international voyages without a BNWAS past the applicable compliance date may be subject to detention by foreign port state officials and other administrative action by foreign authorities.

Regardless of whether a vessel is in compliance with the SOLAS BNWAS requirements, the Coast Guard or Recognized Class Society (RCS) will continue to issue SOLAS Safety Equipment Certificates to U.S. flagged vessels that are otherwise in compliance with applicable SOLAS requirements. In either case, each vessel's SOLAS Safety Equipment Certificate will reflect whether the vessel is in compliance with the SOLAS BNWAS requirements.

In determining whether a vessel's BNWAS is compliant with SOLAS, the Coast Guard or RCS will refer to the BNWAS performance standards outlined in IMO Resolution MSC.128(75). We also note that the IMO Report to the Maritime Safety Committee (NAV 54/25), dated August 14, 2008, states that the carriage of a BNWAS should not lead to a reduction in manning levels on the bridge. Consistent with the position of other SOLAS member flag states, the Coast Guard does not expect to issue exemptions or equivalencies from the BNWAS requirements to vessels based on the use of multiple bridge watch personnel alone. The Coast Guard would consider other requests for exemptions or equivalencies on a case-by-case basis under the authority granted under SOLAS Chapter V, Regulation 3. Any requests to the Coast Guard for exemptions or equivalencies should be made to Commandant (CG–CVC–1), via the local Officer in Charge, Marine Inspection.

Finally, operators seeking approval of a BNWAS installed prior to July 1, 2011 based on the amendments in IMO Resolution MSC.282(86) should submit a gap analysis of their BNWAS compared to the current BNWAS performance standards outlined in IMO Resolution MSC.128(75) to Commandant (CG–CVC–1) for review.

Authority: This notice is issued under the authority of 5 U.S.C. 552(a).

Dated: January 7, 2013.

Paul F. Thomas,

Captain, U.S. Coast Guard, Director, Inspections and Compliance.

[FR Doc. 2013–00512 Filed 1–11–13; 8:45 am]

BILLING CODE 9110–04–P

[1] SOLAS defines the term *cargo ship* to mean any ship which is not a passenger ship (SOLAS Chapter I, Reg.2(g)).

[2] SOLAS defines the term *passenger ship* to mean a ship which carries more than twelve passengers (SOLAS Chapter I, Reg.2(f)).

[3] SOLAS defines the term *first survey* to mean the first annual survey, the first periodical survey or the first renewal survey whichever is due first after the date specified in the relevant regulation or any other survey if the Administration deems it to be reasonable and practicable, taking into account the extent of repairs and alterations being undertaken. SOLAS also states that for a ship under construction, where the keel is laid before, but the ship is delivered after, the date specified in the relevant regulation, the initial survey is the *first survey* (MSC.1/Circ.1290, Dec. 16, 2008). For non-class inspected vessels, the Coast Guard expects that foreign authorities would interpret *first survey* to mean the first inspection for certification or annual inspection. For uninspected vessels, the Coast Guard expects that foreign authorities would interpret *first survey* to mean the date of the next annual Load Line survey.

[4] A copy of IMO Circular letter No. 3333, dated December 10, 2012, is available for viewing the public docket for this notice.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5684–N–01]

Notice of Proposed Information Collection for Public Comment: Annual Progress Report (APR) for the Competitive Homeless Assistance Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 15, 2013

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Colette Pollard, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4160, Washington, DC 20410–5000; telephone (202) 402–3400, (this is not a toll-free number) or email Ms. Pollard at *Colette_Pollard@hud.gov* for a copy of proposed forms, or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Ann Marie Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7262, Washington, DC 20410; telephone (202) 708–1590 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for

review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Annual Performance Report and Annual Homeless Assessment Report.

OMB Control Number: 2506–0145.

Description of the need for the information and proposed use: This information will enable HUD to assess the performance of individual projects and to determine project compliance with funding requirements. This information assists HUD in understanding homeless clients and service needs at the local level. HUD also uses this information to provide information on overall program performance and outcomes to HUD staff, other federal agencies, the Congress, and the Office of Management and Budget.

Agency Form Numbers: HUD–40118.

Members of the affected public: Grant recipients for the Supportive Housing Program (SHP), Shelter Plus Care (S+C) Program, and the Section 8 Moderate Rehabilitation for the Single Room Occupancy Dwellings (SRO) Program.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: APR Non-Profit recipients (3,250 responses × 1,680 minutes = 91,000 hours per annum) + APR State and Local Government recipients (3,250 responses × 1,680 minutes = 91,000 hours per annum) + AHAR with Automated Software Report (425 responses × 48 hours = 20,400 hours per annum) + AHAR with Manual Software Report (63 responses × 88 hours = 5,544 hours per annum) = 207,944 hours per annum.

Status of proposed information collection: Extension of currently approved package 2506–0145.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 7, 2013.

Clifford Taffet,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2013–00564 Filed 1–11–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Central Utah Project Completion Act; East Hobble Creek Restoration Project Draft Environmental Assessment

AGENCY: Office of the Assistant Secretary for Water and Science, Interior.

ACTION: Notice of availability.

SUMMARY: The draft environmental assessment for the East Hobble Creek Restoration Project is available for public review and comment. The assessment analyzes the anticipated environmental effects of a proposed restoration effort on a portion of Lower Hobble Creek, near Springville, Utah.

DATES: Submit written comments by *February 13, 2013.*

ADDRESSES: Send written comments to Ms. Sarah Sutherland, East Hobble Creek Restoration, 355 W. University Parkway, Orem, UT 84058–7303; by email to *sarah@cuwcd.com;* or by Fax to 801–226–7171.

Copies of the Draft Environmental Assessment are available for inspection at:

- Central Utah Water Conservancy District, 355 West University Parkway, Orem, Utah 84058–7303
- Department of the Interior, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606

In addition, the document is available at *www.cuwcd.com* and *www.cupcao.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Lee Baxter, Central Utah Project Completion Act Office, at (801) 379–1174; or email at *lbaxter@usbr.gov.*

SUPPLEMENTARY INFORMATION: The Department of the Interior, the Utah Reclamation Mitigation and Conservation Commission, and the Central Utah Water Conservancy District, are evaluating the impacts of the proposed East Hobble Creek Restoration project. The draft environmental assessment, being completed in conjunction with the June Sucker Recovery Implementation Program, will analyze and present the anticipated environmental effects of a proposed restoration effort on a portion of lower Hobble Creek, near Springville, Utah. This restoration effort is intended to facilitate the recovery of the June sucker, a federally listed endangered species, through improvement of spawning habitat and maintenance of stream flow. The effort to be analyzed would include the potential restoration of approximately 2 miles of stream channel, modification or removal of several existing barriers to fish passage, and enhancement of the existing water supply.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 9, 2013.

Reed R. Murray,

Program Director, Central Utah Project Completion Act. Department of the Interior.

[FR Doc. 2013–00656 Filed 1–11–13; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare a Programmatic Environmental Impact Statement (EIS) for the Navajo Nation Integrated Weed Management Plan Within Coconino, Navajo, and Apache Counties, Arizona; McKinley, San Juan, McGill, and Cibola Counties, NM; and San Juan County, UT

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) as lead Agency, with the Navajo Nation, National Park Service, and Arizona Department of Transportation serving as cooperating agencies, intends to prepare an EIS for a proposed weed management plan for the Navajo Indian Reservation. This notice also announces the beginning of the public scoping process to solicit public comments and identify issues.

DATES: Comments on the scope of the EIS may be submitted in writing until February 28, 2013. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, including the Navajo Times, Arizona Daily Sun, Farmington Daily Times, Gallup Independent, and the Navajo Hopi Observer.

ADDRESSES: You may mail, email or hand carry comments to Renee Benally, Natural Resource Specialist, Bureau of Indian Affairs, Western Navajo Agency, Branch of Natural Resources, PO Box 127, Tuba City, Arizona 86045; telephone: (928)283–2210; email: *renee.benally@bia.gov.*

FOR FURTHER INFORMATION CONTACT: Renee Benally, Natural Resource Specialist, Bureau of Indian Affairs, Western Navajo Agency, Branch of Natural Resources, PO Box 127, Tuba City, Arizona 86045; telephone: (928)283–2210; email: *renee.benally@bia.gov.*

SUPPLEMENTARY INFORMATION: The BIA is proposing to develop a ten-year integrated weed management plan for the Navajo Indian Reservation. The Navajo Indian Reservation lands are infested with noxious and/or invasive weeds that have social and economic impacts on the Navajo Nation. The BIA, in partnership with cooperating agencies, intends to develop an integrated weed management plan to prevent, control, reduce, and eliminate the detrimental impacts of weed infestations throughout the reservation. The proposed action would authorize new treatments of noxious and invasive weed infestations throughout the Navajo Indian Reservation. The number of infestations and amount of acreage treated will be determined by the annual funding allocations for project implementation. The various methods of noxious/invasive weed control that will be considered during development of alternatives for the integrated weed management plan include, but will not be limited to, mechanical, cultural, biological and herbicidal treatments, and other methods that may be identified during the public scoping process.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EIS. At present, the BIA has identified the following preliminary issues: Surface and ground water quality; environmental justice considerations; cultural and historic resources; biological resources; public health; and socioeconomics.

The BIA will use and coordinate the NEPA commenting process to satisfy the public involvement process for Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) as provided for in 36 CFR 800.2(d)(3). Native American tribal consultations will be conducted in accordance with the Department of the Interior's consultation policy, and tribal concerns will be given due consideration, including impacts on Indian trust assets. Federal, State, and local agencies, along with other stakeholders that may be interested in or affected by the BIA's decision on this project are invited to participate in the scoping process and, if eligible, may request or be requested by the BIA to participate as a cooperating agency.

Directions for Submitting Public Comments: Please include your name, return address and the caption ''Navajo Nation Integrated Weed Management Plan EIS Comments'' at the head of your letter or in the subject line of your email message.

Availability of Comments: Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section of this notice during regular business hours, Monday through Friday, except holidays. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published in accordance with sections 1503.1 and 1506.6 of the Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior National Environmental Policy Act Implementation Policy (43 CFR part 46), and is in the exercise of authority delegated to the Assistant Secretary-Indian Affairs by 209 DM 8.

Dated: December 19, 2012.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2013–00527 Filed 1–11–13; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NRSS–GRD–12018; PPWONRADG0, PPMRSNR1N.NG0000]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Mining and Mining Claims and Non-Federal Oil and Gas Rights

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service, NPS) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on February 28, 2013. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before February 13, 2013.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Information Collection Clearance Officer, National Park Service, 1201 I Street NW., MS 1237, Washington, DC 20005 (mail); or *madonna_baucum@nps.gov* (email). Please reference OMB Control Number 1024–0064 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Edward O. Kassman, Jr., Regulatory Specialist, Energy and Minerals Branch, Geologic Resources Division, National Park Service, P.O. Box 25287, Lakewood, Colorado 80225 (mail); (303) 987–6792 (fax); or *Edward_Kassman@nps.gov* (email). You may review the ICR online at *http://www.reginfo.gov*. Follow the instructions to review Department of the Interior collections under review by OMB.

I. Abstract

The Organic Act of 1916 (NPS Organic Act) (16 U.S.C. 1 *et seq.*) authorizes the Secretary of the Interior to develop regulations for national park

units under the Department's jurisdiction. The Mining in the Parks Act (16 U.S.C. 1901 *et seq.*) directs the Secretary of the Interior to regulate all operations in park units in connection with the exercise of mineral rights on patented and unpatented mining claims.

The regulations at 36 CFR part 9, Subparts A and B, ensure that mining and non-Federal oil and gas activities on units of the National Park System are conducted in a manner consistent with preserving each unit for the benefit of present and future generations. The information required by Subpart A identifies the claim, claimant, and operator (the claimant and operator are often the same) and details how the operator intends to access and develop the minerals associated with the claim. It also identifies the steps the operator intends to take to minimize any adverse impacts of the mining operations on park resource and values. No information, except claim ownership information, is submitted unless the claimant wishes to conduct mining operations. The information required by Subpart B identifies the owner and operator (the owner and operator are often the same) and details how the operator intends to access and develop the oil and gas rights. It also identifies the steps the operator intends to take to minimize any adverse impacts on park resources and values. No information is submitted unless the owner wishes to conduct oil and gas operations.

II. Data

OMB Control Number: 1024–0064.

Title: Mining Claims and Non-Federal Oil and Gas Rights, 36 CFR part 9, Subparts A and B.

Service Form Number: None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Businesses.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours
Mining and Mining Claims	1	1	176	176
Non-Federal Oil and Gas Rights	20	20	176	3,520
Totals	21	21	.....	3,696

Estimated Annual Nonhour Burden Cost: None.

III. Request for Comments

On July 20, 2012, we published in the **Federal Register** (77 FR 42760) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on September 18, 2012. We did not receive any comments.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 8, 2013.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2013–00524 Filed 1–11–13; 8:45 am]

BILLING CODE 4312–EH–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–11964; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before December 15, 2012. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by January 29, 2013. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 21, 2012.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARIZONA

Yavapai County

Back Ranch Historic District, 5525 Beaver Creek Rd., Rimrock, 12001227

ARKANSAS

Arkansas County

Black, L.A., Rice Milling Association Inc. Office, 508 S. Monroe St., DeWitt, 12001229

Columbia County

Dolph Camp, Bussey and Peace Halls Historic District, E. side of Lane Dr., Magnolia, 12001231

Jefferson County

Bain, Jewel, House Number 2, 3601 S. Cherry St., Pine Bluff, 12001228

Little River County

Old US 71—Ashdown Segment, (Arkansas Highway History and Architecture MPS) N. Park Ave.

between E. Main St. & US 71, Ashdown, 12001232

Old US 71—Ogden Segment, (Arkansas Highway History and Architecture MPS) Ogden & Grand Sts., W. of US 71 & E. of Kansas City Southern RR., Ogden, 12001230

Logan County

Park Hill, 400 E. Wahl St., Paris, 12001233

CALIFORNIA

Alameda County

California Cotton Mills Company Factory, 1091 Calcot Pl., Oakland, 12001234

Napa County

Tubbs, Alfred L., Winery, 1429 Tubbs Ln., Calistoga, 12001235

ILLINOIS

Cook County

42nd Precinct Police Station, 3600 N. Halstead St., Chicago, 12001236

Strand Hotel, 6315–6323 S. Cottage Grove Ave., Chicago, 12001237

West Loop—LaSalle Street Historic District, Roughly bounded by Wacker Dr., Wells, Van Buren & Clark Sts., Chicago, 12001238

KANSAS

Miami County

Congregational Church, 315 6th St., Osawatomie, 12001239

Montgomery County

Eastep Site, Address Restricted, Independence, 12001240

LOUISIANA

Orleans Parish

Plaza Tower, 1001 Howard Ave., New Orleans, 12001241

MISSOURI

Buchanan County

Ryan Block, (St. Joseph MPS (AD)) 1137–1141 Frederick Ave., Saint Joseph, 12001242

St. Louis Independent city

Alligator Oil Clothing Company Building, 4153–71 Bingham Ave., St. Louis (Independent City), 12001243

NEW JERSEY

Union County

Briant Pond Park, Bounded by Springfield Ave., Briant Pkwy. & Orchard St., Summit, 12001244

OHIO

Cuyahoga County

Herold Building, (Lower Prospect—Huron District MPS) 310 Prospect Ave., Cleveland, 12001245

Kendel Building, (Lower Prospect—Huron District MPS) 210 Prospect Ave., Cleveland, 12001246

OREGON

Douglas County

Roseburg Veterans Administration Hospital Historic District, (United States Second Generation Veterans Hospitals MPS) 913 NW. Garden Valley Blvd., Roseburg, 12001247

PUERTO RICO

Rio Grande Municipality

Rio Grande Fire Station, (Fire Stations in Puerto Rico MPS) Address Restricted, Rio Grande, 12001248

Villalba Municipality

Jones, Walter Mc K., School, (Early Twentieth Century Schools in Puerto Rico TR) 28 Luis Munoz Rivera St., Villalba, 12001249

TEXAS

Newton County

Autrey—Williams House, 717 North St., Newton, 12001251

Washington County

Seward Plantation, 10005 FM 390 E., Independence, 12001250

WISCONSIN

Ashland County

Wilmarth, Lewis C. and Caroline, House, 622 Chapple Ave., Ashland, 12001252

Milwaukee County

Root River Parkway, (Milwaukee County Parkway System MPS) Between W. Layton Ave. & S. 76th St., Greendale, 12001253

A request for removal has been made for the following resources:

ARKANSAS

McCaskill County

Jacques, Dr. Thomas S., House, NW of McCaskill, McCaskill, 89001940

TENNESSEE

Franklin County

Knies Blacksmith Shop, 118 N. Jefferson St., Winchester, 73001765

Montgomery County

Drane—Foust House, 319 Home Ave., Clarksville, 88001023

WISCONSIN

Rock County

Leedle Mill Truss Bridge, WI 1, Evansville, 80000398

[FR Doc. 2013–00505 Filed 1–11–13; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–11883; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before December 1, 2012. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by January 29, 2013. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 7, 2012.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

CALIFORNIA

Los Angeles County

Fox Theatre Inglewood, 115 N. Market St., Inglewood, 12001163

Merwin House, (Residential Architecture of Pasadena: Influence of the Arts and Crafts Movement MPS) 267 W. State St., Pasadena, 12001164

DISTRICT OF COLUMBIA

District of Columbia

Barr Building, 910 17th St. NW., Washington, 12001165

Tiber Island, 401–461 N, 430–490 M, 1201–1265 4th & 1252 6th Sts. SW., Washington, 12001166

GEORGIA

Fulton County

Adams, Charles R., Park, 1690 Delowe Dr., Atlanta, 12001167

MASSACHUSETTS

Barnstable County

Bourne Town Hall, 24 Perry Ave., Bourne, 12001169

Bourne, Jonathan, Public Library, 30 Keene St., Bourne, 12001168

Plymouth County

McElwain, William H., School, 250 Main St., Bridgewater, 12001170

MICHIGAN

Chippewa County

Lipsett Hardware Building, 175 Main St., Pickford, 12001171

Kent County

Willard Building, 150 E. Fulton St., Grand Rapids, 12001172

MINNESOTA

Hennepin County

Peavey Plaza, 1101 Nicolet Mall, Minneapolis, 12001173

Kandiyohi County

Willmar Municipal Airport, (Federal Relief Construction in Minnesota MPS) 2321 Airport Dr., Willmar, 12001174

St. Louis County

Lincoln Branch Library, 2229 W. 2nd St., Duluth, 12001175

MISSOURI

Bollinger County

Mayfield, Will, College Campus, 207 Mayfield Dr., Marble Hill, 12001176

Boone County

Mount Zion Church and Cemetery, (Rural Church Architecture of Missouri, c. 1819 to c. 1945 MPS) 11070 Mount Zion Rd., Hallsville, 12001177

NEW JERSEY

Morris County

Stephens Homestead, 800 Willow Grove Rd. (Mount Olive Township), Hackettstown, 12001178

NORTH CAROLINA

Guilford County

Sunset Hills Historic District, (Greensboro MPS) Bounded by W. Friendly, N. & S. Elam & W. Wright Aves., S. Tremont Dr., N. Aycock St. & Kensington Rd., Greensboro, 12001179

OHIO

Cuyahoga County

Globe Machine and Stamping Company, 1250 W. 76th St., Cleveland, 12001180

Fayette County

Washington School, 318 N. North St., Washington Court House, 12001181

Montgomery County

Antioch Temple, 107 E. 1st St., Dayton, 12001182

Summit County

Stan Hywet Poultry Keepers Cottage, 1103 Courtleigh Dr., Akron, 12001183

UTAH

Sevier County

Fish Lake Cut-off of the Old Spanish Trail Archaeological District, Fishlake National Forest, (Old Spanish Trail and the Fish Lake Cut-off MPS) Address Restricted, Salina, 12001184

Old Spanish Trail Archaeological District, Fishlake National Forest, (Old Spanish Trail and the Fish Lake Cut-off MPS) Address Restricted, Salina, 12001185

VIRGINIA

Albemarle County

St. James Church, VA 614, E. of VA 676, Charlottesville, 12001186

WISCONSIN

Milwaukee County

Pritzlaff, John, Hardware Company, 305–333 N. Plankinton & 143, 155, W. St. Paul Aves., Milwaukee, 12001187

Oneida County

Pelican Lake Hotel, 745 US 45, Schoepke, 12001188

A request for removal has been made for the following resource:

GEORGIA

DeKalb County

Pines, Russell and Nelle, Lustron House, 2081 Sylvania Dr., Decatur, 96000207

[FR Doc. 2013–00503 Filed 1–11–13; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–11942; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before December 8, 2012. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by January 29, 2013. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 14, 2012.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARIZONA

Pima County

Rincon Heights Historic District, Roughly bounded by 6th St., Broadway Blvd., Campbell & Fremont Aves., Tucson, 12001190

San Rafael Estates, NE. corner of Broadway Blvd. & Wilmont Rd., Tucson, 12001189

CALIFORNIA

Alameda County

Naval Air Station Alameda Historic District, NAS Alameda, Alameda, 12001191

San Diego County

Chicano Park, Near National Ave. & Dewey St., San Diego, 12001192

COLORADO

El Paso County

Wolfe, John, House, 905 W. Cheyenne Rd., Colorado Springs, 12001193

DISTRICT OF COLUMBIA

District of Columbia

Hamilton Hotel, 1001 14th St. NW., Washington, 12001194
Wire Building, 1000 Vermont Ave. NW., Washington, 12001195

FLORIDA

Indian River County

Osceola Park Historic Residential District, Bounded by 20th & 18th Sts., 20th & 23rd Aves., Vero Beach, 12001196

KENTUCKY

Boyle County

Second Street Christian Church, 228 S. 2nd St., Danville, 12001197
St. James AME Church, 124 E. Walnut St., Danville, 12001198

Christian County

Attucks High School, 712 1st. St., Hopkinsville, 12001199

Knott County

Amburgey Log Home, 105 Dead Mare Branch, Mallie, 12001200

Marion County

Gravel Switch Historic District, Along KY 243, E. Railroad Ave. & Aliceton Rd., Gravel Switch, 12001201
Loretto Historic District, (Crossroads Communities in Kentucky's Bluegrass Cultural Landscape Region MPS) Along KY 49 & KY 52, Loretto, 12001202

Washington County

Mackville Historic District, (Crossroads Communities in Kentucky's Bluegrass Cultural Landscape Region MPS) Along KY 433 & KY 152, Mackville, 12001203
Willisburg Historic District, (Crossroads Communities in Kentucky's Bluegrass Cultural Landscape Region MPS) Along KY 433 & KY 53, Willisburg, 12001204

LOUISIANA

Madison Parish

Tallulah Coca-Cola Bottling Plant, N. Plum & E. Green Sts., Tallulah, 12001205

Rapides Parish

Guaranty Bank, Park Avenue Branch, 403 Bolton Ave., Alexandria, 12001206

MISSOURI

Howard County

New Franklin Commercial Historic District, 106–136 & 101–113 E. Broadway, New Franklin, 12001207

NEW YORK

Steuben County

New York State Soldiers' and Sailors' Home—Bath Veterans Administration Center Historic District, 76 Veterans Ave., Bath, 12001208

OHIO

Ashland County

Downtown Ashland Historic District, Roughly bounded by Cottage-Claremont Ave., 3rd, 4th, & Union Sts. & Town Cr., Ashland, 12001209

Cuyahoga County

Baldwin—Wallace College North Campus Historic District, Bounded by Bagley & E. 5th Aves., Front & Beech Sts., Berea, 12001210
Carroll, John, University North Quad Historic District, 1 John Carroll Blvd., University Heights, 12001211
East Ohio Building, The, 1717 E. 9th St., Cleveland, 12001212
Record Rendezvous, (Lower Prospect—Huron District MPS) 300 Prospect Ave., Cleveland, 12001213
West 25th Street—Detroit Avenue Historic District, Roughly bounded by Detroit Ave., Aust Ct., W. 25th & W. 28th Sts., Cleveland, 12001214

Medina County

Wheeling and Lake Erie Railroad Depot, 204 Railroad St., Lodi, 12001215

SOUTH DAKOTA

Jerauld County

Hawkeye Valley Mill, SE1/4 S23, T106N, R65W, Wessington Springs, 12001216

Minnehaha County

Sid's Crown Liquor, 330 S. 1st Ave., Sioux Falls, 12001217
Texaco Super Service Station, 330 S. 1st Ave., Sioux Falls, 12001218

Yankton County

Scottish Rite Masonic Temple, 333 Cedar St., Yankton, 12001219

VIRGINIA

Chesterfield County

Falling Creek UDC Jefferson Davis Highway Marker, (UDC Commemorative Highway Markers along the Jefferson Davis Highway in Virginia MPS) US 1 at Falling Cr. Wayside, Richmond, 12001220

WASHINGTON

King County

Bay View Brewery, 3100–3222 Airport Way S., Seattle, 12001221

Mason County

Malaney—O'Neill House, 1570 E. Agate Bay Rd., Shelton, 12001222

Yakima County

Bumping Lake Cabin No. 16, 1920 Bumping Lake Rd., Naches, 12001223

WYOMING

Sublette County

Green River Drift Trail Traditional Cultural Property, (Ranches, Farms, and Homesteads in Wyoming, 1860–1960 MPS) Generally follows upper Green R., Cora, 12001224

[FR Doc. 2013–00504 Filed 1–11–13; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–531]

Digital Trade in the U.S. and Global Economies, Part I; Institution of Investigation and Scheduling of Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: Following receipt of a request dated December 13, 2012 (received on December 14, 2012) from the Senate Committee on Finance, (Committee) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332–531, Digital Trade in the U.S. and Global Economies, Part I, for the purpose of preparing the first of two reports requested by the Committee.

DATES:

February 21, 2013: Deadline for filing requests to appear at the public hearing.
February 26, 2013: Deadline for filing pre-hearing briefs and statements.
March 7, 2013: Public hearing.
March 14, 2013: Deadline for filing post-hearing briefs and statements.
March 14, 2013: Deadline for filing all other written submissions.
July 14, 2013: Transmittal of Commission report to the Committee.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission

Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov/edis3-internal/app.*

FOR FURTHER INFORMATION CONTACT: Project Leader Matthew Reisman (202–205–2163 or *matthew.reisman@usitc.gov*) or Deputy Project Leader 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 Web site (*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.

SUPPLEMENTARY INFORMATION:

Background: As requested, the Commission will deliver two reports to the Committee. The first report, Digital Trade in the U.S and Global Economies, Part I, will:

- Describe U.S. digital trade in the context of the broader economy;
- Examine U.S. and global digital trade, the relationship to other cross-border transactions (e.g., foreign direct investment), and the extent to which digital trade facilitates and enables trade in other sectors;
- Describe notable barriers and impediments to digital trade; and
- Outline potential approaches for assessing the linkages and contributions of digital trade to the U.S. economy, noting any challenges associated with data gaps and limitations. Such contributions and linkages may include effects on consumer welfare, output, productivity, innovation, business practices, and job creation.

For the purposes of the report, the Commission is defining ''digital trade'' to encompass commerce in products and services delivered over digital networks. Examples include software, digital media files (e.g., e-books and digital audio files), and services such as data processing and hosting. The report will also examine how other industries, such as financial services and retailing, make use of digital products and services for production and trade.

The Commission will institute a second investigation at a later date for the purpose of preparing the second report. As requested by the Committee, the second report will build on the first report to:

- Estimate the value of U.S. digital trade and the potential growth of this trade;
- Examine the broader linkages and contributions of digital trade to the U.S. economy;
- Present case studies that examine the importance of digital trade to selected U.S. industries that use or produce such goods and services; and
- Examine the effect of notable barriers and impediments to digital trade on selected industries and the broader U.S. economy.

The second report will be delivered to the Committee within 19 months. More information regarding the second report will be made available when the second investigation is instituted.

Public Hearing: A public hearing in connection with these investigations will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on March 7, 2013. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., February 21, 2013, in accordance with the requirements in the ''Submissions'' section below. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., February 26, 2013; and all post-hearing briefs and statements should be filed not later than 5:15 p.m., March 14, 2013. In the event that, as of the close of business on February 21, 2013, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202–205–2000 after February 21, 2013, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., March 14, 2013. 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 following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of 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 the ''confidential'' or ''non-confidential'' version, 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. In its request letter, the Committee stated that it intends to make the Commission's reports available to the public in their entirety, and asked that the Commission not include any confidential business information or national security classified information in the reports that the Commission sends to the Committee. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: January 8, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–00506 Filed 1–11–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–NEW]

Agency Information Collection Activities; Proposed New Collection; Comments Requested: COPS Comparative Assessment of Cost Reduction by Agencies Survey

ACTION: 30-Day notice.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) 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. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 77, Number 221, page 68149 on November 15, 2012, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 13, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have 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 Danielle Ouellette, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530.

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 agency, 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;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Proposed new collection; comments requested.

(2) *Title of the Form/Collection:* COPS Comparative Assessment of Cost Reduction by Agencies Survey.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Law enforcement agencies and other public and private entities that apply for COPS Office grants or cooperative agreements will be asked complete the COPS Comparative Assessment of Cost Reduction Survey. The survey will be used to review the approaches currently adopted by police agencies that reduce organizational and operational costs and will provide information about how these strategies have been implemented and evaluated. The survey allows for the identification of agencies that have undertaken extensive changes in programs to maintain their service delivery levels or to increase service efficiency and effectiveness while facing budget restraints.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 268 respondents annually will complete the form within .42 hours (25 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 113 total annual 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., Room 3W–1407B, Washington, DC 20530.

Dated: January 8, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–00489 Filed 1–11–13; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0270]

Agency Information Collection Activities; Proposed Collection; Comments Requested: Bureau of Justice Assistance Application Form: Southwest Border Prosecution Initiative

ACTION: 60-Day notice.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Assistance, will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 15, 2013. If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact M. Pressley at 202–353–8643 or 1–866–859–2687, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This information

(1) *Type of information collection:*

(2) *The title of the form/collection:* Southwest Border Prosecution Initiative.

(3) *The agency form number, if any, and the applicable component of the*

Department sponsoring the collection: Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: United States Border State, Local, and Tribal governments.

Other: None.

Abstract: The Southwest Border Prosecutor Initiative was enacted in FY 2002 to reimburse state, county, parish, or municipal governments for the costs associated with the prosecution of criminal cases declined by local U.S. Attorneys. Each year, hundreds of criminal cases resulting from federal arrests are referred to local prosecutors to handle when the cases fall below certain monetary, quantity, or severity thresholds. This places additional burdens on local government resources that are already stretched by the demands of prosecuting violations of local and state laws. This program provides funds to eligible jurisdictions in the four southwest border states, using a uniform payment-per-case basis for qualifying federally initiated and declined-referred criminal cases that were disposed of after October 1, 2001. Up to 220 eligible jurisdictions may apply. This includes county governments and the four state governments in Arizona, California, New Mexico, and Texas.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that no more than 220 respondents will apply. Each application takes approximately 60 minutes to complete and is submitted 4 times per year (quarterly).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the applications is 880 hours (880 applications (220 × 4 times a year) × 60 minutes = 52,800/60 minutes per hour = 880 burden hours).

If additional information is required, contact Jerri Murray, Department Clearance Officer, U.S. Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B,Washington, DC 20530.

Dated: January 8, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–00490 Filed 1–11–13; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0034]

Agency Information Collection Activities; Proposed Collection; Comments Requested: Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local) Crime Laboratories

ACTION: 30-Day notice.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) 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. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 77, Number 210, page 65714 on October 30, 2012, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 13, 2013. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. 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 agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local Government) Crime Laboratories.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State, Local or Tribal Government.

Other: None.

Abstract: Information is needed from state and local laboratories to provide DEA with additional analyzed drug information for the National Forensic Laboratory Information System.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that there are one hundred forty (140) total respondents for this information collection. One hundred thirty-four (134) respond monthly at .13 hour (8 minutes) for each response and six (6) respond quarterly at .13 hour (8 minutes) for each response, for a total number of 1632 respondents.

(6) *An estimate of the total public burden (in hours) associated with the collection:* It is estimated that there are 218 annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: January 8, 2013.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2013–00488 Filed 1–11–13; 8:45 am]

BILLING CODE 4410–09–P

LIBRARY OF CONGRESS

Copyright Royalty Board

Notice of Intent To Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges are announcing receipt of a notice of intent to audit the 2009, 2010, and 2011 statements of account submitted by Last.fm, Ltd., concerning the royalty payments made pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUMMARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to perform publicly sound recordings by means of certain digital audio transmissions, subject to certain limitations. Specifically, this right is limited to two statutory licenses. The section 114 license allows the public performance of sound recordings by means of digital audio transmissions by nonexempt noninteractive digital subscription services and eligible nonsubscription services. 17 U.S.C. 114(f). The second license allows a service to make any necessary ephemeral reproductions to facilitate the digital transmission of the sound recording. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR part 380. As part of the terms set for these licenses, the Judges designated SoundExchange, Inc., as the organization charged with collecting the royalty payments and statements of account submitted by eligible nonsubscription services such as, among others, Commercial Webcasters and Broadcasters, and distributing the royalties to the copyright owners and performers entitled to receive such royalties under the section 112 and 114 licenses. 37 CFR 380.4(b)(1) (Commercial Webcasters), 380.13(b)(1) (Broadcasters). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year for the purpose of verifying their royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and serve the notice on the licensee to be audited. 37 CFR 380.6(c), 380.15(c).

On December 20, 2012, SoundExchange filed with the Judges a notice of intent to audit Last.fm, Ltd., for the years 2009, 2010, and 2011. Sections 380.6(c) and 380.15(c) require the Judges to publish a notice in the **Federal Register** within 30 days of receipt of the notice announcing the Collective's intent to conduct an audit.

In accordance with §§ 380.6(c) and 380.15(c), the Copyright Royalty Judges are publishing today's notice to fulfill this requirement with respect to SoundExchange's notice of intent to audit Last.fm, Ltd., filed December 20, 2012.

Dated: January 9, 2013.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2013–00541 Filed 1–11–13; 8:45 am]

BILLING CODE 1410–72–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS), Meeting of the ACRS, Subcommittee on ABWR, Cancellation of the January 16, 2013, ACRS Subcommittee Meeting

The ACRS Subcommittee meeting on ABWR scheduled for January 16, 2013 has been cancelled.

The notice of this meeting was previously published in the **Federal Register** on Wednesday, December 26, 2012, (77 FR 76089–76090).

Information regarding this meeting can be obtained by contacting Maitri Banerjee, Designated Federal Official (DFO) (Telephone 301–415–6973 or Email: *Maitri.Banerjee@nrc.gov*) between 7:00 a.m. and 4:45 p.m. (EST)).

Dated: January 8, 2013.

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–00545 Filed 1–11–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS), Meeting of the ACRS Subcommittee on Fukushima; Cancellation of the January 18, 2013, ACRS Subcommittee Meeting

The ACRS Subcommittee meeting on Fukushima scheduled for January 18, 2013 has been cancelled.

The notice of this meeting was previously published in the **Federal Register** on Monday, December 17, 2012, (77 FR 74697–74698).

Information regarding this meeting can be obtained by contacting Antonio Dias, Designated Federal Official (DFO) (Telephone 301–415–6805 or Email: *Antonio.Dias@nrc.gov*) between 7:30 a.m. and 5:15 p.m. (e.s.t.)).

Dated: January 3, 2013.

Mark Banks,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–00546 Filed 1–11–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS)

Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on February 6, 2013, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, February 6, 2013—12:00 p.m. Until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Antonio Dias (Telephone 301–415–6805 or Email: *Antonio.Dias@nrc.gov*) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters

should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240–888–9835) to be escorted to the meeting room.

Dated: January 3, 2013.

Mark Banks,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–00543 Filed 1–11–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Plant Operations and Fire Protection; Notice of Meeting

The ACRS Subcommittee on Plant Operations and Fire Protection will hold a meeting on February 6, 2013, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, February 6, 2013—1:00 p.m. until 5:00 p.m.

The Subcommittee will review the rulemaking effort in support of the Near-Term Task Force Recommendation 8: strengthening and integrating onsite emergency response capabilities such as Emergency Operating Procedures (EOPs), Severe Accident Management Guidelines (SAMGs), and Extensive Damage Mitigation Guidelines (EDMGs). The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Mark Banks (Telephone 301–415–3718 or Email: *Mark.Banks@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs*. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North Building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: January 3, 2013.

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–00544 Filed 1–11–13; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service™.

ACTION: Notice of modification to existing system of records.

SUMMARY: The United States Postal Service® is proposing to modify a General Privacy Act System of Records. These changes are being made to accommodate new data elements used in the Workplace Environment Tracking System (WETS), a new electronic national database for workplace related inquiries and complaints.

DATES: The revision will become effective without further notice on February 13, 2013, unless comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be mailed or delivered to the Records Office, United States Postal Service, 475 L'Enfant Plaza SW., Room 9431, Washington, DC 20260–1101. Copies of all written comments will be available at this address for public inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jane Eyre, Manager, Records Office, 202–268–2608.

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their amended systems of records in the **Federal Register** when there is a revision, change, or addition. The Postal Service™ has determined that this Customer Privacy Act System of Records should be revised to modify Categories of Individuals Covered by the System, Categories of Records in the System, Purpose, Retrievability, System Manager(s) and Address, Notification Procedure, and Record Source Categories.

I. Background

In April 2012 the Postal Service approved the development of an electronic national data base to encompass four Workplace Environment Processes: Initial Management Inquiry Process, Workplace Harassment Fact Finding, Threat Assessment Case Tracking, and Workplace Environment Intervention. As a result of this effort, the manual, hard copy records will be reduced and save work hours at the district, area, and national levels. The application will enable the Postal Service to enforce protocol and analyze data to identify trends and preventative measures relevant to workplace harassment,

threats, assaults, and overall workplace environment issues. The purpose is to create a national application and central repository for all four workplace environment processes identified above. The application will enable the Postal Service headquarters Equal Employment Opportunity and Workplace Environment Improvement Departments to standardize documentation, case management, operating procedures, and outcome measures.

II. Rationale for Changes to USPS Privacy Act Systems of Records

Establishing a user friendly tracking system for these four processes will reasonably assure that workplace harassment policies and protocols are standardized, instituted, and utilized to resolve complaints in a timely manner and to formulate action plans and appropriate analysis of the outcomes. The application will allow the Postal Service to better achieve the organization's goal to provide a workplace environment that is safe and free of workplace harassment, discrimination, threats, and assaults.

Short-term goals are to create a system that allows immediate access to workplace environment data and individual cases at a district, area, and headquarter level. It will centralize and standardize the processes regarding documentation, protocols, and risk abatement plans.

Long-term goals are to decrease Postal Service liability, decrease the frequency and severity of complaints, threats, and assaults and to track the timelines of Postal Service responses. Additionally, the data will enable the Postal Service to identify trends to improve the workplace environment processes and develop proactive, preventative measures.

III. Description of Changes to Systems of Records

The Postal Service is modifying one system of records listed below. Pursuant to 5 U.S.C. 552a (e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed modifications has been sent to Congress and to the Office of Management and Budget for their evaluation. The Postal Service does not expect this amended notice to have any adverse effect on individual privacy rights. The affected system is as follows:

USPS 100.900

SYSTEM NAME:

Employee Inquiry, Complaint, and Investigative Records

Accordingly, for the reasons stated, the Postal Service proposes changes in the existing system of records as follows:

USPS 100.900

SYSTEM NAME:

Employee Inquiry, Complaint, and Investigative Records

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

[CHANGE TO READ]

USPS employees and non-employees who contact USPS with an inquiry or complaint, and employees and non-employees who are subjects of management inquiries or investigations of workplace issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

[CHANGE TO READ]

1. *Employee information:* Name, gender, Social Security Number, Employee Identification Number, postal assignment information, veteran status, contact information, finance number(s), duty location, and pay location.

2. *Non-employee information:* Name, gender, and contact information.

[RENUMBER REMAINING TEXT]

* * * * *

PURPOSE:

[CHANGE TO READ]

1. To enable review and response to inquiries and complaints concerning employees and non-employees.

* * * * *

RETRIEVABILITY:

[CHANGE TO READ]

By employee and non-employee name, subject category, facility, finance number, district, area, nationally, or case number.

SYSTEM MANAGER(S) AND ADDRESS:

* * * * *

[ADD NEW TEXT]

Vice President, Labor Relations, United States Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260.

* * * * *

NOTIFICATION PROCEDURE:

[CHANGE TO READ]

Employees wanting to know if information about them is maintained in this system of records must address inquiries to the facility head where currently or last employed. Headquarters employees must submit inquiries to Corporate Personnel Management, 475 L'Enfant Plaza SW., Washington, DC 20260. Non-employees wanting to know if information about them is maintained in this system of records must address inquiries to the District Manager, Human Resources that governs the facility where the inquiry, complaint, or investigative records are stored. Inquiries must include full name, address, and other identifying information. In addition, employees must include Social Security Number or Employee Identification Number, name and address of facility where last employed, and dates of USPS employment. Likewise employees may also be required to furnish where the inquiry, complaint, or investigation occurred.

RECORD SOURCE CATEGORIES:

[CHANGE TO READ]

Employees, non-employees, supervisors, managers, and witnesses.

* * * * *

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2013–00480 Filed 1–11–13; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 2a–7, OMB Control No. 3235–0268, SEC File No. 270–258.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 2a–7 (17 CFR 270.2a–7) under the Investment Company Act of 1940 (15 U.S.C. 80a) (the ''Act'') governs money market funds. Money market funds are open-end management investment companies that differ from other open-end management investment companies in that they seek to maintain a stable price per share, usually $1.00. The rule exempts money market funds from the valuation requirements of the Act, and, subject to certain risk-limiting conditions, permits money market funds to use the ''amortized cost method'' of asset valuation or the ''penny-rounding method'' of share pricing.

Rule 2a–7 also imposes certain recordkeeping and reporting obligations

on money market funds. The board of directors of a money market fund, in supervising the fund's operations, must establish written procedures designed to stabilize the fund's net asset value (''NAV''). The board must also adopt guidelines and procedures relating to certain responsibilities it delegates to the fund's investment adviser. These procedures and guidelines typically address various aspects of the fund's operations. The fund must maintain and preserve for six years a written copy of both these procedures and guidelines. The fund also must maintain and preserve for six years a written record of the board's considerations and actions taken in connection with the discharge of its responsibilities, to be included in the board's minutes. In addition, the fund must maintain and preserve for three years written records of certain credit risk analyses, evaluations with respect to securities subject to demand features or guarantees, and determinations with respect to adjustable rate securities and asset backed securities. If the board takes action with respect to defaulted securities, events of insolvency, or deviations in share price, the fund must file with the Commission an exhibit to Form N–SAR describing the nature and circumstances of the action. If any portfolio security fails to meet certain eligibility standards under the rule, the fund also must identify those securities in an exhibit to Form N–SAR. After certain events of default or insolvency relating to a portfolio security, the fund must notify the Commission of the event and the actions the fund intends to take in response to the situation.

The 2010 amendments to rule 2a–7 also added new collection of information requirements. First, money market fund boards must adopt written procedures that provide for periodic testing (and reporting to the board) of the fund's ability to maintain a stable NAV per share based on certain hypothetical events. Second, funds must post monthly portfolio information on their Web sites. Third, funds must maintain records of creditworthiness evaluations on counterparties to repurchase agreements that the fund intends to ''look through'' for purposes of rule 2a–7's diversification limitations. Finally, money market funds must promptly notify the Commission of the purchase of any money market fund's portfolio security by an affiliated person in reliance on rule 17a–9 under the Act and explain the reasons for such purchase.

The recordkeeping requirements in rule 2a–7 are designed to enable Commission staff in its examinations of money market funds to determine compliance with the rule, as well as to ensure that money market funds have established procedures for collecting the information necessary to make adequate credit reviews of securities in their portfolios. The reporting requirements of rule 2a–7 are intended to assist Commission staff in overseeing money market funds and reduce the likelihood that a fund is unable to maintain a stable NAV.

Commission staff estimates that there are 664 money market funds (136 fund complexes), all of which are subject to rule 2a–7. Commission staff further estimates that there will be approximately 10 new money market funds established each year. Commission staff estimates that rule 2a–7 contains the following collection of information requirements:

- Record of credit risk analyses, and determinations regarding adjustable rate securities, asset backed securities, securities subject to a demand feature or guarantee, and counterparties to repurchase agreements. Commission staff estimates a total annual hour burden for 664 funds to be 451,520 hours.
- Establishment of written procedures designed to stabilize NAV and guidelines and procedures for board delegation of authority. Commission staff estimates a total annual hour burden for 10 new money market funds to be 155 hours.
- Board review of procedures and guidelines of any investment adviser or officers to whom the fund's board has delegated responsibility under rule 2a–7 and amendment of such procedures and guidelines. Commission staff estimates a total annual hour burden for 166 funds to be 830 hours.
- Written record of board determinations and actions related to failure of a security to meet certain eligibility standards or an event of default or insolvency and notice to the Commission of an event of default or insolvency. Commission staff estimates a total annual hour burden for 20 funds to be 30 hours.
- Establishment of written procedures to test periodically the ability of the fund to maintain a stable NAV per share based on certain hypothetical events (''stress testing''). Commission staff estimates a total annual hour burden for 10 new money market funds to be 220 hours.
- Review, revise, and approve written procedures to stress test a fund's portfolio. Commission staff estimates a total annual hour burden for 136 fund complexes to be 1,632 hours.
- Reports to fund boards on the results of stress testing. Commission staff estimates a total annual hour burden for 136 fund complexes to be 6,800 hours.
- Monthly posting of money market fund portfolio information on a fund's Web site. Commission staff estimates a total annual hour burden for 664 funds and 10 new money market funds to be 56,016 hours.
- Notice to the Commission of the purchase of a money market fund's portfolio security by certain affiliated persons in reliance on rule 17a–9. Commission staff estimates a total annual hour burden for 25 fund complexes to be 25 hours.

Thus, the Commission estimates the total annual burden of the rule's information collection requirements is 517,228 hours.[1]

The estimated total annual burden is being increased from 395,779 hours to 517,228 hours. This net increase is attributable to a combination of factors, including a decrease in the number of money market funds and fund complexes, and updated information from money market funds regarding hourly burdens, including revised staff estimates of the burden hours required to comply with rule 2a–7 as a result of new information received from surveyed fund representatives.

These estimates of burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimates are not derived from a comprehensive or even a representative survey or study of Commission rules.

Commission staff estimates that in addition to the costs described above, money market funds will incur costs to preserve records, as required under rule 2a–7. These costs will vary significantly for individual funds, depending on the amount of assets under fund management and whether the fund preserves its records in a storage facility in hard copy or has developed and maintains a computer system to create and preserve compliance records. Commission staff estimates that the amount an individual fund may spend ranges from $100 per year to $300,000. Based on a cost of $0.0051295 per dollar of assets under management for small funds, $0.0005041 per dollar assets under management for medium funds, and $0.0000009 per dollar of assets under management for large funds, the staff estimates compliance with the record storage requirements of rule 2a–

[1] This estimate is based on the following calculation: 451,520 hours + 155 hours + 830 hours + 30 hours + 220 hours + 1,632 hours + 6,800 hours + 56,016 hours + 25 hours = 517,228 hours.

7 costs the fund industry approximately $57.3 million per year. Based on responses from individuals in the money market fund industry, the staff estimates that some of the largest fund complexes have created computer programs for maintaining and preserving compliance records for rule 2a–7. Based on a cost of $0.0000132 per dollar of assets under management for large funds, the staff estimates that total annualized capital/startup costs range from $0 for small funds to $35.6 million for all large funds. Commission staff further estimates that, even absent the requirements of rule 2a–7, money market funds would spend at least half of the amount for capital costs ($17.8 million) and for record preservation ($28.65 million) to establish and maintain these records and the systems for preserving them as a part of sound business practices to ensure diversification and minimal credit risk in a portfolio for a fund that seeks to maintain a stable price per share.

The collection of information under Rule 2a–7 is mandatory. The information provided by the rule is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an email to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/CIO, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: January 8, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00517 Filed 1–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0658, SEC File No. 270–603]

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 22e–3.

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 22(e) of the Investment Company Act [15 U.S.C. 80a–22(e)] (''Act'') generally prohibits funds, including money market funds, from suspending the right of redemption, and from postponing the payment or satisfaction upon redemption of any redeemable security for more than seven days. The provision was designed to prevent funds and their investment advisers from interfering with the redemption rights of shareholders for improper purposes, such as the preservation of management fees. Although section 22(e) permits funds to postpone the date of payment or satisfaction upon redemption for up to seven days, it does not permit funds to suspend the right of redemption for any amount of time, absent certain specified circumstances or a Commission order.

Rule 22e–3 under the Act [17 CFR 270.22e–3] exempts money market funds from section 22(e) to permit them to suspend redemptions in order to facilitate an orderly liquidation of the fund. Specifically, rule 22e–3 permits a money market fund to suspend redemptions and postpone the payment of proceeds pending board-approved liquidation proceedings if: (i) the fund's board of directors, including a majority of disinterested directors, determines pursuant to § 270.2a–7(c)(8)(ii)(C) that the extent of the deviation between the fund's amortized cost price per share and its current net asset value per share calculated using available market quotations (or an appropriate substitute that reflects current market conditions) may result in material dilution or other unfair results to investors or existing shareholders; (ii) the fund's board of directors, including a majority of disinterested directors, irrevocably approves the liquidation of the fund; and (iii) the fund, prior to suspending redemptions, notifies the Commission of its decision to liquidate and suspend redemptions. Rule 22e–3 also provides an exemption from section 22(e) for registered investment companies that own shares of a money market fund pursuant to section 12(d)(1)(E) of the Act (''conduit funds''), if the underlying money market fund has suspended redemptions pursuant to the rule. A conduit fund that suspends redemptions in reliance on the exemption provided by rule 22e–3 is required to provide prompt notice of the suspension of redemptions to the Commission. Notices required by the rule must be provided by electronic mail, directed to the attention of the Director of the Division of Investment Management or the Director's designee.[1] Compliance with the notification requirement is mandatory for money market funds and conduit funds that rely on rule 22e–3 to suspend redemptions and postpone payment of proceeds pending a liquidation, and are not kept confidential.

Commission staff estimates that, on average, one money market fund would break the buck and liquidate every six years.[2] In addition, Commission staff estimate that there are an average of two conduit funds that may be invested in a money market fund that breaks the buck.[3] Commission staff further estimate that a money market fund or conduit fund would spend approximately one hour of an in-house attorney's time to prepare and submit the notice required by the rule. Given these estimates, the total annual burden of the notification requirement of rule 22e–3 for all money market funds and conduit funds would be approximately 30 minutes,[4] at a cost of $189.[5] The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

[1] *See* rule 22e–3(a)(3).

[2] This estimate is based upon the Commission's experience with the frequency with which money market funds have historically required sponsor support. Although the vast majority of money market fund sponsors have supported their money market funds in times of market distress, for purposes of this estimate Commission staff conversatively estimates that one or more sponsors may not provide support.

[3] These estimates are based on a review of filings with the Commission.

[4] This estimate is based on the following calculations: (1 hour ÷ 6 years) = 10 minutes per year for each fund and conduit fund that is required to provide notice under the rule. 10 minutes per year × 3 (combined number of affected funds and conduit funds) = 30 minutes.

[5] This estimate is based on the following calculation: $378/hour × 30 minutes = $189. The estimated hourly wages used in this PRA analysis were derived from reports prepared by the Securities Industry and Financial Markets Association, modified to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. *See* Securities Industry and Financial Markets Association, *Management & Professional Earnings in the Securities Industry 2011.*

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: January 8, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00518 Filed 1–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0307, SEC File No. 270–21]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Form N–1A.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Form N–1A (17 CFR 239.15A and 274.11A) is the form used by open-end management investment companies (''funds'') under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') and/or to register their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act''). Section 5 of the Securities Act (15 U.S.C. 77e) requires the filing of a registration statement prior to the offer of securities to the public and that the statement be effective before any securities are sold, and Section 8 of the Investment Company Act (15 U.S.C. 80a–8) requires a fund to register as an investment company. Form N–1A also permits funds to provide investors with a prospectus and a statement of additional information (''SAI'') covering essential information about the fund when it makes an initial or additional offering of its securities. Section 5(b) of the Securities Act requires that investors be provided with a prospectus containing the information required in a registration statement prior to the sale or at the time of confirmation or delivery of the securities. The form also may be used by the Commission in its regulatory review, inspection, and policy-making roles.

The Commission estimates that there are 48 initial registration statements and 5,642 post-effective amendments to initial registration statements filed on Form N–1A annually and that the average number of portfolios referenced in initial registration statements is 7.5, and the average number of portfolios referenced in post-effective amendment is 1.7. The Commission further estimates that the hour burden for preparing and filing a post-effective amendment on Form N–1A is 133.75 hours per portfolio. The total annual hour burden for preparing and filing post-effective amendments is 1,279,720 hours (5,642 post-effective amendments × 133.75 hours per portfolio). The estimated annual hour burden for preparing and filing initial registration statements is 298,969 hours (48 initial registration statements × 830.47 hours per portfolio). The total annual hour burden for Form N–1A, therefore, is estimated to be 1,578,689 hours (1,279,720 hours + 298,969 hours).

The information collection requirements imposed by Form N–1A are mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: January 8, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00519 Filed 1–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Form N–8A, OMB Control No. 3235–0175, File No. 270–135.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The Investment Company Act of 1940, as amended (''1940 Act'') (15 U.S.C. 80a–1 *et seq.*), requires investment companies to register with the Commission before they conduct any business in interstate commerce. Section 8(a) of the 1940 Act provides that an investment company shall be deemed to be registered upon receipt by the Commission of a notification of registration in such form as the Commission prescribes. Form N–8A (17 CFR 274.10) is the form for notification of registration that the Commission has adopted under section 8(a). The purpose of such notification of registration provided on Form N–8A is to notify the Commission of the existence of investment companies required to be registered under the 1940 Act and to enable the Commission to administer the provisions of the 1940 Act with respect to those companies. After an investment company has filed its notification of registration under section 8(a), the company is then subject to the provisions of the 1940 Act which govern certain aspects of its organization and

activities, such as the composition of its board of directors and the issuance of senior securities. Form N–8A requires an investment company to provide its name, state of organization, form of organization, classification, the name and address of each investment adviser of the investment company, the current value of its total assets and certain other information readily available to the investment company. If the investment company is filing a registration statement as required by Section 8(b) of the 1940 Act concurrently with its notification of registration, Form N–8A requires only that the registrant file the cover page (giving its name, address and agent for service of process) and sign the form in order to effect registration.

Each year approximately 130 investment companies file a notification on Form N–8A, which is required to be filed only once by an investment company. The Commission estimates that preparing Form N–8A requires an investment company to spend approximately 1 hour so that the total burden of preparing Form N–8A for all affected investment companies is 130 hours. Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

The collection of information on Form N–8A is mandatory. The information provided on Form N–8A is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: January 8, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00520 Filed 1–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30345; File No. 812–13895]

First Trust Exchange-Traded Fund, et al.; Notice of Application

January 8, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''1940 Act'') for exemptions from sections 12(d)(1)(A), (B), and (C) of the 1940 Act, under sections 6(c) and 17(b) of the 1940 Act for an exemption from section 17(a) of the 1940 Act, and under section 6(c) of the 1940 Act for an exemption from rule 12d1–2(a) under the 1940 Act.

SUMMARY OF THE APPLICATION: Applicants request an order that would (a) permit certain registered open-end management investment companies that operate as ''funds of funds'' to acquire shares of certain registered open-end management investment companies, registered closed-end management investment companies, ''business development companies,'' as defined by section 2(a)(48) of the 1940 Act, and registered unit investment trusts that are within or outside the same group of investment companies as the acquiring investment companies and (b) permit certain registered open-end management investment companies relying on rule 12d1–2 under the 1940 Act to invest in certain financial instruments.

APPLICANTS: First Trust Exchange-Traded Fund, First Trust Exchange-Traded Fund II, First Trust Exchange-Traded Fund III, First Trust Exchange-Traded Fund IV, First Trust Exchange-Traded Fund V, First Trust Exchange-Traded Fund VI, First Trust Exchange-Traded Fund VII, First Trust Exchange-Traded AlphaDEX Fund and First Trust Exchange-Traded AlphaDEX Fund II (each an ''ETF Trust''), First Trust Series Fund (the ''Series Trust''), First Defined Portfolio Fund, LLC (''First Defined''), First Trust Variable Insurance Trust (''Variable Insurance Trust'' and, together with First Defined, the Series Trust and the ETF Trusts, the ''Acquiring Companies''), First Trust Advisors L.P. (the ''Advisor'') and First Trust Portfolios L.P. (the ''Distributor'').

FILING DATES: The application was filed on April 29, 2011, and amended on October 21, 2011, May 18, 2012, September 14, 2012, and January 3, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 4, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, 120 East Liberty Drive, Suite 400, Wheaton, Illinois 60187.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the ''Company'' name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each Acquiring Company other than First Defined was organized as a Massachusetts business trust, and each Fund (as defined below) will pursue its own investment objective(s) and strategies.[1] Each Acquiring Company is

[1] Shares of series of the Variable Insurance Trust and interests in series of First Defined, which is organized as a Delaware limited liability company, are not offered directly to the public. Shares of series of the Variable Insurance Trust are offered to separate accounts that are registered as investment companies under the 1940 Act (''Registered Separate Accounts'') or that are not registered under the 1940 Act (''Unregistered Separate Accounts,'' collectively with Registered Separate Accounts, ''Separate Accounts'') of affiliated and unaffiliated insurance companies as the underlying investment vehicles for the variable life insurance and variable

or will be registered as an open-end management investment company under the 1940 Act.[2]

2. The Advisor, an Illinois limited partnership, is a registered investment adviser under the Investment Advisers Act of 1940 and serves as the investment adviser to each of the Funds of Funds (as defined below).[3] The Distributor is a Broker (as defined below) and currently serves as the Funds' principal underwriter and distributor.

3. Applicants request relief to the extent necessary to permit: (a) A Fund (each, a ''Fund of Funds,'' and collectively, the ''Funds of Funds'') to acquire shares of registered open-end management investment companies (each an ''Unaffiliated Open-End Investment Company''), registered closed-end management investment companies, ''business development companies'' as defined by section 2(a)(48) of the 1940 Act (''business development companies'') (each registered closed-end management investment company and each business development company, an ''Unaffiliated Closed-End Investment Company'' and, together with the Unaffiliated Open-End Investment Companies, the ''Unaffiliated Investment Companies''), and registered unit investment trusts (''UITs'') (the ''Unaffiliated Trusts,'' and together with the Unaffiliated Investment Companies, the ''Unaffiliated Funds''), in each case, that are not part of the same ''group of investment companies'' as the Funds of Funds;[4] (b) the Unaffiliated Funds, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act'') (''Broker'') to sell shares of such Unaffiliated Funds to the Funds of Funds; (c) the Funds of Funds to acquire shares of other registered investment companies, including open-end management investment companies and series thereof, closed-end management investment companies and UITs, as well as business development companies (if any), in the same group of investment companies as the Funds of Funds (collectively, the ''Affiliated Funds,'' and, together with the Unaffiliated Funds, the ''Underlying Funds'');[5] and (d) the Affiliated Funds, their principal underwriters and any Broker to sell shares of the Affiliated Funds to the Funds of Funds.[6] Applicants also request an order under sections 6(c) and 17(b) of the 1940 Act to exempt applicants from section 17(a) to the extent necessary to permit Underlying Funds organized as open-end investment companies (''Underlying Open-End Funds'') to sell their shares to Funds of Funds and redeem their shares from Funds of Funds.[7]

4. Applicants also request an exemption under section 6(c) from rule 12d1–2 under the 1940 Act to permit any existing or future Fund of Funds that relies on section 12(d)(1)(G) of the 1940 Act (''Section 12(d)(1)(G) Fund of Funds'') and that otherwise complies with rule 12d1–2 under the 1940 Act, to also invest, to the extent consistent with its investment objective(s), policies, strategies and limitations, in other financial instruments that may not be securities within the meaning of section 2(a)(36) of the 1940 Act (''Other Investments'').

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the 1940 Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the 1940 Act prohibits a registered open-end investment company, its principal underwriter, and any Broker from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally. Section 12(d)(1)(C) prohibits an investment company from acquiring any security issued by a registered closed-end investment company if such acquisition would result in the acquiring company, any other investment companies having the same investment adviser, and companies controlled by such investment companies, collectively, owning more than 10% of the outstanding voting stock of the registered closed-end investment company.

2. Section 12(d)(1)(J) of the 1940 Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants request an exemption under

annuity contracts (collectively, ''variable insurance contracts'') issued by the insurance companies (owners of such contracts, ''contract holders''). They are also offered to qualified pension and retirement plans. Interests in series of First Defined are offered to a Registered Separate Account of an unaffiliated insurance company as an underlying investment vehicle for the variable insurance contracts that the insurance company issues.

[2] Applicants request that the order apply not only to any existing series of the Acquiring Companies, but that the order also extend to any future series of the Acquiring Companies, and any other existing or future registered open-end management investment companies and any series thereof that are part of the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of 1940 Act, as the Acquiring Companies and are, or may in the future be, advised by the Advisor or any other investment adviser controlling, controlled by, or under common control with the Advisor (together with the existing series of the Acquiring Companies, each series a ''Fund,'' and collectively, the ''Funds''). All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[3] All references to the term ''Advisor'' include successors-in-interest to the Advisor. A successor-in-interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[4] For purposes of the request for relief from Sections 12(d)(1)(A), (B), and (C) of the 1940 Act, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

[5] Certain of the Underlying Funds may be registered under the 1940 Act as either UITs or open-end management investment companies and have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as exchange-traded funds (collectively, ''ETFs'' and each, an ''ETF''). In addition, certain of the Underlying Funds currently pursue, or may in the future pursue, their investment objectives through a master-feeder arrangement in reliance on section 12(d)(1)(E) of the 1940 Act. In accordance with condition 12, a Fund of Funds may not invest in an Underlying Fund that operates as a feeder fund unless the feeder fund is part of the same ''group of investment companies'' as its corresponding master fund or the Fund of Funds. If a Fund of Funds invests in an Affiliated Fund that operates as a feeder fund and the corresponding master fund is not within the same ''group of investment companies'' as the Fund of Funds and Affiliated Fund, the master fund would be an Unaffiliated Fund for purposes of the application and its conditions.

[6] With respect to investments in business development companies, applicants only seek an exemption from section 12(d)(1)(A) of the 1940 Act, not section 12(d)(1)(C). Applicants state that they do not believe that investments in business development companies present any particular considerations or concerns that may be different from those presented by investments in registered closed-end investment companies.

[7] Applicants note that a Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds.

section 12(d)(1)(J) of the 1940 Act from the limitations of sections 12(d)(1)(A), (B) and (C) to the extent necessary to permit: (i) the Funds of Funds to acquire shares of Underlying Funds in excess of the limits set forth in section 12(d)(1)(A) and (C) of the 1940 Act; and (ii) the Underlying Funds, their principal underwriters and any Broker to sell shares of the Underlying Funds to the Funds of Funds in excess of the limits set forth in section 12(d)(1)(B) of the 1940 Act.

3. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A), (B), and (C), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants submit that the proposed structure will not result in the exercise of undue influence by a Fund of Funds or its affiliated persons over the Underlying Funds. Applicants assert that the concern about undue influence does not arise in connection with a Fund of Funds' investment in the Affiliated Funds because they are part of the same group of investment companies. To limit the control a Fund of Funds or Fund of Funds Affiliate [8] may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Advisor and any person controlling, controlled by or under common control with the Advisor, and any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the 1940 Act advised or sponsored by the Advisor or any person controlling, controlled by or under common control with the Advisor (collectively, the ''Group'') from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. The same prohibition would apply to any other investment adviser within the meaning of section 2(a)(20)(B) of the 1940 Act to a Fund of Funds (''Sub-Adviser'') and any person controlling, controlled by or under common control with the Sub-Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act (or portion of such investment company or issuer) advised or sponsored by the Sub-Adviser or any person controlling, controlled by or under common control with the Sub-Adviser (collectively, the ''Sub-Adviser Group'').

5. With respect to closed-end underlying funds, applicants submit that one significant difference from open-end underlying funds is that, whereas open-end underlying funds may be unduly influenced by the threat of large-scale redemptions, closed-end underlying funds cannot be so influenced because they do not issue redeemable securities and, therefore, are not subject to large-scale redemptions. On the other hand, applicants state that closed-end underlying funds may be unduly influenced by a holder's ability to vote a large block of stock. To address this concern, applicants submit that, with respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the 1940 Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares (except that any member of the Group or Sub-Adviser Group that is a Separate Account will instead be subject to the separate but similar voting procedures described in condition 1 below). Applicants state that, in this way, an Unaffiliated Closed-End Investment Company will be protected from undue influence by a Fund of Funds through the voting of the Unaffiliated Closed-End Investment Company's shares.

6. Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting'').[9]

7. To further ensure that an Unaffiliated Investment Company understands the implications of a Fund of Funds' investment under the requested exemptive relief, prior to its investment in the shares of an Unaffiliated Investment Company in excess of the limit of section 12(d)(1)(A)(i) of the 1940 Act, a Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that each of their boards of directors or trustees (each, a ''Board'') and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (the ''Participation Agreement''). Applicants note that an Unaffiliated Investment Company (including an ETF or an Unaffiliated Closed-End Investment Company) would also retain its right to reject any initial investment by a Fund of Funds in excess of the limits in section 12(d)(1)(A)(i) of the 1940 Act by declining to execute the Participation Agreement with the Fund of Funds. In addition, an Unaffiliated Investment Company (other than an ETF or closed-end fund whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds. Finally, subject solely to the giving of notice to a Fund of Funds and the passage of a reasonable notice period, an Unaffiliated Fund (including a closed-end fund) could terminate a Participation Agreement with the Fund of Funds.

8. Applicants state that they do not believe that the proposed arrangement will result in excessive layering of fees. The Board of each Fund of Funds, including a majority of the trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the 1940 Act (the ''Independent Trustees''), will find that the management or advisory fees charged under a Fund of Funds' advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. In addition, the Advisor will waive fees otherwise

[8] A ''Fund of Funds Affiliate'' is the Advisor, any Sub-Adviser, promoter or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by or under common control with any of those entities. An ''Unaffiliated Fund Affiliate'' is an investment adviser(s), sponsor, promoter or principal underwriter of any Unaffiliated Fund or any person controlling, controlled by or under common control with any of those entities.

[9] An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, trustee, advisory board member, investment adviser, sub-adviser or employee of the Fund of Funds, or a person of which any such officer, director, trustee, investment adviser, sub-adviser, member of an advisory board or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the 1940 Act.

payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b-1 under the 1940 Act) received from an Unaffiliated Fund by the Advisor, or an affiliated person of the Advisor, other than any advisory fees paid to the Advisor or an affiliated person of the Advisor by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund.

9. Applicants further state that, with respect to Registered Separate Accounts that invest in a Fund of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and service fees, as defined in rule 2830 of the Conduct Rules of the NASD (''NASD Conduct Rule 2830''),[10] if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

10. Applicants assert that each Fund of Funds will represent in the Participation Agreement that no insurance company sponsoring a Separate Account funding variable insurance contracts will be permitted to invest in the Fund of Funds unless the insurance company has certified to the Fund of Funds that the aggregate of all fees and charges associated with each contract that invests in the Fund of Funds, including fees and charges at the Separate Account, Fund of Funds, and the Underlying Fund levels, are reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the insurance company.

11. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the 1940 Act in excess of the limits contained in section 12(d)(1)(A) of the 1940 Act, except in certain circumstances identified in condition 12 below.

[10] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

B. Section 17(a)

1. Section 17(a) of the 1940 Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the 1940 Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that the Funds of Funds and the Affiliated Funds may be deemed to be under the common control of the Advisor and, therefore, affiliated persons of one another. Applicants also state that the Funds of Funds and the Underlying Open-End Funds may also be deemed to be affiliated persons of one another if a Fund of Funds owns 5% or more of the outstanding voting securities of one or more of such Underlying Open-End Funds. Applicants state that the sale of shares by the Underlying Open-End Funds to the Funds of Funds and the purchase of those shares from the Funds of Funds by the Underlying Open-End Funds (through redemptions) could be deemed to violate section 17(a).[11]

3. Section 17(b) of the 1940 Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (i) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (ii) the proposed transaction is consistent with the policies of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the 1940 Act. Section 6(c) of the 1940 Act permits the Commission to exempt any person or transactions from any provision of the 1940 Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the 1940 Act. Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Open-End Fund will sell its shares to or purchase its shares from a Fund of Funds will be based on the net asset value of each Underlying Open-End Fund.[12] Applicants also state that the proposed transactions will be consistent with the policies of each Fund of Funds and Underlying Open-End Fund, and with the general purposes of the 1940 Act.

C. Other Investments by Section 12(d)(1)(G) Funds of Funds

1. Section 12(d)(1)(G) of the 1940 Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) the acquiring company and acquired company are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the 1940 Act; (ii) the acquiring company holds only securities of acquired companies that are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the 1940 Act, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the 1940 Act by a securities association registered under section 15A of the 1934 Act or by the Commission; and (iv) the acquired

[11] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e)(1) of the 1940 Act. The Participation Agreement also will include this acknowledgement.

[12] Applicants note that a Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each Fund of Funds that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the 1940 Act, of an ETF to purchase or redeem shares from the ETF. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF is also an investment adviser to the Fund of Funds. Applicants note that a Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds.

company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered UITs in reliance on section 12(d)(1)(F) or (G) of the 1940 Act.

2. Rule 12d1–2 under the 1940 Act permits a registered open-end investment company or a registered UIT that relies on section 12(d)(1)(G) of the 1940 Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the 1940 Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the 1940 Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the 1940 Act.

3. Applicants state that the proposed arrangement would comply with rule 12d1–2 under the 1940 Act, but for the fact that the Section 12(d)(1)(G) Funds of Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the 1940 Act for an exemption from rule 12d1–2(a) to allow the Section 12(d)(1)(G) Funds of Funds to invest in Other Investments. Applicants assert that permitting a Section 12(d)(1)(G) Fund of Funds to invest in Other Investments as described in the application would not raise any of the concerns that section 12(d)(1) of the 1940 Act was intended to address.

4. Consistent with its fiduciary obligations under the 1940 Act, a Section 12(d)(1)(G) Fund of Funds' Board will review the advisory fees charged by the Section 12(d)(1)(G) Fund of Funds' investment adviser(s) to ensure that the fees are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Section 12(d)(1)(G) Fund of Funds may invest.

Applicants' Conditions

A. Investments by Funds of Funds in Underlying Funds

Applicants agree that the order granting the requested relief to permit Funds of Funds to invest in Underlying Funds shall be subject to the following conditions:

1. The members of the Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. The members of a Sub-Adviser Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. With respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the 1940 Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares (except that any member of the Group or Sub-Adviser Group that is a Separate Account will instead be subject to the voting procedures described below). If, as a result of a decrease in the outstanding voting securities of any other Unaffiliated Fund, the Group or a Sub-Adviser Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of such Unaffiliated Fund, then the Group or the Sub-Adviser Group (except for any member of the Group or Sub-Adviser Group that is a Separate Account) will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. This condition will not apply to a Sub-Adviser Group with respect to an Unaffiliated Fund for which the Sub-Adviser or a person controlling, controlled by or under common control with the Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the 1940 Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated Trust).

A Registered Separate Account will seek voting instructions from its contract holders and will vote its shares of an Unaffiliated Fund in accordance with the instructions received and will vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received. An Unregistered Separate Account will either (a) vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares or (b) seek voting instructions from its contract holders and vote its shares in accordance with the instructions received and vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Trustees, will adopt procedures reasonably designed to ensure that its Advisor and any Sub-Adviser to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Investment Company or Unaffiliated Trust or any Unaffiliated Fund Affiliate of such Unaffiliated Investment Company or Unaffiliated Trust in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Trustees, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment

Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things: (a) whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Investment Company will maintain and preserve permanently, in an easily accessible place, a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, setting forth (1) the party from whom the securities were acquired, (2) the identity of the underwriting syndicate's members, (3) the terms of the purchase, and (4) the information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i) of the 1940 Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the 1940 Act, the Board of each Fund of Funds, including a majority of the Independent Trustees, shall find that the advisory fees charged under the advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Advisor will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company pursuant to rule 12b–1 under the 1940 Act) received from an Unaffiliated Fund by the Advisor, or an affiliated person of the Advisor, other than any advisory fees paid to the Advisor or its affiliated person by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Sub-Adviser will waive fees otherwise payable to the Sub-Adviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Sub-Adviser, or an affiliated person of the Sub-Adviser, from an Unaffiliated Fund, other than any advisory fees paid to the Sub-Adviser or its affiliated person by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Sub-Adviser. In the event that the Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. With respect to Registered Separate Accounts that invest in a Fund of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and service fees, as defined in NASD Conduct Rule 2830, if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

12. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the 1940 Act, in excess of the limits contained in section 12(d)(1)(A) of the 1940 Act, except to the extent that such Underlying Fund: (a) Acquires such securities in compliance with section 12(d)(1)(E) of the 1940 Act and either is an Affiliated Fund or is in the same ''group of investment companies'' as its corresponding master fund; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the 1940 Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more investment companies for short-term cash management purposes or (ii) engage in inter-fund borrowing and lending transactions.

B. Other Investments by Section 12(d)(1)(G) Funds of Funds

Applicants agree that the order granting the requested relief to permit Section 12(d)(1)(G) Funds of Funds to invest in Other Investments shall be subject to the following condition:

1. Applicants will comply with all provisions of rule 12d1–2 under the 1940 Act, except for paragraph (a)(2) to the extent that it restricts any Section 12(d)(1)(G) Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00516 Filed 1–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9378; 34–68603; File No. 265–28]

Dodd-Frank Investor Advisory Committee

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Meeting of Securities and Exchange Commission Dodd-Frank Investor Advisory Committee.

SUMMARY: The Securities and Exchange Commission Investor Advisory Committee, established pursuant to Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is providing notice that it will hold a public meeting on Friday, January 18, 2013, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC 20549. The meeting will begin at 10:00 a.m. (EDT) and end at 4:00 p.m. and will be open to the public, except during portions of the meeting reserved for meetings of the Committee's subcommittees. The meeting will be webcast on the Commission's Web site at *www.sec.gov.* Persons needing special accommodations to take part because of a disability should notify the contact person listed below. The public is invited to submit written statements to the Committee. The agenda for the meeting includes: Introductory remarks from Chairman Walter and Commissioners; introductory remarks from Committee officers; discussion of administrative matters; and reports from the four Investor Advisory Committee subcommittees (the Investor as Owner subcommittee, the Investor as Purchaser subcommittee, the Investor Education subcommittee, and the Market Structure subcommittee).

DATES: Written statements should be received on or before January 18, 2013.

ADDRESSES: Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's Internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rules-comments@sec.gov.* Please include File No. 265–28 on the subject line; or

Paper Statements

- Send paper statements in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Stop 1090, 100 F Street NE., Washington, DC 20549—1090.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

Statements also will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: M. Owen Donley, Chief Counsel, at (202) 551–6322, Office of Investor Education and Advocacy, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

Dated: January 9, 2013.

Elizabeth M. Murphy,

Committee Management Officer.

[FR Doc. 2013–00538 Filed 1–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9379; 34–68604; File No. 265–27]

Advisory Committee on Small and Emerging Companies; Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice.

SUMMARY: The Securities and Exchange Commission Advisory Committee on Small and Emerging Companies is providing notice that it will hold a public meeting on Friday, February 1, 2013, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC. The meeting will begin at 9:30 a.m. (EST) and will be open to the public. The meeting will be webcast on the Commission's Web site at *www.sec.gov.* Persons needing special accommodations to take part because of a disability should notify the contact person listed below. The public is invited to submit written statements to the Committee.

The agenda for the meeting includes consideration of recommendations and other matters relating to rules and regulations affecting small and emerging companies under the federal securities laws.

DATES: The public meeting will be held Friday, February 1, 2013. Written statements should be received on or before January 30, 2013.

ADDRESSES: The meeting will be held at the Commission's headquarters, 100 F Street NE., Washington, DC. Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's Internet submission form (*http://www.sec.gov/info/smallbus/acsec.shtml*); or
- Send an email message to *rule-comments@sec.gov.* Please include File Number 265–27 on the subject line; or

Paper Statements

- Send paper statements in triplicate to Elizabeth M. Murphy, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–27. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method. The Commission will post all statements on the Advisory Committee's Web site (*http://www.sec.gov./info/smallbus/acsec.shtml*).

Statements also will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You

should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Johanna V. Losert, Special Counsel, at (202) 551–3460, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C.-App. 1, and the regulations thereunder, Lona Nallengara, Designated Federal Officer of the Committee, has ordered publication of this notice.

Dated: January 9, 2013.

Elizabeth M. Murphy,

Committee Management Officer.

[FR Doc. 2013–00539 Filed 1–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

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 Advisory Committee on Small and Emerging Companies will hold a public meeting on Friday, February 1, 2013, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC. The meeting will begin at 9:30 a.m. (EDT) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9:00 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at *http://www.sec.gov/.*

On January 9, 2013, the Commission published notice of the Committee meeting (Release No. 33–9379), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

The agenda for the meeting includes consideration of recommendations and other matters relating to rules and regulations affecting small and emerging companies under the federal securities laws. For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: January 10, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00678 Filed 1–10–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

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 Investor Advisory Committee will hold a meeting on Friday, January 18, 2013, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC. The meeting will begin at 10:00 a.m. (EDT) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9:30 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at *www.sec.gov.*

On January 9, 2013, the Commission issued notice of the Committee meeting (Release No. 33–9378), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a quorum of the Commission may attend the meeting.

The agenda for the meeting includes introductory remarks from Chairman Walter and Commissioners; introductory remarks from Committee officers; discussion of administrative matters; and reports from the four Investor Advisory Committee subcommittees (the Investor as Owner subcommittee, the Investor as Purchaser subcommittee, the Investor Education subcommittee, and the Market Structure subcommittee).

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: January 10, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–00677 Filed 1–10–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, January 17, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Consideration of amicus participation; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: January 10, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–00680 Filed 1–10–13; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13435 and # 13436]

Maryland Disaster # MD–00026

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Maryland dated 01/02/2013.

Incident: Hurricane Sandy.

Incident Period: 10/26/2012 through 11/04/2012.

Effective Date: 01/02/2013.

Physical Loan Application Deadline Date: 03/04/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 10/02/2013.

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: Worcester.

Contiguous Counties:

Maryland: Somerset, Wicomico.

Delaware: Sussex.

Virginia: Accomack.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.375
Homeowners without Credit Available Elsewhere	1.688
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-profit Organizations with Credit Available Elsewhere	3.125
Non-profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13435 8 and for economic injury is 13436 0.

The States which received an EIDL Declaration # are Maryland, Delaware, Virginia.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: January 2, 2013.

Karen G. Mills,

Administrator.

[FR Doc. 2013–00486 Filed 1–11–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13398 and #13399]

Virginia Disaster Number VA–00052

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Virginia (FEMA—4092—DR), dated 11/26/2012 .

Incident: Hurricane Sandy

Incident Period: 10/26/2012 through 11/08/2012.

Effective Date: 01/03/2013.

Physical Loan Application Deadline Date: 01/25/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 08/26/2013.

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 President's major disaster declaration for Private Non-Profit organizations in the State of Virginia, dated 11/26/2012, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: New Kent.

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. 2013–00481 Filed 1–11–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13441 and #13442]

Ohio Disaster # OH–00039

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 Ohio (FEMA—4098—DR), dated 01/03/2013.

Incident: Severe Storms and Flooding due to the Remnants of Hurricane Sandy.

Incident Period: 10/29/2012 through 10/30/2012.

Effective Date: 01/03/2013.

Physical Loan Application Deadline Date: 03/04/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 10/03/2013.

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 01/03/2013, 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: Cuyahoga.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13441B and for economic injury is 13442B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–00487 Filed 1–11–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13431 and #13432]

Massachusetts Disaster # MA–00050

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 Massachusetts (FEMA—4097—DR), dated 12/19/2012.

Incident: Hurricane Sandy.

Incident Period: 10/27/2012 through 11/08/2012.

Effective Date: 12/19/2012.

Physical Loan Application Deadline Date: 02/19/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 09/19/2013.

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 12/19/2012, 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: Barnstable, Bristol, Dukes, Nantucket, Plymouth, Suffolk.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 134318 and for economic injury is 134328.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2013–00492 Filed 1–11–13; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2012–0072]

Finding Regarding Foreign Social Insurance or Pension System—Romania

AGENCY: Social Security Administration (SSA)

ACTION: Notice of Finding Regarding Foreign Social Insurance or Pension System—Romania.

FINDING: Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for 6 consecutive months. This prohibition does not apply to such an individual where one of the exceptions described in section 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that, subject to certain residency requirements of Section 202(t)(11), the prohibition against payment shall not apply to any individual who is a citizen of a country which the Commissioner of Social Security finds has in effect a social insurance or pension system which is of general application in such country and which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) Permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Commissioner of Social Security has delegated the authority to make such a finding to the Associate Commissioner of the Office of International Programs. Under that authority, the Associate Commissioner of the Office of International Programs has approved a finding that Romania, beginning January 1, 2011, has a social insurance system of general application which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) Permits United States citizens who are not citizens of Romania to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside Romania.

Accordingly, it is hereby determined and found that Romania has in effect, beginning January 1, 2011, a social insurance system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2).

In 1968, we determined that Romania had a system that met the requirements of 202(t)(2)(A) of the Social Security Act (Act), but not the requirements of 202(t)(2)(B) of the Act. We based that determination on a finding that ''citizens of the United States, not citizens of Romania, who leave Romania, are not permitted to receive such benefits or their actuarial equivalent at the full rate without qualification or restriction while outside that country.'' We published notice of our determination in the **Federal Register** October 23, 1968 (33 FR 15679).

In 2010, Romania instituted a new unitary public pension law that entered into force on January 1, 2011. The law unified the country's social insurance system and instituted additional provisions. The new system includes social insurance, mandatory individual accounts, and voluntary individual accounts. The changes to Romania's social insurance system necessitate a new determination under section 202(t)(2).

FOR FURTHER INFORMATION CONTACT: Donna Powers, 3700 Robert Ball Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–3558.

(Catalog of Federal Domestic Assistance: Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance)

Dated: January 7, 2013.

Vance Teel,

Acting Associate Commissioner, Office of International Programs.

[FR Doc. 2013–00493 Filed 1–11–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8152]

Advisory Committee on International Economic Policy; Notice of Open Meeting

The Advisory Committee on International Economic Policy (ACIEP) will meet from 2:00 p.m. to 4:00 p.m. on Wednesday, January 30, 2013, in the Loy Henderson Auditorium of the Harry S. Truman Building at the U.S. Department of State, 2201 C Street NW., Washington, DC. The meeting will be hosted by the Assistant Secretary of State for Economic and Business Affairs Jose W. Fernandez and Committee Chair

Ted Kassinger. The ACIEP serves the U.S. Government in a solely advisory capacity, and provides advice concerning issues and challenges in international economic policy. The meeting will examine the Anti-Bribery Convention, the OECD Working Group on Bribery and related anti-corruption issues. Subcommittee reports will be led by the Investment Subcommittee, the Sanctions Subcommittee, the Subcommittee on Women in International Economic Policy, and the Stakeholder Advisory Board on the U.S. National Contact Point for the Organization for Economic Cooperation and Development Guidelines for Multinational Enterprises.

This meeting is open to public participation, though seating is limited. Entry to the building is controlled; to obtain pre-clearance for entry, members of the public planning to attend should provide, by Friday, January 25, their name, professional affiliation, valid government-issued ID number (i.e., U.S. Government ID [agency], U.S. military ID [branch], passport [country], or drivers license [state]), date of birth, and citizenship, to Ronelle Jackson by fax (202) 647–5936, email (*JacksonRS@state.gov*), or telephone (202) 647–9204. Participants may enter the Department of State from the entrance on 23rd Street. Because of escorting requirements, non-Government attendees should plan to arrive 15 minutes before the meeting begins. Requests for reasonable accommodation should be made to Ronelle Jackson before Tuesday, January 22. Requests made after that date will be considered, but might not be possible to fulfill.

Personal data is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *http://www.state.gov/documents/organization/103419.pdf* for additional information.

For additional information, contact Deputy Coordinator Gregory Maggio, Office of Economic Policy Analysis and Public Diplomacy, Bureau of Economic and Business Affairs, at (202) 647–2231 or *MaggioGFmailto:@state.gov.*

Dated: January 8, 2013.

Laura Kirkconnell,

Director, Office of Economic Policy Analysis and Public Diplomacy, U.S. Department of State.

[FR Doc. 2013–00557 Filed 1–11–13; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending December 22, 2012. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*).

The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT- OST–2012–0210.

Date Filed: December 17, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 7, 2013.

Description: Application of SmartLynx Airlines Estonia OU requesting a foreign air carrier permit and exemption authority authorizing the carrier to operate charter foreign air transportation of persons, property and mail (a) between any point or points behind the European Union, via any point or points in the European Union and intermediate points, to any point or points in the United States, and beyond; (b) between any point or points in the European Common Aviation Area and any point or points in the United States; (c) pursuant to the prior approval requirements of Part 212; and (d) any additional rights that are made available to EU carriers under the U.S.-European Union agreements, as amended.

Docket Number: DOT–OST–2012–0212.

Date Filed: December 20, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 10, 2013.

Description: Application of Arubaanse Luchtvaart Maatschappji, N.V., d/b/a Aruba Airlines requesting a foreign air carrier permit and corresponding exemption authorizing it to engage in: (1) Scheduled air transportation of persons, property and mail from a point or points behind Aruba, via Aruba and intermediate points, to a point or points in the United States and beyond; (2) all-cargo services between the United States and any point or points; (3) fifth freedom charter services pursuant to the prior approval requirements; (4) and for such other, further, or different relief as may be proper.

Barbara J. Hairston,

Acting Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2013–00570 Filed 1–11–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending December 15, 2012. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2012–0204.

Date Filed: December 11, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 2, 2013.

Description: Application of National Air Cargo Group, Inc. d/b/a National Airlines requesting an exemption and amended certificate of public convenience and necessity authorizing it to conduct scheduled foreign air

transportation of persons, property and mail between a point or points in the United States, a point or points in the United Arab Emirates, and beyond to a point or points in Afghanistan and a point or points in Iraq.

Docket Number: DOT–OST–2012–0205.

Date Filed: December 11, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 2, 2013.

Description: Application of National Air Cargo Group, Inc. d/b/a National Airlines requesting an amended certificate of public convenience and necessity authorizing it to conduct interstate scheduled air transportation of persons, property and mail with large aircraft. National Airlines also requests an exemption to conduct such service while this application is pending.

Barbara J. Hairston,

Acting Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2013–00573 Filed 1–11–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending November 17, 2012. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2009–0012.

Date Filed: November 16, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 7, 2012.

Description: Application of KaiserAir, Inc. requesting an amendment of its certificate authority issued to it by the department to remove a condition restricting its ability to offer public charter service to the general public.

Barbara J. Hairston,

Acting Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2013–00576 Filed 1–11–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held Tuesday, January 29, Wednesday, January 30, and Thursday, January 31, 2013 from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Navy ATC Schoolhouse at Naval Air Station Pensacola, Pensacola, Florida.

FOR FURTHER INFORMATION CONTACT: Mr. Gary A. Norek, ATPAC Executive Director, 800 Independence Avenue SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.2), notice is hereby given of a meeting of the ATPAC to be held Tuesday, January 29, Wednesday, January 30, and Thursday, January 31, 2013 from 8:30 a.m. to 5:00 p.m.

The agenda for this meeting will cover a continuation of the ATPAC's review of present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes;
2. Submission and Discussion of Areas of Concern;
3. Discussion of Potential Safety Items;
4. Report from Executive Director;
5. Items of Interest; and
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statement should notify Mr. Gary A. Norek no later than January 24, 2013. Any member of the public may present a written statement to the ATPAC at any time at the address given above.

Issued in Washington, DC, on January 8, 2013.

Gary A. Norek,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 2013–00650 Filed 1–10–13; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0370]

Hours of Service of Drivers: U.S. Department of Energy (DOE); Application for Exemption

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA has received an application from the U.S. Department of Energy (DOE) for an exemption from the 30-minute rest break provision of the Agency's hours-of-service (HOS) regulations for commercial motor vehicle drivers. The exemption would enable DOE's contract motor carriers and their employee-drivers engaged in the transportation of security-sensitive radioactive materials to be treated similarly to drivers of shipments of explosives. The exempted drivers would be allowed to use 30 minutes or more of attendance time to meet the HOS rest break requirements providing they do not perform any other work during the break. FMCSA requests public comment on DOE's application for exemption.

DATES: Comments must be received on or before February 13, 2013.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2012–0370 by any of the following methods:

- *Federal eRulemaking Portal: // www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–

140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *www.regulations.gov*, including any personal information provided. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the U.S. Department of Transportation's online privacy policy at *www.dot.gov/privacy* or the complete Privacy Act Statement in the **Federal Register** published on December 29, 2010 (75 FR 82133).

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Bus and Truck Standards and Operations; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

Certain motor carriers under contract to the U.S. Department of Energy (DOE) transport ''security-sensitive radioactive materials.'' DOE notes that the term includes transuranic waste; spent nuclear fuel; radioactive sources classified as category 1 and 2 materials by the International Atomic Energy Agency, including ''Highway route controlled quantities,'' as defined in 49 CFR 173.403; or known radionuclides in forms listed as RAM–QC by the Nuclear Regulatory Commission.

DOE requests a limited exemption from the HOS regulation pertaining to rest breaks [49 CFR 395.3(a)(3)(ii)], to allow contract driver-employees transporting security-sensitive radioactive materials to be treated the same as drivers transporting explosives, as provided in § 395.1(q). Section 395.1(q) states that operators of commercial motor vehicles (CMV) carrying Division 1.1, 1.2, or 1.3 explosives subject to the requirement for a 30-minute rest break in § 395.3(a)(3)(ii) may use 30 minutes or more of ''attendance time'' to meet the requirement for a rest break. Section 395.3(a)(3) becomes effective on July 1, 2013.

DOE contends that shipments of security-sensitive radioactive materials require a team of two drivers and the use of a sleeper berth to minimize risk and expedite delivery in a safe and secure manner. DOE asserts that granting the exemption would allow team drivers to manage their en-route rest periods efficiently and also perform mandated shipment security surveillance, resulting in a safe and secure driving performance during a long distance trip.

DOE states that it has instituted several technical and administrative controls to ensure the effective use of driver on-duty and rest-break time, which would remain in effect under the requested exemption. They include the following:

- Real-time tracking and monitoring of transuranic waste and security-sensitive shipments using DOE's satellite-based systems.
- Use of electronic on-board recorders on trucks, which is contractually required by for motor carriers involved in the Waste Isolation Pilot Plant to ensure compliance with driver HOS rules.
- Continuous monitoring of the safety performance of DOE-qualified motor carriers using the FMCSA Compliance Safety Accountability Program's Safety Measurement System, and DOE's Motor Carrier Evaluation Program.

Further details regarding DOE's safety controls can be found in its application for exemption. The application can be accessed in the docket identified at the beginning of this notice. DOE contends that these controls enable them to achieve a high level of safety and security for transportation of security-sensitive radioactive materials.

DOE anticipates no safety impacts from this exemption and notes that in the preamble to the FMCSA final rule on the ''Hours of Service of Drivers,'' dated December 27, 2011 (76 FR 81134), the Agency addressed concerns from commenters regarding rest breaks for carriers of hazardous materials. Section 395.1(q) allows drivers who are required by § 397.5 to attend a motor vehicle transporting certain types of explosives but perform no other work, to log at least a half-hour of their attendance time toward the break. The Agency cited a recent study showing that on-duty breaks reduce the risk of crashes after the break [76 FR 81154].

DOE believes that its contract employee drivers should be allowed to follow the requirements in § 395.1(q) when transporting shipments of security-sensitive radioactive materials. DOE believes that shipments made under the requested exemption would achieve a level of safety and security that is at least equivalent to that which would be obtained by following the normal break requirement in § 395.3(a)(3)(ii).

DOE estimates that 30 power units and 53 drivers would currently be eligible for the exemption, if granted. The proposed exemption would be effective from July 1, 2013 through June 30, 2015, the maximum period allowed

by § 381.300. A copy of DOE's exemption application is available for review in the docket for this notice.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on DOE's application for an exemption from certain provisions of the driver's record of duty status rules in 49 CFR part 395. The Agency will consider all comments received by close of business on February 13, 2013. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: January 8, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–00510 Filed 1–11–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Update to NEPA Implementing Procedures

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

ACTION: Notice of Updated Procedures for Considering Environmental Impacts by adding categorical exclusions.

SUMMARY: FRA announces that it has revised its Procedures for Considering Environmental Impacts to add seven new additions to the list of categorical exclusions (CE). Categorical exclusions are actions that FRA has determined do not individually or cumulatively have significant effects on the human environment and thus, do not require the preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). To consolidate the location of all of FRA's CEs, this notice reproduces all 20 original CEs and adds the seven new CEs starting with number 21.

DATES: The new CEs are effective on January 14, 2013.

FOR FURTHER INFORMATION CONTACT: Christopher Van Nostrand, Attorney Advisor, Office of the Chief Counsel, Federal Railroad Administration, 1200 New Jersey Ave SE., W31–208, Washington, DC 20590, telephone: (202) 493–6058.

SUPPLEMENTARY INFORMATION:

I. Background

FRA's Procedures for Considering Environmental Impacts (FRA Environmental Procedures), 64 FR 28545 (May 26, 1999), which are available on the agency's Web site at *http://www.fra.dot.gov/eLib/details/L02561,* establish the process for the assessment of environmental impacts of actions and legislation proposed by FRA and for the preparation and processing of documents based upon such assessments. The FRA Environmental Procedures supplement the Council on Environmental Quality (CEQ) NEPA implementing regulations (40 CFR Parts 1500–1508). Currently, section 4(c) of FRA's Environmental Procedures identifies twenty classes of action that FRA has determined to be categorically excluded from the EIS or EA preparation requirements of NEPA and the Procedures because they do not individually or cumulatively have a significant effect on the human environment. This update adds seven new CEs to section 4(c). Sections 4(c) and (e) of FRA's Environmental Procedures contain a process for identifying ''extraordinary circumstances'' where FRA determines a particular action normally included within one of these categories has the potential for significant environmental impacts and an EA or EIS is prepared.

FRA has determined that additions to the existing list of CEs are necessary to facilitate FRA's administration of laws relating to railroad safety, development, rehabilitation, and railroad financial assistance programs, particularly the High-Speed Intercity Passenger Rail (HSIPR) grant program and the Railroad Rehabilitation and Improvement Financing (RRIF) loan/loan guarantee program. After careful consideration, FRA has determined that the actions included in the proposed seven new CEs are not of the type or character as to individually or cumulatively cause significant effects on the human or natural environment.

Recent statutory initiatives have greatly expanded FRA's ability to provide financial assistance to intercity passenger railroad projects and contributed to the need for these proposed CEs. The Passenger Rail Investment and Improvement Act (PRIIA) of 2008 (Division B of Pub. L. 110–432, 122 Stat. 4907, (2008)) created three new passenger rail capital assistance programs, the intercity passenger rail corridor capital assistance program, high-speed rail corridor development, and a congestion relief program. Additionally, in an effort to stimulate the economy, create jobs and jumpstart a new era of high-speed rail in this county, Congress provided $8 billion in grant funding for projects that support the High-Speed Intercity Passenger Rail (HSIPR) Program in the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111–5, 123 Stat. 115(2009)). Congress also appropriated additional funds for HSIPR projects in the Transportation, Housing and Urban Development and Related Agencies Appropriations Act for 2010 (Div. A of Pub. L. 111–117, 123 Stat. 3034 (2009)).

PRIIA, the Recovery Act, and other appropriations greatly expanded FRA's capacity to fund rail projects in order to achieve world class high-speed and intercity passenger rail in the United States. The purpose of the HSIPR Program is to address the nation's transportation challenges by investing in efficient high-speed and intercity passenger rail networks connecting communities across America.[1] Many of these investments involve large scale projects for which FRA and project sponsors (typically State Departments of Transportation) will be preparing EISs and EAs. However, other investments and components of multi-year programs are smaller projects that FRA has concluded do not require either an EIS or an EA and justify the creation of a CE since they would not have a significant effect on the environment. Preparing EISs or EAs for projects that do not have the potential for a significant effect on the environment is not an efficient use of resources of either FRA or State partners in the various Departments of Transportation. Accordingly, the added CEs will facilitate the responsible and efficient implementation of the HSIPR, RRIF, and other FRA programs.

Some of the proposed CEs were chosen from the list of categorical exclusions currently employed by both the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) (see 23 CFR Part 771). FRA identified these specific actions for categorical exclusion because they have direct applicability for many FRA programs and a limited potential for environmental impacts. All of the actions identified in this notice have been subject to extensive environmental review by FRA, FHWA and FTA, are comparable to activities categorically excluded by other Federal agencies, and were identified through FRA's

[1] See Federal Railroad Administration, Vision for High-Speed Rail in America (April 2009) (describing the general approach to revitalizing high-speed and intercity passenger rail in the United States) available at *http://www.fra.dot.gov/downloads/Research/FinalFRA_HSR_Strat_Plan.pdf.*

benchmarking effort (described in greater detail below). These environmental reviews, mostly in the form of documented CEs and EAs, demonstrate that the actions do not individually or cumulatively have a significant effect on the human or natural environment. As required under FRA's Environmental Procedures, FRA staff evaluates each action individually to ensure that the action meets the criteria for categorical exclusion, and whether extraordinary circumstances exist which require additional environmental review.

II. Process Used To Identify the Categorical Exclusions

FRA undertook a rigorous process to identify appropriate new CEs. This evaluation process followed CEQ's guidance on establishing new CEs and included an internal review by FRA's Environment and Systems Planning Division as well as FRA's Office of Chief Counsel, independent review and comment by experts enlisted by FRA in coordination with FTA and the John A. Volpe National Transportation Systems Center in Cambridge Massachusetts (Volpe Center), submission to and review by CEQ, and publication for public review and opportunity to comment. FRA undertook this process to ensure that the types of projects covered by the new CEs presented in Section III below comply with CEQs NEPA regulations (40 CFR 1507.3, 1508.4) and do not cause significant impacts on the human or natural environment. The information assembled during the internal and independent reviews are described in a Categorical Exclusion Substantiation Documentation (CE Substantiation) that is available on the FRA Web site at *www.fra.dot.gov/eLib/details/L03010.*

The list of new CEs was generated in close collaboration with FTA. FRA and FTA each have responsibility for similar types of rail projects. FTA has historically provided funding for commuter rail projects, which have many similarities to intercity passenger rail projects and to freight railroad projects. In addition to using existing FTA CE's as templates, FRA has coordinated the effort to develop new CEs with FTA and jointly submitted proposed CEs to NEPA experts for independent review.

FTA and FRA, in coordination with the Volpe Center, called on several expert NEPA professionals to provide feedback on FTA's and FRA's initial list of actions to be classified as CEs. The expert's opinions were very valuable in refining the CEs, including identifying appropriate limitations necessary to avoid covering activities that have the potential to have significant environmental impacts. The experts were asked to draw upon their general knowledge of and experience/involvement with NEPA environmental processes. The submission to the experts consisted of the proposed CE, a brief explanation of the CE, and a list of comparative benchmarks or similar CEs currently employed by other Federal agencies. After a period of review, the experts submitted comments to FRA, which included suggested changes or modifications or, as in most cases, an endorsement of the proposed CE.

After receiving the experts' comments and suggestions, FRA staff met to discuss the comments and modified the CE's where appropriate. The experts suggested ways in which to narrow the categories of actions to ensure that all covered activities would not have significant impacts. In addition, using their own professional experience, they provided insights into the potential practical application of many of the proposed CEs.

Consistent with the CEQ Regulations and the *Memorandum for the Heads of Federal Departments and Agencies from Nancy H. Sutley, Chair, Council on Environmental Quality on Establishing and Applying Categorical Exclusions Under the National Environmental Policy Act* (Nov. 23, 2010) (CEQ Memorandum), FRA consulted with CEQ prior to making the CEs available for public review and comment. CEQ suggested modifications to clarify FRA's intended application and scope of the proposed CEs, and the CE Substantiation Document reflects the consideration of CEQ's comments and suggestions and FRA's final determinations.

On June 13, 2012, FRA published a notice in the **Federal Register** (77 FR 35471) advising the public of FRA's intent to add seven new CEs to its Environmental Procedures and solicited public comments on the proposal. Concurrent with the June 13 notice, FRA also made the CE Substantiation document available on its Web site. The CE Substantiation supports FRA's finding that the proposed CEs address actions that FRA has determined will not individually or cumulatively have a significant effect on the human environment. The comment period closed on July 13, 2012. FRA received comments from the American Road and Transportation Builders Association, three individuals, the National Railroad Passenger Corporation (Amtrak), the American Association of State Highway and Transportation Officials, New Jersey Transit, the Lone Star Rail District, the Southern Environmental Law Center, the Illinois Department of Transportation, the Texas Department of Transportation, the American Public Transportation Association, the Alaska Railroad Corporation, the American Short Line and Regional Railroad Association, the Capital Corridor Joint Powers Authority, the Metropolitan Transportation Authority, the Californians for Alternatives to Toxics, Florida East Coast Industries, Inc., the Washington State Department of Transportation, the Natural Resources Defense Council, OneRail Coalition, the National Association of Railroad Passengers, Virginia Department of Rail and Public Transportation, and the Kanas City Southern Railway Company. The comments are addressed in this section. Several commenters submitted comments regarding FRA's HSIPR program as well as general comments about FRA's Environmental Procedures. Several commenters submitted general comments in support of the proposal.

Several commenters suggest that FTA, FHWA, and FRA consolidate their environmental procedures as the commenters believed it would minimize project sponsor confusion and the need for separate environmental documentation. In the alternative one commenter suggested FRA adopt all FTA/FHWA environmental categorical exclusion regulations through a new CE.

FRA agrees that avoiding duplicative environmental reviews is desirable. FHWA and FTA share a joint environmental regulation because of the close connection between the two agencies' programs and the metropolitan and statewide transportation planning processes. Further, Congressional authorizing legislation for highway and transit programs has resulted in statutory changes to FHWA and FTA's NEPA procedures that make them unique. FRA shares only some common activities with FHWA and FTA and has not had the close historical connections that would have made a joint FHWA/FTA/FRA environmental review regulation necessary. CEQ directs Federal agencies to establish CEs based on their individual determinations that consider their experience in applying NEPA to their actions. With these seven new CEs, FRA will have established complementary CEs for the vast majority of actions eligible for FRA funding that may also be funded by FTA or FHWA, while appropriately relying on environmental procedures that are tailored to FRA's Federal actions.

It is also worth noting that Section 1314 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141 (2012)) allows an operating

administration to use another modal administration's CE for a multimodal project, subject to conditions described in the statute. However, this provision cannot be used until DOT issues future guidance on its application and use.

One commenter asked why FRA did not reevaluate and substantiate FRA's existing CEs in conjunction with the new CE proposal. As described in the Substantiation Document, FRA will engage in a reevaluation of the FRA Environmental Procedures in the future. As part of that effort, FRA will reexamine the existing CEs and may also consider adding additional CEs and making other changes to make the procedures more efficient for rail projects and projects sponsored by multiple agencies.

One commenter suggested adding a CE that would allow construction of critical improvement projects that address reliability problems for existing railroads provided that the improvements occur within the existing ROW. FRA has a number of existing CEs that in combination with the seven new CEs cover all appropriate types of minor railroad improvement that could address railroad system reliability. The commenter's proposal is too broad and cannot be reasonably expected to exclude construction activities that are likely to have significant impacts and therefore require additional environmental review and analysis.

One commenter suggests FRA impose a time limit for FRA to complete CE review and approval. The process for establishing new CEs does not require revisions to FRA's Environmental Procedures. FRA makes every effort to review and approve CEs as expeditiously as possible to avoid any unnecessary project delay. However, it is incumbent on FRA to ensure that the necessary information is available to confirm that the project is appropriate for categorical exclusion and does not raise any extraordinary circumstances that warrant a higher level of environmental review and analysis. Agency practice ensures FRA has the appropriate understanding of the nature and extent of the potential environmental impacts before FRA approves a project as a categorical exclusion and allowing the project proponent to proceed with construction activities. Imposing arbitrary time limits may unnecessarily limit the ability to set priorities in completing environmental reviews for proposed activities.

One commenter suggests FRA add an additional CE that would cover grants, loans, and refinancing for a project already approved and funded by another Federal agency if the project has been subject to a separate NEPA review and where no changes to the project are involved that would result in significant environmental impacts.

An agency's obligations under NEPA are triggered by the agency's consideration of the environmental effects of a proposed action that is within the responsibility of the agency. Once such obligation is triggered, the agency is required to make an independent assessment of the potential environmental impacts that could result from its action from the perspective of the agency's mission and experience. CEQ regulations provide opportunity for agencies to adopt (in total or in part) or to incorporate by reference the analyses provided in another agency's EA or EIS. (40 CFR 1506.3). One commenter suggests expanding the list of CEs to include the purchase of existing railroad right-of-way and/or purchase of right-of-way for hardship or protective purposes. FRA notes that many acquisition activities typical of FRA projects are covered under FRA CE #17. FRA will reexamine CE #17 as part of the larger effort to reevaluate the FRA Environmental Procedures in the future.

One commenter is concerned of the broader application of future CEs because the new high-speed rail infrastructure has a wider right-of-way that could increase the potential impacts of future projects. CEs are applied to projects that do not have the potential for significant environmental impacts and are not applicable to projects that have the potential for significant environmental impacts due to expanded rights-of-way. Wider right-of-way is not clearly related to the severity or likelihood of environmental impact, and FRA examines the specifics of each proposed application of a CE to determine whether there are any extraordinary circumstances that raise the potential for significant impacts.

One commenter suggests FRA clarify its interpretation of the scope of the CEs so that all activities within the existing railroad right-of-way are excluded from further NEPA review, unless extraordinary circumstances exist. Put another way under the commenter's proposal, any new rail line construction taking place within an existing right-of-way would be categorically excluded.

FRA considers every proposal in light of the action's specific circumstances. The commenter's suggestion could permit activities inappropriate for categorical exclusion because of the likelihood of significant impacts. Both the existing and proposed CEs allow for construction activities within existing rights-of-way with the appropriate limitations to reduce the potential for serious environmental impacts.

One commenter believes there was a lack of public notification related to FRA's proposal to add CEs and requests that FRA reopen the public comment period.

The CEQ Regulations and CEQ Memorandum outline procedures for establishing new or revised categorical exclusions. These procedures call for public involvement and opportunity and comment through a notice in the **Federal Register**. As described above, FRA published a notice in the **Federal Register** on June 13, 2012 and invited public comment for 30 days. FRA also made the Substantiation Document available on FRA's Web site which also contained instructions for submitting comments. FRA received 24 public comments and does not believe it is necessary to reopen the public comment period.

One commenter believes that the proposed CEs will limit the number of projects that are subject to public participation and believes strong public review is essential for the environmental process. FRA supports public involvement in project development; however, the commenter assumes that because a project is covered by a CE the public is not provided an opportunity to participate. When FRA reviews information provided by project proponents in support of a CE, one of the elements FRA considers is the extent to which the public has been informed of the proposed project and whether any environmental issues were raised by the public. This information helps FRA determine whether due to public concerns, the action while normally categorically excluded, raises to the level of extraordinary circumstances requiring a more extensive environmental review.

One commenter suggests FRA expand the scope of CE #22 to include activities related to historic bridges if the activity will not have an adverse effect on the historic bridge, and where FRA has received concurrence from the State Historic Preservation Officer. FRA does not agree that this change is necessary. CE #22 can be used for actions involving activities on historic bridges, particularly when compliance with Section 106 concludes that there is no adverse effect from the activity.

Several commenters suggested that CE #22 covering bridge work should be modified to include bridge approaches. Commenters suggested adding the following language to CE #22, ''construction or reconstruction of approaches and/or embankments to

bridges''. FRA finds that these activities are substantially similar to those already included as part of the illustrative list for CE #22 which are unlikely to have significant environmental impacts with the limitations contained in the CE (i.e. no extensive in-water work). Therefore, because approaches and/or embankments are consistent and integral to the category of activities intended to be excluded under this CE, the proposed activities were added to the illustrative list for CE #22.

Several commenters suggest FRA include rehabilitating and maintaining existing docks and piers to accommodate maintenance activities within existing ports connecting to rail facilities to CE #22.

FRA agrees that it is appropriate to adopt a modified version of the commenters' proposal. FRA finds that these activities are substantially similar to those already included as part of the illustrative list for CE #22 which are unlikely to have significant environmental impacts with the limitations contained in the CE (i.e. no extensive in-water work). In addition, FRA encounters these types of activities when involved in funding rail activities within ports. These projects are mostly related to improvements to the rail facilities in a port facility but also contain certain modest improvements to existing docks and/or piers to accommodate intermodal transfers. At present, even if FRA provides funding and the work is minor, because the activities are not covered by a CE, an EA is required even if the activities are otherwise appropriate for categorical exclusion.

The CE also limits the potential impacts by imposing a spatial limitation (''predominantly within the existing right-of-way'') and an activity scope limitation (''do[es] not involve extensive in-water construction activities''). The limitation on in-water work coincides with the type of limitations on the extent of water impacts imposed through the use of nationwide permits issued by the U.S. Army Corps of Engineers. Should a project require an individual permit, the degree of impact to waters would be reviewed to determine if the project was consistent with the CE, or if an EA or EIS would be required. For these reasons, FRA has added ''the rehabilitation or maintenance of the rail elements of docks or piers for the purposes of intermodal transfers'' to permit limited work to rehabilitate or maintain the rail elements of docks and piers necessary to facilitate intermodal transfers.

Several commenters are concerned that the illustrative lists of activities covered under the CEs are too narrow and suggest various additions to avoid excluding activities otherwise appropriate for categorical exclusion. Similarly, to clarify the purpose of the illustrative list, one commenter suggested FRA replace the phrase ''such as'' with ''examples may include by are not limited to'' for all of the CEs.

The purpose of the list of illustrative activities is to provide project proponents and FRA with examples of the types of activities that should be covered by the CE not to exclude others that are not specifically mentioned. FRA does not believe the phrase ''such as'' in any way limits the range of potential activities covered by the CE to the list of illustrative activities. The CEQ Memorandum encourages agencies to structure CEs to ''offer several examples of activities frequently performed by that agency's personnel.''

Several commenters recommend FRA add, ''other passenger amenities/ improvements'' to CE #24.'' These activities would include ''benches, signage, sidewalks or trails, equipment enclosures, and fencing.'' FRA agrees these activities are appropriate for categorical exclusion and has added ''passenger amenities, benches, signage, sidewalks or trails, equipment enclosures, and fencing'' to the illustrative list for CE #24 because they are unlikely to have significant environmental impacts with the limitations contained in the CE and are consistent with the category of activities intended to be excluded under this CE.

One commenter is concerned with the potential hazardous materials associated with CE #24, installation of electronic and communication systems. It is unclear from the comment how electronics and communication systems could cause impacts related to hazardous materials. In general, FRA considers the project's potential for impact on a variety of resource areas, including hazardous materials, when deciding if it can apply a CE. Consistent with FRA practice, the project proponent is required to provide information on the potential impacts related to hazardous materials where relevant. FRA believes that this level of screening is appropriate and sufficient to protect against potential release of hazardous substances associated with the installation of electronic and communication systems. Additionally, project proponents are required to comply with all State and Federal requirements for the handling, transportation and disposal of hazardous materials.

Several commenters recommend that FRA add ''wastewater treatment systems'' to the illustrative list of activities in CE #25. FRA agrees that water pollution abatement systems reduce the potential for environmental impacts and finds that some types of waste water treatment systems may be appropriate for exclusion under this CE. Oil/water separators are commonly installed to mitigate storm water pollution from locomotive fueling and maintenance activities and FRA has determined that the installation, improvement, and operation of such separators are unlikely to result in significant environmental impacts. While FRA will include ''storm water oil/water separators'' in the illustrative list, FRA finds that ''wastewater treatment facilities'' can be broadly interpreted and is not appropriate as an example in the illustrative list.

One commenter suggested clarifying or defining the term ''right-of-way'' and also suggested that FRA consider whether use of the term ''railroad track'' in CE #25 should actually be ''railroad right-of-way''. While FRA does not believe it would be appropriate to define the term right-of-way in the context of establishing new CEs alone, we will consider this suggestion as we conduct a more comprehensive review of the FRA Environmental Procedures as a whole. With respect to the second comment, CE #25 associates remediation or prevention actions proximate to existing and former railroad track, infrastructure, stations, and facilities. This approach ties the actions to railroad features and activities rather than a property boundary that may or may not consistently relate to the railroad use that relates to the pollution in question.

Several commenters suggest that the scope of CE #25 is too limited since additional remediation activities related to soils might be otherwise appropriate, but might be restricted as the CE is currently drafted. These commenters suggest adding the following language ''any removal or remediation activity undertaken pursuant to an order, law, regulation, program, or policy''.

As a matter of clarity, the illustrative list is not intended to restrict the range of remediation activities. To address the concern with the drafting of this CE, the limitation was moved to the CE definition to clarify that any applicable project should conform to applicable laws, regulations, and permits. This CE covers activities specifically undertaken to remediate past environmental degradation, to restore environmental conditions, or to prevent ongoing or potential pollution. As such, most covered actions have environmental benefits, and FRA believes the

installation and operation of remediation equipment associated with such remediation activities are unlikely to result in significant adverse environmental impacts. However, like all activities that might be categorically excluded, it is FRA's practice to require the project proponent to provide sufficient information to demonstrate that the proposed action is appropriate for categorical exclusion and is consistent with regulatory requirements that might apply to environmental remediation activities.

One commenter is concerned with soil remediation elements of CE #25 because of the potential impacts from contaminated soil. The commenter also notes that public participation is essential in ensuring remediation activities are fully implemented and is concerned that such participation is absent from FRA's CE process.

As discussed above, FRA's process for evaluating CEs requires project proponents to describe both the potential impacts of the project because of hazardous materials and to provide FRA with some information on the level of public involvement. FRA may ask for additional information with respect to both the level of public participation and the potential impacts related to hazardous material so that FRA staff have sufficient information to determine whether the project is appropriate for categorical exclusion or whether extraordinary circumstances exist requiring a more detailed environmental review.

One commenter is concerned with CE #26 because it would allow the construction/installation of potentially large rail facilities without input from local communities. As discussed above, it is FRA's practice to review the scope of each project before deciding the project meets the requirements for one of the CEs. As part of this process, FRA considers the potential community and land use impacts of the project. If there is substantial public concern or other extraordinary circumstances, FRA will require the development of additional environmental analysis.

Several commenters raised concerns with the reference to ''existing land use and zoning'' in CE #26 because in some cases railroads are exempt from local land use and zoning requirements. An example provided by a commenter is Amtrak's exemption under 49 U.S.C. 24902(j). While the commenters are correct that, in certain circumstances, railroads are exempt from certain local land use and zoning requirements, this comment overlooks the purpose of the limiting factors in all of the new CEs. The purpose of the factors is to limit the activities permitted under each CE based on FRA's experience to reduce the likelihood of environmental effects, including those to local communities. Such limitations are encouraged by the CEQ Memorandum where activities might be variable in their environmental effects resulting in some situations where the activity is appropriate for a CE and others where it is not.

CE #26 does not require a project proponent to comply with local land use and zoning where it would be otherwise exempt, but rather places a limitation on the application of the CE because of potential for community impacts related to the construction of facilities that are not consistent with local land use and zoning.

One commenter is concerned with CE #27 because of the potential for the release of hazardous substances associated with replacing rail, ties, and other wood infrastructure. As discussed above, it is FRA's practice to determine the potential project impacts related to hazardous materials prior to approving a CE. In addition, during project implementation, the project proponents are expected to comply with all applicable State and Federal laws regarding the handling, transportation, and disposal of hazardous materials.

Two commenters suggest FRA add to the illustrative example list in CE #27, ''installing, maintaining, or restoring drainage ditches; ballast cleaning, and; constructing minor curve realignments''. FRA agrees these activities are appropriate for categorical exclusion and therefore added ''installing, maintaining, or restoring drainage ditches, cleaning ballast, constructing minor curve realignments'' to the illustrative list because they are unlikely to have significant environmental impacts with the limitations contained in the CE and are consistent with the category of activities intended to be included under this CE.

One commenter is concerned with the use of the term ''predominantly'' in CE #27 if the term would permit the installation of new tracks or other infrastructure improvements beyond the existing right-of-way. FRA intentionally included the term predominantly because in certain circumstances minor construction related activities (i.e. staging areas) may occur outside the railroad right-of-way due to spatial and safety constraints related to construction activities and equipment use near active rail corridors.

Several commenters requested clarification of the term ''substantial'' in CE #27. Some commenters sought assurances that the term would not be interpreted restrictively so the CE could apply to more potential projects, while another wanted some assurance that the term would be read so that any new operations resulting from new infrastructure improvements would not interfere with existing operations.

The reason for including ''substantial'' as a limiting factor is because additional train service beyond current levels resulting from a project might also have additional and potentially unanalyzed indirect environmental impacts.

With respect to the request for assurance that the CEs would not be used to increase service interfering with existing operations, in light of the discussion above regarding the term ''substantial'', there is no need for any clarification in the CE itself.

III. Categorical Exclusions

Through this notice, FRA adds seven CEs to section 4(c) of FRA's Environmental Procedures. As discussed in the **SUMMARY** section above, to consolidate the location of all FRA's CEs, the entire list of CEs is reproduced here, including the seven new CEs starting with number 21 and ending at number 27. This notice does not otherwise amend or modify the requirements described in FRA's Environmental Procedures.

The following classes of FRA actions are categorically excluded:

(1) Administrative procurements (e.g. for general supplies) and contracts for personal services;

(2) Personnel actions;

(3) Financial assistance or procurements for planning or design activities which do not commit the FRA or its applicants to a particular course of action affecting the environment;

(4) Technical or other minor amendments to existing FRA regulations;

(5) Internal orders and procedures not required to be published in the **Federal Register** under the Administrative Procedure Act, 5 U.S.C. 552(a)(1);

(6) Changes in plans for an FRA action for which an environmental document has been prepared, where the changes would not alter the environmental impacts of the action;

(7) Rulemakings issued under section 17 of the Noise Control Act of 1972, 42 U.S.C. 4916;

(8) State rail assistance grants under 49 U.S.C. 22101 *et seq.* for rail service continuation payments and acquisition, as defined in 49 CFR 266;

(9) Guarantees of certificates for working capital under the Emergency Rail Services Act (45 U.S.C. 661 *et seq.*);

(10) Hearings, meetings, or public affairs activities;

(11) Maintenance of: existing railroad equipment; track and bridge structures; electrification, communication, signaling, or security facilities; stations; maintenance-of-way and maintenance-of-equipment bases; and other existing railroad-related facilities. For purposes of this exemption ''maintenance'' means work, normally provided on a periodic basis including the changing of component parts, which does not change the existing character of the facility, and may include work characterized by other terms under specific FRA programs;

(12) Temporary replacement of an essential rail facility if repairs are commenced immediately after the occurrence of a natural disaster or catastrophic failure;

(13) Operating assistance to a railroad to continue existing service or to increase service to meet demand, where the assistance will not result in a change in the effect on the environment;

(14) State rail assistance grants under 49 U.S.C. 22101 *et seq.* for relocation costs as that term is defined in 49 CFR Part 266, where the relocation involves transfer of a shipper to a site zoned for the relocated activity. This categorical exclusion shall not apply to the relocation of a shipper involved in the transportation of any material classified as a hazardous material by DOT in 49 CFR Part 172;

(15) Financial assistance for the construction of minor loading and unloading facilities, provided that projects included in this category are consistent with local zoning, do not involve the acquisition of a significant amount of land, and do not significantly alter the traffic density characteristics of existing rail or highway facilities;

(16) Minor rail line additions including construction of side tracks, passing tracks, crossovers, short connections between existing rail lines, and new tracks within existing rail yards provided that such additions are not inconsistent with existing zoning, do not involve acquisition of a significant amount of right-of-way, and do not significantly alter the traffic density characteristics of the existing rail lines or rail facilities;

(17) Acquisition of track and bridge structures, electrification, communication, signaling or security facilities, stations, maintenance-of-way or maintenance-of-equipment bases, and other existing railroad facilities or the right to use such facilities, for the purpose of conducting operations of a nature and at a level of use similar to those presently or previously existing on the subject properties;

(18) Research, development and/or demonstration of advances in signal, communication and/or train control systems on existing rail lines provided that such research, development and/or demonstrations do not require the acquisition of a significant amount of right-of-way, and do not significantly alter the traffic density characteristics of the existing rail line;

(19) Improvements to existing facilities to service, inspect, or maintain rail passenger equipment, including expansion of existing buildings, the construction of new buildings and outdoor facilities, and the reconfiguration of yard tracks;

(20) Promulgation of railroad safety rules and policy statements that do not result in significantly increased emissions of air or water pollutants or noise or increased traffic congestion in any mode of transportation;

(21) Alterations to existing facilities, locomotives, stations and rail cars in order to make them accessible for the elderly and persons with disabilities, such as modifying doorways, adding or modifying lifts, constructing access ramps and railings, modifying restrooms, and constructing accessible platforms.

(22) Bridge rehabilitation, reconstruction or replacement, the rehabilitation or maintenance of the rail elements of docks or piers for the purposes of intermodal transfers, and the construction of bridges, culverts, or grade separation projects, predominantly within existing right-of-way, that do not involve extensive in-water construction activities, such as projects replacing bridge components including stringers, caps, piles, or decks, the construction of roadway overpasses to replace at-grade crossings, construction or reconstruction of approaches and/or embankments to bridges, or construction or replacement of short span bridges.

(23) Acquisition (including purchase or lease), rehabilitation, or maintenance of vehicles or equipment that does not cause a substantial increase in the use of infrastructure within the existing right-of-way or other previously disturbed locations, including locomotives, passenger coaches, freight cars, trainsets, and construction, maintenance or inspection equipment.

(24) Installation, repair and replacement of equipment and small structures designed to promote transportation safety, security, accessibility, communication or operational efficiency that take place predominantly within the existing right-of-way and do not result in a major change in traffic density on the existing rail line or facility, such as the installation, repair or replacement of surface treatments or pavement markings, small passenger shelters, passenger amenities, benches, signage, sidewalks or trails, equipment enclosures, and fencing, railroad warning devices, train control systems, signalization, electric traction equipment and structures, electronics, photonics, and communications systems and equipment, equipment mounts, towers and structures, information processing equipment, and security equipment, including surveillance and detection cameras.

(25) Environmental restoration, remediation and pollution prevention activities in or proximate to existing and former railroad track, infrastructure, stations and facilities conducted in conformance with applicable laws, regulations and permit requirements, including activities such as noise mitigation, landscaping, natural resource management activities, replacement or improvement to storm water oil/water separators, installation of pollution containment systems, slope stabilization, and contaminated soil removal or remediation activities.

(26) Assembly or construction of facilities or stations that are consistent with existing land use and zoning requirements, do not result in a major change in traffic density on existing rail or highway facilities and result in approximately less than ten acres of surface disturbance, such as storage and maintenance facilities, freight or passenger loading and unloading facilities or stations, parking facilities, passenger platforms, canopies, shelters, pedestrian overpasses or underpasses, paving, or landscaping.

(27) Track and track structure maintenance and improvements when carried out predominantly within the existing right-of-way that do not cause a substantial increase in rail traffic beyond existing or historic levels, such as stabilizing embankments, installing or reinstalling track, re-grading, replacing rail, ties, slabs and ballast, installing, maintaining, or restoring drainage ditches, cleaning ballast, constructing minor curve realignments, improving or replacing interlockings, and the installation or maintenance of ancillary equipment.

Issued in Washington, DC on January 4, 2013.

Karen J. Hedlund,

Deputy Administrator.

[FR Doc. 2013–00561 Filed 1–11–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35689]

BNSF Railway Company—Lease Exemption—Norfolk Southern Railway Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board is granting a petition for exemption from the prior approval requirements of 49 U.S.C. 11323–25 for BNSF Railway Company (BNSF) to lease from Norfolk Southern Railway Company approximately 1.2 miles of rail line (the Line) located between W. 23 Street on the northern end and a point approximately 600 feet north of the Chicago SAG Canal on the southern end in Chicago, Ill. Under the lease, BNSF proposes to rehabilitate the currently inoperable Line to provide a new connection between major freight yards and main line tracks, thereby reducing congestion and delays and adding capacity to the Chicago area freight rail infrastructure. The lease exemption is subject to standard labor protective conditions.

DATES: This exemption will be effective on January 24, 2013. Petitions to stay must be filed by January 22, 2013. Petitions to reopen must be filed by February 4, 2013.

ADDRESSES: An original and 10 copies of all pleadings, referring to Docket No. FD 35689, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on petitioner's representative: Karl Morell, 655 15th Street NW., Suite 225, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Marc Lerner, (202) 245–0390. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is in the Board's decision served on January 14, 2013. Board decisions and notices are available on our Web site at ''*www.stb.dot.gov*''.

Decided: January 8, 2013.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–00495 Filed 1–11–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 8, 2013.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 13, 2013 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov*, or the entire information collection request maybe found at *www.reginfo.gov.*

Bureau of the Public Debt (BPD)

OMB Number: 1535–0009.

Type of Review: Revision of a currently approved collection.

Title: Request to Reissue U.S. Savings Bonds to a Personal Trust.

Form: PD F 1851.

Abstract: The information is necessary to support a request for reissue of savings bonds in the name of the trustee of a personal trust estate.

Affected Public: Individuals or Households.

Estimated Total Burden Hours: 4,500.

OMB Number: 1535–0104.

Type of Review: Revision of a currently approved collection.

Title: Application by Survivors for Payment of Bond or Check Issued Under Armed Forces Leave Act of 1946.

Form: PD F 2066 E.

Abstract: Used by survivors for payment of bonds issued under Armed Forces Leave Act of 1946. The information is to identify the bonds and/or checks involved and to establish a survivor's claim in order to issue payment.

Affected Public: Individuals or Households.

Estimated Total Burden Hours: 1,250.

OMB Number: 1535–0105.

Type of Review: Revision of a currently approved collection.

Title: Application for Recognition as Natural Guardian of Minor Not Under Legal Guardianship and for Disposition of Minor's Interest In Registered Securities.

Form: PD F 2481.

Abstract: The information is collected to apply for recognition as a natural guardian and request disposition of securities belonging to a minor in situations where a natural guardian is no longer acting or a legal representative is not appointed. Regulations governing U.S. Securities prohibit the registration of securities in the name of a minor in their own right. The natural guardian may be given responsibility for the securities. The information is used to identify the securities involved and to establish the authority to reissue the securities or payment in lieu thereof.

Affected Public: Individuals or Households.

Estimated Total Burden Hours: 208.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2013–00475 Filed 1–11–13; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Submission for OMB Review

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''Securities Exchange Act Disclosure Rules and Securities of Federal Savings Associations.''

The OCC also is announcing that the proposed collection of information has

been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Comments must be received by February 13, 2013.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mailstop 6W–11, Attention: 1557–0106, Washington, DC 20219. In addition, comments may be sent by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0106, U.S. Office of Management and Budget, 725 17th Street NW. #10235, Washington, DC 20503, or by electronic mail to *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the OCC has submitted the following proposed collection of information to OMB for review and clearance.

Securities Exchange Act Disclosure Rules and Securities of Federal Savings Association—12 CFR 11 and 12 CFR 194 (OMB Control Number 1557–0106)

The OCC is proposing to extend OMB approval of the following information collection:

Title: Securities Exchange Act Disclosure Rules (12 CFR part 11) and Securities of Federal Savings Associations (12 CFR part 194).

OMB Control No.: 1557–0106.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB approve its revised estimates.

The Securities and Exchange Commission (SEC) is required by statute to collect, through regulation, from any firm that is required to register its stock with the SEC, certain information and documents. 15 U.S.C. 78m(a)(1). Federal law requires the OCC to apply equivalent requirements to any national bank or Federal savings association required to be registered (those with a class of equity securities held by 2,000 or more shareholders). 15 U.S.C. 78l(i).

12 CFR parts 11 and 194 seek to ensure that a national bank or Federal savings association whose securities are subject to registration provides adequate information about its operations to current and potential shareholders, depositors, and to the public. The OCC reviews the information to ensure that registered national banks and Federal savings associations comply with Federal law and makes public all information required to be filed under these rules. Investors, depositors, and the public use this information to make informed investment decisions.

In the **Federal Register** of October 24, 2012 (77 FR 65054), the OCC published a 60-day notice requesting public comment on the templates and the collection of information. The OCC received no comments on the collection of information portion of the notice.

Burden Estimates

The OCC estimates the burden of this collection of information as follows:

Estimated Number of Respondents: 14.

Estimated Total Annual Responses: 78.

Estimated Total Annual Burden: 522.5 hours.

Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection 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.

Dated: January 8, 2013.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2013–00531 Filed 1–11–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''Privacy of Consumer Financial Information (Regulation P).''

DATES: You should submit written comments by March 15, 2013.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mailstop 6W–11, Attention: 1557–0216, Washington, DC 20219. In addition, comments may be sent by fax to (202) 649–5709 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy the comments at the OCC, 400 7th SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments by mail to OCC Desk Officer, 1557–0216, U.S. Office of Management and Budget, 725, 17th Street NW., #10235, Washington, DC 20503, or by electronic mail to *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Mary H. Gottlieb and Johnny Vilela, OCC Clearance Officers, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection titled ''Privacy of Consumer Financial Information (Regulation P). There have

been no changes to the requirements of the regulations; however, the regulations have been transferred to the Bureau of Consumer Financial Protection (CFPB) pursuant to title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1955, July 21, 2010 (Dodd-Frank Act) and republished as CFPB regulations (76 FR 79028 (December 21, 2011)). The burden estimates have been revised to remove the burden for national banks and Federal savings associations with over $10 billion in total assets and any affiliates thereof, which is now carried by CFPB pursuant to section 1025 of the Dodd-Frank Act. The OCC retains supervisory and enforcement authority for national banks and Federal savings associations with total assets of $10 billion or less that are not an affiliate of an insured depository institution with over $10 billion in total assets.

Title: Privacy of Consumer Financial Information (Regulation P) (12 CFR part 1016).

OMB Control No.: 1557–0216.

Description:

The Gramm-Leach-Bliley Act (Act) (Pub. L. 106–102) requires this information collection. The CFPB's regulation implements the Act's notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties.

The information collection requirements in part 1016 are as follows:

§ 1016.4(a)—Disclosure (institution)—Initial privacy notice to consumers requirement—A national bank or Federal savings association must provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to customers and consumers.

§ 1016.5(a)—Disclosure (institution)—Annual privacy notice to customers requirement—A national bank or Federal savings association must provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship.

§ 1016.8—Disclosure (institution)—Revised privacy notices—If a national bank or Federal savings association wishes to disclose information in a way that is inconsistent with the notices previously given to a consumer, the national bank or Federal savings association must provide consumers with a clear and conspicuous revised notice of the national bank's or Federal savings association's policies and procedures and a new opt out notice.

§ 1016.7(a)—Disclosure (institution)—Form of opt out notice to consumers; opt out methods—Form of opt out notice—If a national bank or Federal savings association is required to provide an opt-out notice under § 1016.10(a), it must provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that section. The notice must state:

- That the national bank or Federal savings association discloses or reserves the right to disclose nonpublic personal information about its consumer to a nonaffiliated third party;
- That the consumer has the right to opt out of that disclosure; and
- A reasonable means by which the consumer may exercise the opt out right.

A national bank or Federal savings association provides a reasonable means to exercise an opt out right if it:

- Designates check-off boxes on the relevant forms with the opt out notice;
- Includes a reply form with the opt out notice;
- Provides electronic means to opt out; or
- Provides a toll-free number to opt out.

§§ 1016.10(a)(2) and 1016(c)—Consumers must take affirmative actions to exercise their rights to prevent financial institutions from sharing their information with nonaffiliated parties—

- Opt out—Consumers may direct that the national bank or Federal savings association not disclose nonpublic personal information about them to a nonaffiliated third party, other than permitted by §§ 1016.13–1016.15
- Partial opt out—Consumer also may exercise partial opt out rights by selecting certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

§§ 1016.7(h) and 1016(i)—Reporting (consumer)—Consumers may exercise continuing right to opt out—Consumer may opt out at any time—A consumer may exercise the right to opt out at any time. A consumer's direction to opt out is effective until the consumer revokes it in writing or, if the consumer agrees, electronically. When a customer relationship terminates, the customer's opt out direction continues to apply.

Type of Review: Extension of a currently approved collection. *Affected Public:* Businesses or other for-profit; individuals. *Estimated Annual Number of Institution Respondents:* Initial Notice, 3; Annual Notice and Change in Terms, 1,793; Opt-out Notice, 897. *Estimated Average Time Per Response Per Institution:* Initial Notice, 80 hours; Annual Notice and Change in Terms, 8 hours; Opt-out Notice, 8 hours.

Estimated Subtotal Annual Burden Hours for Institutions: 21,760 hours.

Estimated Annual Number of Consumer Respondents: 2,526,802.

Estimated Average Time Per Consumer Response: 0.25 hours.

Estimated Subtotal Annual Burden Hours for Consumers: 631,701 hours.

Estimated Total Annual Burden Hours: 653,461 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. 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;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection 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.

Dated: January 8, 2013.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2013–00530 Filed 1–11–13; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Entities Pursuant to Executive Order 13413

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of two entities whose property and interests in property have been blocked pursuant to Executive Order 13413 of October 27,

2006, ''Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of Congo.''

DATES: The designation by the Director of OFAC of the two entities identified in this notice, pursuant to Executive Order 13413 of October 27, 2006, is effective on January 3, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) and via facsimile through a 24-hour fax-on demand service, tel.: (202) 622–0077.

Background

On October 27, 2006, the President signed Executive Order 13413 (the ''Order'' or ''E.O. 13413'') pursuant to, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA) and section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c) (UNPA). In the Order, the President found that the situation in or in relation to the Democratic Republic of the Congo constitutes an unusual and extraordinary threat to the foreign policy of the United States and imposed sanctions, and authorized additional sanctions, to address that threat.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in, or thereafter come within, the United States, or within the possession or control of United States persons, of the persons identified by the President in the Annex to the Order, as well as those persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to meet any of the criteria set forth in subparagraphs (a)(ii)(A)–(a)(ii)(G) of Section 1 of the Order.

On January 3, 2013, the Director of OFAC exercised the Secretary of the Treasury's authority to designate, pursuant to one or more of the criteria set forth in Section 1 of the Order, the two entities listed below, whose property and interests in property therefore are blocked pursuant to E.O. 13413. The listing of the blocked entities appears as follows:

1. FORCES DEMOCRATIQUES DE LIBERATION DU RWANDA (a.k.a. COMBATANT FORCE FOR THE LIBERATION OF RWANDA; a.k.a. DEMOCRATIC FORCES FOR THE LIBERATION OF RWANDA; a.k.a. FDLR; a.k.a. ''FOCA''; a.k.a. FORCE COMBATTANTE ABACUNGUZI), North and South Kivu, Congo, Democratic Republic of the [DRCONGO]

2. M23 (a.k.a. ARMEE REVOLUTIONAIRE CONGOLAISE; a.k.a. CONGOLESE REVOLUTIONARY ARMY; a.k.a. MARCH 23 MOVEMENT; a.k.a. MOUVEMENT DU 23 MARS), North-Kivu, Congo, Democratic Republic of the; Web site *www.m23mars.org* [DRCONGO]

Dated: January 3, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–00549 Filed 1–11–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Individuals Pursuant to Executive Order 13413

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of two individuals whose property and interests in property have been blocked pursuant to Executive Order 13413 of October 27, 2006, ''Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of Congo.''

DATES: The designation by the Director of OFAC of the two individuals identified in this notice, pursuant to Executive Order 13413 of October 27, 2006, was effective on December 18, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) and via facsimile through a 24-hour fax-on demand service, tel.: (202) 622–0077.

Background

On October 27, 2006, the President signed Executive Order 13413 (the ''Order'' or ''E.O. 13413'') pursuant to, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA) and section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c) (UNPA). In the Order, the President found that the situation in or in relation to the Democratic Republic of the Congo constitutes an unusual and extraordinary threat to the foreign policy of the United States and imposed sanctions, and authorized additional sanctions, to address that threat.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in, or thereafter come within, the United States, or within the possession or control of United States persons, of the persons identified by the President in the Annex to the Order, as well as those persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to meet any of the criteria set forth in subparagraphs (a)(ii)(A)–(a)(ii)(G) of Section 1 of the Order.

On December 18, 2012, the Director of OFAC exercised the Secretary of the Treasury's authority to designate, pursuant to one or more of the criteria set forth in Section 1 of the Order, the two individuals listed below, whose property and interests in property therefore are blocked pursuant to E.O. 13413.

The listing of the blocked individuals appears as follows:

1. KAINA, Innocent (a.k.a. KAYNA, Innocent); DOB 1978; POB Bunagana, Rutshuru territory, Democratic Republic of the Congo; Colonel (individual) [DRCONGO]

2. NGARUYE, Baudoin (a.k.a. NGARUYE MPUMURO, Baudouin; a.k.a. NGARUYE WA MYAMURO, Baudoin); DOB 1978; POB Lusamambo, Lubero territory, Democratic Republic of the Congo; Colonel (individual) [DRCONGO]

Dated: January 3, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–00547 Filed 1–11–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13920 and 13930

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13920, Directed Withholding and Deposit Verification and Form 13930, Central Withholding Agreement.

DATES: Written comments should be received on or before March 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Directed Withholding and Deposit Verification and Central Withholding Agreement.

OMB Number: 1545–2102.

Form Number: Form 13920 and 13930.

Abstract: Form 13930 will be used by an individual who wishes to have a Central Withholding Agreement (CWA). IRC Section 1441(a) requires withholding on certain payments of Non Resident Aliens (NRAs). Section 1.1441–4(b)(3) of the Income Tax Regulations provides that the withholding can be considered for adjustment if a CWA is applied for and granted. Form 13920 is used by withholding agents to verify to IRS that required deposits were made and give the amount of such deposits.

Current Actions: We are seeking to add Form 13920 under the current approval number 1545–2102.

Type of Review: Revision to Previously Approved IC.

Affected Public: Businesses and other for-profit organizations, Not-for-profit organizations, and State, Local, or Tribal Governments.

Form 13920

Estimated Number of Respondents: 8,100.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 2,700.

Form 13930

Estimated Number of Respondents: 2,300.

Estimated Time Per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 9,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 8, 2013.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2013–00494 Filed 1–11–13; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 78 Monday,

No. 9 January 14, 2013

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 226

Endangered and Threatened Species; Designation of Critical Habitat for Lower Columbia River Coho Salmon and Puget Sound Steelhead; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 110726419–2714–01]

RIN 0648–BB30

Endangered and Threatened Species; Designation of Critical Habitat for Lower Columbia River Coho Salmon and Puget Sound Steelhead

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

ACTION: Proposed rule; request for comments.

SUMMARY: We, the National Marine Fisheries Service (NMFS), propose to designate critical habitat for lower Columbia River coho salmon (*Oncorhynchus kisutch*) and Puget Sound steelhead (*O. mykiss*), currently listed as threatened species under the Endangered Species Act (ESA). The specific areas proposed for designation for lower Columbia River coho include approximately 2,288 mi (3,681 km) of freshwater and estuarine habitat in Oregon and Washington. The specific areas proposed for designation for Puget Sound steelhead include approximately 1,880 mi (3,026 km) of freshwater and estuarine habitat in Puget Sound, Washington. We propose to exclude a number of particular areas from designation because the benefits of exclusion outweigh the benefits of inclusion and exclusion will not result in the extinction of the species.

We are soliciting comments from the public on all aspects of the proposal, including information on the economic, national security, and other relevant impacts of the proposed designations, as well as the benefits to the species from designations. We will consider additional information received prior to making final designations.

DATES: Comments on this proposed rule must be received by 5 p.m. P.S.T. on April 15, 2013. Requests for public hearings must be made in writing by February 28, 2013.

ADDRESSES: You may submit comments on the proposed rule, identified by FDMS docket number [NOAA–NMFS–2012–0224], by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 503–230–5441, Attn: Steve Stone.
- *Mail:* Chief, Protected Resources Division, Northwest Region, National Marine Fisheries Service, 1201 NE. Lloyd Blvd., Suite 1100, Portland, OR 97232.

Instructions: Comments will be posted for public viewing as soon as possible during the comment period. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. We may elect not to post comments with obscene or threatening content. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

We will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only. The proposed rule, list of references and supporting documents (including the Draft Biological Report (NMFS 2012a), the Draft Economic Analysis (NMFS 2012b), and the Draft Section 4(b)(2) Report (NMFS 2012c)) are also available electronically at *http://www.nwr.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Steve Stone, NMFS, Northwest Region, Protected Resources Division, at the address above or at 503–231–2317; or Dwayne Meadows, NMFS, Office of Protected Resources, Silver Spring, MD, 301–427–8403.

SUPPLEMENTARY INFORMATION:

Background

We are responsible for determining whether species, subspecies, or distinct population segments (DPSs) are threatened or endangered and which areas of their habitat constitute critical habitat for them under the ESA (16 U.S.C. 1531 *et seq.*). To be considered for listing under the ESA, a group of organisms must constitute a ''species,'' which is defined in section 3 to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' The agency has determined that a group of Pacific salmon populations (including lower Columbia River coho) qualifies as a distinct population segment (DPS) if the group is substantially reproductively isolated and represents an important component in the evolutionary legacy of the biological species (56 FR 58612, November 20, 1991). We determined that a group of Pacific steelhead populations qualifies as a DPS if it is markedly separate and significant to its taxon (61 FR 4722, February 7, 1996; 71 FR 834, January 5, 2006). In previous rulemaking we determined that lower Columbia River coho (70 FR 37160, June 28, 2005) and Puget Sound steelhead (72 FR 26722, May 11, 2007) are each DPSs that warrant protection as threatened species under the ESA. We also determined that critical habitat was not determinable at the time of those final listing decisions and announced that we would propose critical habitat in separate rulemaking. Since the time of listing, the recovery planning process has progressed for these two DPSs and additional new information is now available to better inform the designation process. In view of these developments, we published an advance notice of proposed rulemaking (ANPR) on January 10, 2011 (76 FR 1392), to make the public aware of the opportunity to provide us with comments and information that may be useful in making proposed critical habitat designations for these two DPSs. We received several comments and datasets in response to the ANPR, and these have been reviewed and incorporated as appropriate into documents and analyses supporting this proposed rule (NMFS, 2012a; NMFS, 2012c). We encourage those who submitted comments on the ANPR to review and comment on this proposed rule as well. We will address all relevant comments in the final rule.

We considered various alternatives to the critical habitat designation for these DPSs. The alternative of not designating critical habitat would impose no economic, national security, or other relevant impacts, but would not provide any conservation benefit to the species. This alternative was considered and rejected because such an approach does not meet the legal requirements of the ESA and would not provide for the conservation of these species. The alternative of designating all of the areas considered for designation (i.e., no areas excluded) was also considered and rejected because, for several areas, the benefits of exclusion outweighed the benefits of designation, and we determined that exclusion of these areas would not significantly impede conservation of the species or result in extinction of the species. The total estimated annualized economic impact associated with the designation of all of the areas considered would be $357,815

for lower Columbia River coho and $460,924 for Puget Sound steelhead.

An alternative to designating critical habitat within all of the areas considered for designation is the designation of critical habitat within a subset of these areas. Under section 4(b)(2) of the ESA, we must consider the economic impacts, impacts on national security, and other relevant impacts of designating any particular area as critical habitat. We have the discretion to exclude an area from designation as critical habitat if the benefits of exclusion (i.e., the impacts that would be avoided if an area were excluded from the designation) outweigh the benefits of designation (i.e., the conservation benefits to these species if an area were designated), so long as exclusion of the area will not result in extinction of the species. Exclusion under section 4(b)(2) of the ESA of one or more of the areas considered for designation would reduce the total impacts of designation.

The determination of which units to exclude depends on our ESA section 4(b)(2) analysis, which is conducted for each area and described in detail in the draft ESA 4(b)(2) report (NMFS, 2012c). Under the preferred alternative we propose to exclude Indian lands as well as areas covered by several NMFS-approved habitat conservation plans. We also propose to exclude—due to economic impacts—some or all of the habitat areas in 1 of the 55 watersheds considered for lower Columbia River coho and 4 of the 66 watersheds considered for Puget Sound steelhead. The total estimated economic impact associated with the areas excluded due to economic impacts under this preferred alternative is $13,500 for lower Columbia River coho and $157,100 for Puget Sound steelhead. We determined that the exclusion of these areas would not significantly impede the conservation of either DPS or result in its extinction. We selected this as the preferred alternative because it results in a critical habitat designation that provides for the conservation of both lower Columbia River coho and Puget Sound steelhead while reducing economic and other relevant impacts. This alternative also meets the requirements under the ESA and our joint NMFS–U.S. Fish and Wildlife Service regulations concerning critical habitat.

Identifying Proposed Critical Habitat

Pacific Salmon and Steelhead Biology and Habitat Use

Pacific salmon and steelhead are anadromous fish, meaning adults migrate from the ocean to spawn in freshwater lakes and streams where their offspring hatch and rear prior to migrating back to the ocean to forage until maturity. The migration and spawning times vary considerably between and within species and populations (Groot and Margolis, 1991). At spawning, adults pair to lay and fertilize thousands of eggs in freshwater gravel nests or ''redds'' excavated by females. Depending on lake/stream temperatures, eggs incubate for several weeks to months before hatching as ''alevins'' (a larval life stage dependent on food stored in a yolk sac). Following yolk sac absorption, alevins emerge from the gravel as young juveniles called ''fry'' and begin actively feeding. Depending on the species and location, juveniles may spend from a few hours to several years in freshwater areas before migrating to the ocean. The physiological and behavioral changes required for the transition to salt water result in a distinct ''smolt'' stage in most species. On their journey juveniles must migrate downstream through every riverine and estuarine corridor between their natal (birth) lake or stream and the ocean. En route to the ocean the juveniles may spend from a few days to several weeks in the estuary, depending on the species. The highly productive estuarine environment is an important feeding and acclimation area for juveniles preparing to enter marine waters.

Juveniles and subadults typically spend from one to five years foraging over thousands of miles in the North Pacific Ocean before returning to spawn. Some species, such as coho salmon, have precocious life history types (primarily male fish called ''jacks'') that mature and spawn after only several months in the ocean. Spawning migrations known as ''runs'' occur throughout the year, varying by species and location. Most adult fish return or ''home'' with great fidelity to spawn in their natal stream, although some do stray to non-natal streams. Salmon species die after spawning, while steelhead may return to the ocean and make repeat spawning migrations.

This complex life cycle gives rise to complex habitat needs, particularly during the freshwater phase (see review by Spence *et al.,* 1996). Spawning gravels must be of a certain size and free of sediment to allow successful incubation of the eggs. Eggs also require cool, clean, and well-oxygenated waters for proper development. Juveniles need abundant food sources, including insects, crustaceans, and other small fishes. They need places to hide from predators (mostly birds and bigger fishes), such as under logs, root wads and boulders in the stream, and beneath overhanging vegetation. They also need places to seek refuge from periodic high flows (side channels and off channel areas) and from warm summer water temperatures (coldwater springs and deep pools). Returning adults generally do not feed in fresh water but instead rely on limited energy stores to migrate, mature, and spawn. Like juveniles, they also require cool water and places to rest and hide from predators. During all life stages salmon and steelhead require cool water that is free of contaminants. They also require migratory corridors with adequate passage conditions (timing, water quality, and water quantity) to allow access to the various habitats required to complete their life cycle.

The homing fidelity of salmon and steelhead has created a meta-population structure with discrete populations distributed among watersheds (McElhany *et al.,* 2000). Low levels of straying result in regular genetic exchange among populations, creating genetic similarities among populations in adjacent watersheds. Maintenance of the meta-population structure requires a distribution of populations among watersheds where environmental risks (e.g., from landslides or floods) are likely to vary. It also requires migratory connections among the watersheds to allow for periodic genetic exchange and alternate spawning sites in the case that natal streams are inaccessible due to natural events such as a drought or landslide.

More details regarding life history and habitat requirements of lower Columbia River coho and Puget Sound steelhead are found later in this rule under Species Descriptions and Area Assessments, as well as in the final listing rules cited above.

Statutory and Regulatory Background for Critical Habitat Designations

The ESA defines critical habitat under section 3(5)(A) as: ''(i) the specific areas within the geographical area occupied by the species, at the time it is listed * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed * * * upon a determination by the Secretary [of Commerce] that such areas are essential for the conservation of the species.''

Section 4(a) of the ESA precludes military land from designation, where

that land is covered by an Integrated Natural Resource Management Plan that the Secretary has found in writing will benefit the listed species.

Section 4(b)(2) of the ESA requires us to designate critical habitat for threatened and endangered species ''on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat.'' This section grants the Secretary of Commerce (Secretary) discretion to exclude any area from critical habitat if he determines ''the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat.'' In adopting this provision, Congress explained that, ''[t]he consideration and weight given to any particular impact is completely within the Secretary's discretion.'' H.R. No. 95–1625, at 16–17 (1978). The Secretary's discretion to exclude is limited, as he may not exclude areas that ''will result in the extinction of the species.''

Once critical habitat is designated, section 7 of the ESA requires Federal agencies to ensure they do not fund, authorize, or carry out any actions that will destroy or adversely modify that habitat. This requirement is in addition to the section 7 requirement that Federal agencies ensure their actions do not jeopardize the continued existence of listed species.

Methods and Criteria Used To Identify Critical Habitat

In the following sections, we describe the relevant definitions and requirements in the ESA and our implementing regulations and the key methods and criteria used to prepare this proposed critical habitat designation. Discussion of the specific implementation of each item occurs within the species-specific sections. In accordance with section 4(b)(2) of the ESA and our implementing regulations (50 CFR 424.12), this proposed rule is based on the best scientific information available concerning the species' present and historical range, habitat, and biology, as well as threats to their habitat. In preparing this proposed rule, we reviewed and summarized current information on these species, including recent biological surveys and reports, peer-reviewed literature, NMFS status reviews, and the proposed and final rules to list these species. All of the information gathered to create this proposed rule has been collated and analyzed in three supporting documents: a Draft Biological Report (NMFS, 2012a); a Draft Economic Analysis (NMFS, 2012b); and a Draft Section 4(b)(2) Report (NMFS, 2012c). We used this information to inform the identification of specific areas as critical habitat. We followed a five-step process in order to identify these specific areas: (1) Determine the geographical area occupied by the species at the time of listing, (2) identify physical or biological habitat features essential to the conservation of the species, (3) delineate specific areas within the geographical area occupied by the species on which are found the physical or biological features, (4) determine whether the features in a specific area may require special management considerations or protections, and (5) determine whether any unoccupied areas are essential for conservation. Our evaluation and conclusions are described in detail in the following sections.

Geographical Area Occupied by the Species and Specific Areas Within the Geographical Area

Federal, state, and tribal fishery biologists map salmonid species distribution at the level of stream reaches. The mapping includes areas where the species has been observed (within the past 20 years, but typically more recently) or where it is presumed to occur based on the professional judgment of biologists familiar with the watershed and the availability of suitable habitat, in particular the location of known barriers. Much of these data can be accessed and analyzed using geographic information systems (GIS) to produce consistent and fine-scale maps. As a result, nearly all salmonid freshwater and estuarine habitats in Washington, Oregon, Idaho, and California are mapped and available in GIS at a scale of 1:24,000 (e.g., Oregon Department of Fish and Wildlife (ODFW), 2010a; Washington Department of Fish and Wildlife (WDFW), 2010), allowing for accurate and refined delineation of ''geographical area occupied by the species'' referred to in the ESA definition of critical habitat. We accessed these GIS data beginning in 2010, modified them based on input from state and tribal fishery biologists, and believe that they represent the best available information about areas occupied by each species at the time of listing.

To identify ''specific areas,'' we used ''HUC5'' watersheds as we did in our 2005 salmonid critical habitat designations (70 FR 52630, September 2, 2005). HUC5 watershed delineations are created by the U.S. Geological Survey and are generally available from various federal agencies and via the internet (Interior Columbia Basin Ecosystem Management Project, 2003; Regional Ecosystem Office, 2004; U.S. Department of Interior and USGS, 2009). We used this information to organize critical habitat information systematically and at a scale that was relevant to the spatial distribution of salmon and steelhead. Organizing information at this scale is especially relevant to salmonids, since their innate homing ability allows them to return to particular reaches in the specific watersheds where they were born. Such site fidelity results in spatial aggregations of salmonid populations (and their constituent spawning stocks) that generally correspond to the area encompassed by wider HUC4 subbasins or their constituent HUC5 watersheds (Washington Department of Fisheries, Washington Department of Wildlife and Western Washington Treaty Indian Tribes, 1992; Kostow, 1995; McElhany *et al.,* 2000).

In addition, HUC5 watersheds are consistent with the scale of recovery efforts for West Coast salmon and steelhead, and watershed-level analyses are now common throughout the West Coast. There are presently hundreds of watershed councils or groups in the Pacific Northwest. Many operate at a geographic scale of one to several HUC5 watersheds and are integral parts of larger-scale salmon recovery strategies (Shared Strategy for Puget Sound, 2007; NMFS, 2012d). In addition to these efforts, NMFS has developed various ESA guidance documents that underscore the link between salmon conservation and the recovery of watershed processes (NMFS, 2000; NMFS, 2005; NMFS, 2007). Aggregating stream reaches into HUC5 watersheds allowed the agency to delineate ''specific areas'' within or outside the geographical area occupied by the species at a scale that corresponds well to salmonid population structure and ecological processes.

As in our 2005 critical habitat designations (70 FR 52630, September 2, 2005), we identified estuary features essential to conservation of these species. For streams and rivers that empty into marine areas, we included the associated estuary as part of the HUC5 ''specific area.'' Also, as in our 2005 salmonid designations, we identified certain prey species in nearshore and offshore marine waters (such as Pacific herring) as essential features, and concluded that some may require special management considerations or protection because they are commercially harvested. However, prey species move or drift

great distances throughout marine waters, often in association with oceanographic features that also move (such as eddies and thermoclines). Thus, although we sought new information to better inform this question, we continue to conclude that we cannot identify specific offshore marine areas where the essential habitat features may be found (NMFS, 2012e).

We also considered marine areas in Puget Sound for steelhead as potential specific areas, but concluded that at this time the best available information suggests there are no areas that meet the definition of critical habitat in the statute. In our 2005 rule (70 FR 52630, September 2, 2005), we designated critical habitat in nearshore areas for Puget Sound Chinook and Hood Canal summer-run chum salmon. However, steelhead move rapidly out of freshwater and into offshore marine areas, unlike Puget Sound Chinook and Hood Canal summer chum, making it difficult to identify specific foraging areas where the essential features are found. We therefore determined that for Puget Sound steelhead it is not possible to identify specific areas in the nearshore zone in Puget Sound.

Primary Constituent Elements and Physical or Biological Features Essential to the Conservation of the Species

Agency regulations at 50 CFR 424.12(b) interpret the statutory phrase ''physical or biological features essential to the conservation of the species.'' The regulations state that these features include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distribution of a species. The regulations further direct us to ''focus on the principal biological or physical constituent elements * * * that are essential to the conservation of the species, and specify that these elements shall be the 'known primary constituent elements'.'' The regulations identify primary constituent elements (PCE) as including, but not being limited to: ''roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host species or plant pollinator, geological formation, vegetation type, tide, and specific soil types.''

For the 2005 critical habitat designations (70 FR 52630, September 2, 2005), NMFS biologists developed a list of physical and biological features relevant to determining whether occupied stream reaches within a watershed meet the ESA section (3)(5)(A) definition of ''critical habitat,'' consistent with the implementing regulation at 50 CFR 424.12(b). Relying on the biology and life history of each species, we determined the physical or biological habitat features essential to their conservation. For the present rulemaking, we use the same features, which we identified in the advance notice of proposed rulemaking (76 FR 1392, January 10, 2011). These features include sites essential to support one or more life stages of the DPS (sites for spawning, rearing, migration and foraging). These sites in turn contain physical or biological features essential to the conservation of the DPS (for example, spawning gravels, water quality and quantity, side channels, forage species). Specific types of sites and the features associated with them (both of which are referred to as PCEs) include the following:

1. Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development.
2. Freshwater rearing sites with water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility; water quality and forage supporting juvenile development; and natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic vegetation, large rocks and boulders, side channels, and undercut banks.
3. Freshwater migration corridors free of obstruction with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival.
4. Estuarine areas free of obstruction with water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh- and saltwater; natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels; and juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation.
5. Nearshore marine areas free of obstruction with water quality and quantity conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation; and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels.
6. Offshore marine areas with water quality conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation.

We re-evaluated these PCEs and determined that they are all fully applicable to lower Columbia River coho and Puget Sound steelhead. The habitat areas proposed for designation in this rule currently contain PCEs within the acceptable range of values required to support the biological processes for which the species use the habitat (NMFS 2012a). The contribution of the PCEs to the habitat varies by site and biological function, illustrating that the quality of the elements may vary within a range of acceptable conditions.

Special Management Considerations or Protection

An occupied area cannot be designated as critical habitat unless it contains physical and biological features that ''may require special management considerations or protection.'' Agency regulations at 50 CFR 424.02(j) define ''special management considerations or protection'' to mean ''any methods or procedures useful in protecting physical and biological features of the environment for the conservation of listed species.'' Many forms of human activity have the potential to affect the habitat of listed salmon species: (1) Forestry; (2) grazing; (3) agriculture; (4) road building/maintenance; (5) channel modifications/diking; (6) urbanization; (7) sand and gravel mining; (8) mineral mining; (9) dams; (10) irrigation impoundments and withdrawals; (11) river, estuary, and ocean traffic; (12) wetland loss/removal; (13) beaver removal; (14) exotic/invasive species introductions. In addition to these, human harvest of salmonid prey species (e.g., herring, anchovy, and sardines) may present another potential habitat-related activity (Pacific Fishery Management Council, 1999). All of these activities have PCE-related impacts via their alteration of one or more of the following: stream hydrology, flow and water-level modifications, fish passage, geomorphology and sediment transport, temperature, dissolved oxygen, vegetation, soils, nutrients and chemicals, physical habitat structure, and stream/estuarine/marine biota and forage (Spence *et al.,* 1996; Pacific Fishery Management Council, 1999).

Unoccupied Areas

Section 3(5)(A)(ii) of the ESA authorizes the designation of ''specific

areas outside the geographical area occupied at the time [the species] is listed'' if these areas are essential for the conservation of the species. Regulations at 50 CFR 424.12(e) emphasize that the agency ''shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.'' We focused our attention on the species' historical range when considering unoccupied areas since these logically would have been adequate to support the evolution and long-term maintenance of distinct population segments. As with occupied areas, we considered the stream segments within a HUC5 watershed to best describe specific areas. While it is possible to identify which HUC5s represent geographical areas that were historically occupied with a high degree of certainty, this is not always the case with specific stream segments. This is due, in part, to the emphasis on mapping currently occupied habitats and to the paucity of site-specific or systematic historical stream surveys. As described later in this proposed rule, we did identify unoccupied stream reaches that are essential for conservation of Puget Sound steelhead as well as an unoccupied area that might be essential for conservation of lower Columbia River coho.

Military Lands

Section 4(a)(3) of the ESA precludes the Secretary from designating military lands as critical habitat if those lands are subject to an Integrated Natural Resource Management Plan (INRMP) under the Sikes Act that the Secretary certifies in writing benefits the listed species. We consulted with the Department of Defense (DOD) and determined that three installations in Washington with either draft or final INRMPs overlap with streams occupied by Puget Sound steelhead: (1) Naval Base Kitsap; (2) Naval Radio Station, Jim Creek; and (3) Joint Base Lewis-McChord (Army and Air Force). We did not identify any INRMPs or DOD installations within the range of lower Columbia River coho.

We identified habitat meeting the statutory definition of critical habitat at each of the above installations and reviewed the INRMPs, as well as other information available regarding the management of these military lands. Our preliminary review indicates that each of these INRMPs address Puget Sound steelhead habitat, and all contain measures that provide benefits to this DPS (NMFS, 2012c). Examples of the types of benefits include actions that eliminate fish passage barriers, control erosion, protect riparian zones, increase stream habitat complexity, and monitor listed species and their habitats. As a result, we are not proposing to designate critical habitat in areas subject to the INRMPs identified above.

Critical Habitat Analytical Review Teams

To assist in the designation of critical habitat, we convened two Critical Habitat Analytical Review Teams (Teams)—one for lower Columbia River coho and another for Puget Sound steelhead. The Teams consisted of NMFS salmonid habitat biologists who were tasked with assessing biological information pertaining to areas under consideration for designation as critical habitat (NMFS, 2012a). The Teams examined each habitat area within the watershed to determine whether the reaches occupied by the species contain the physical or biological features essential to conservation. The Teams also relied on their experience conducting section 7 consultations to determine whether the features ''may require special management considerations or protection.''

In addition to occupied areas, the definition of critical habitat includes unoccupied areas if we determine the area is essential for conservation. Accordingly, the Teams were next asked whether there were any unoccupied areas within the historical range of the DPSs that may be essential for conservation. Where information was available to make this determination, the Teams identified any currently unoccupied areas essential for conservation. In some cases, the Teams did not have information available that would allow them to draw that conclusion. The Teams nevertheless identified areas they believe might, in the future, be determined essential through ongoing recovery planning efforts. These are identified under the Species Descriptions and Area Assessments section, and we are specifically requesting information regarding such areas (see Public Comments Solicited below).

The Teams were next asked to determine the relative conservation value of each area for each DPS. The Teams scored each habitat area based on several factors related to the quantity and quality of the physical and biological features (see NMFS, 2012a for details). They next considered each area in relation to other areas and with respect to the population occupying that area. Based on a consideration of the raw scores for each area, and a consideration of that area's contribution to conservation in relation to other areas and in relation to the overall population structure of the DPS, the Teams rated each habitat area as having a ''high,'' ''medium'' or ''low'' conservation value.

The rating of habitat areas as having a high, medium or low conservation value informed the discretionary balancing consideration in ESA section 4(b)(2). The higher the conservation value for an area, the greater may be the likely benefit of the ESA section 7 protections. The Teams also assessed the likelihood of section 7 consultations in a particular watershed (that is, how strong is the ''Federal nexus'') and how much protection would exist in the absence of a section 7 consultation (that is, how protective are existing management measures and would they likely continue in the absence of section 7 requirements). The Teams determined that all of the watersheds had a high likelihood of receiving a section 7 consultation, but with varying degrees of benefit from designation as critical habitat.

As discussed earlier, the scale chosen for the ''specific area'' referred to in ESA section 3(5)(a) was a HUC5 watershed. There were some complications with the way some watersheds were delineated that required us to adapt the approach for some areas. In particular, a large stream or river might serve as a rearing and migration corridor to and from many watersheds, yet be embedded itself in a watershed. In any given watershed through which it passes, the stream may have a few or several tributaries. For rearing/migration corridors embedded in a watershed, the Teams were asked to rate the conservation value of the watershed based on the tributary habitat. We assigned the rearing/migration corridor the rating of the highest-rated watershed for which it served as a rearing/migration corridor. The reason for this treatment of migration corridors is the role they play in the salmon's life cycle. Salmon are anadromous—born in fresh water, migrating to salt water to feed and grow, and returning to fresh water to spawn. Without a rearing/migration corridor to and from the sea, salmon cannot complete their life cycle. It would be illogical to consider a spawning and rearing area as having a particular conservation value and not consider the associated rearing/migration corridor as having a similar conservation value.

Species Descriptions and Area Assessments

This section describes the lower Columbia River coho and Puget Sound

steelhead DPSs, noting specific life-history traits and associated habitat requirements, and summarizes the Teams' assessment of habitat areas for each DPS. The Teams' assessments addressed PCEs in the habitat areas within watersheds as well as a separate Columbia River rearing/migration corridor for lower Columbia River coho. For ease of reporting and reference these watersheds have been organized into their larger, associated subbasin.

Lower Columbia River Coho Salmon Life History and Conservation Status

The lower Columbia River coho DPS includes all naturally spawned populations of coho in the Columbia River and its tributaries in Washington and Oregon, from the mouth of the Columbia River upstream to and including the Big White Salmon and Hood Rivers, and including the lower Willamette River up to Willamette Falls, Oregon, as well as coho from twenty-five artificial propagation programs located in numerous watersheds throughout the range of the DPS (70 FR 37160, June 28, 2005).

Coho populations in this DPS display one of two major life history types based on when and where adults migrate from the Pacific Ocean to spawn in fresh water. Early returning coho (Type S) typically forage in marine waters south of the Columbia River and return beginning in mid-August, while late returning coho (Type N) generally forage to the north and return to the Columbia River from late September through December (ODFW, 2010b). It is thought that early returning coho migrate to headwater areas and late returning fish migrate to the lower reaches of larger rivers or into smaller streams and creeks along the Columbia River. Although there is some level of reproductive isolation and ecological specialization between early and late types, there is some uncertainty regarding the importance of these differences (Myers et al., 2006). Some tributaries historically supported spawning by both life history types.

Mature coho of both types typically enter fresh water to spawn from late summer to late autumn. Spawning typically occurs between November and January. Migration and spawning timing of specific local populations may be affected by factors such as latitude, migration distance, flows, water temperature, maturity, or migration obstacles. Coho generally occupy intermediate positions in tributaries, typically further upstream than chum salmon or fall-run Chinook salmon, but often downstream of steelhead or spring-run Chinook salmon (ODFW, 2010b). Typical coho spawning habitat includes pea to orange-size spawning gravel in small, relatively low-gradient tributaries (ODFW, 2010b). Egg incubation can take from 45 to 140 days, depending on water temperature, with longer incubation in colder water. Fry may thus emerge from early spring to early summer. Juveniles prefer complex instream structure (primarily large and small woody debris) and shaded streams with tree-lined banks for rearing; they often overwinter in off-channel alcoves and beaver ponds (where available) (ODFW, 2010a). Freshwater rearing lasts until the following spring when the juveniles undergo physiological changes (smoltification) and migrate to salt water. Juvenile coho are present in the Columbia River estuary from March to August (Washington Lower Columbia Salmon Recovery and Fish and Wildlife Subbasin Plan, 2010). Coho grow relatively quickly in the ocean, reaching up to six kilograms after about 16 months of ocean rearing. Most coho are sexually mature at age three, except for a small percentage of males (jacks) who return to natal waters after only a few months of ocean residency. All coho die after spawning.

There are 24 historical populations of lower Columbia River coho identified in three ecological zones or ''strata'' within the range of this DPS: Coast, Cascade, and Gorge strata (Myers *et al.,* 2006). McElhany *et al.* (2007) assessed the viability of lower Columbia River coho populations and determined that only one—the Clackamas River—is approaching viability. They also observed that, with the exception of the Clackamas and Sandy populations, it is likely that most of the wild lower Columbia River coho populations were effectively extirpated in the 1990s and that no viable populations appear to exist in either the Coast or Gorge stratum. Although recently there is evidence of some natural production in this DPS, the majority of populations remain dominated by hatchery origin spawners, and there is little data to indicate they would naturally persist in the long term (NMFS, 2003). Approximately 40 percent of historical habitat is currently inaccessible, which restricts the number of areas that might support natural production, and further increases the DPS's vulnerability to environmental variability and catastrophic events (NMFS, 2003). The extreme loss of naturally spawning populations, the low abundance of extant populations, diminished diversity, and fragmentation and isolation of the remaining naturally produced fish confer considerable risks to lower Columbia River coho.

Major habitat factors limiting recovery in fresh water include floodplain connectivity and function, channel structure and complexity, riparian areas and large woody debris recruitment, stream substrate, stream flow, and water quality (Pacific Coast Salmon Restoration Funds, 2007). In addition to impacts of the Federal Columbia River Hydropower System (especially Bonneville Dam on the mainstem Columbia River), numerous other populations are affected by upstream and tributary dams in the White Salmon, Hood, Lewis, Cowlitz, Sandy, and Clackamas basins, although many of those effects are being addressed as a result of recent Federal Energy Regulatory Commission re-licensing and associated ESA section 7 consultations. For example, the removal of Marmot and Little Sandy dams in the Sandy River basin has improved passage for the coho population into the upper watershed, and the removal of Condit Dam in 2011 is expected to support restoration of the White Salmon River portion of the Washington Upper Gorge coho population.

The ocean survival of juvenile lower Columbia River coho can be affected by estuary factors such as changes in food availability and the presence of contaminants. Characteristics of the Columbia River plume are also thought to be significant to lower Columbia River coho migrants during transition to the ocean phase of their lifecycle, because yearling migrants appear to use the plume as habitat, in contrast to other species whose sub-yearling juveniles stay closer to shore (Fresh *et al.,* 2005). Predation and growth during the first marine summer appear to be important components determining coho brood-year strength (Beamish *et al.,* 2001).

Recovery planning for coho and other ESA-listed salmon and steelhead in the lower Columbia River is underway, and a proposed recovery plan was made available for public comment in May 2012 (77 FR 28855, 16 May 2012). The proposed recovery plan includes three ''management unit'' plans, or plans addressing geographic areas smaller than the entire range of the DPS: (1) A Washington Lower Columbia management unit plan overseen and coordinated by the Lower Columbia Fish Recovery Board (LCFRB); (2) a White Salmon management unit plan overseen by NMFS and addressing the White Salmon River basin in Washington; and (3) an Oregon Lower Columbia management unit plan led by the ODFW with participation by the Oregon Governor's Natural Resources

Office, NMFS, and the Oregon Lower Columbia River Stakeholder Team. Two other documents—an estuary module and a hydropower module—are key components of this recovery plan. These documents, which address regional-scale issues affecting lower Columbia River salmon and steelhead and other listed Columbia River DPSs, provide a consistent set of assumptions and recovery actions that were incorporated into each management unit plan. The plans also are all consistent with work by the Willamette/Lower Columbia Technical\Recovery Team, which was formed by NMFS to assess the population structure and develop viability criteria for listed lower Columbia River salmon and steelhead (see McElhany *et al.,* 2003; McElhany *et al.,* 2006; Myers *et al.,* 2006; and McElhany *et al.,* 2007). Because the ESA requires that recovery plans address the entire listed entity/DPS, NMFS synthesized these management unit plans and modules into a single recovery plan that also underscores interdependencies and issues of regional scope, and ensures that the entire salmon life cycle is addressed.

Critical habitat is currently designated for three DPSs of salmon and steelhead that use lower Columbia tributary watersheds for spawning and rearing: lower Columbia River Chinook salmon, lower Columbia River steelhead, and Columbia River chum salmon (70 FR 52630, September 2, 2005). Critical habitat is also designated in the lower Columbia River and several tributaries for bull trout (75 FR 63898, October 18, 2010) and the Southern DPS of Pacific eulachon (76 FR 65324, October 20, 2011). In addition, green sturgeon (74 FR 52300, October 9, 2009) and several listed salmonid DPSs that spawn in watersheds upstream of the range of lower Columbia River coho (e.g., Snake River fall Chinook salmon) have rearing and migration areas designated as critical habitat in areas occupied by coho in the lower Columbia River and estuary (58 FR 68543, December 28, 1993; 64 FR 57399, October 25, 1999; 70 FR 52630, September 2, 2005). These existing designations have extensive overlap with areas under consideration as critical habitat for lower Columbia River coho, and given the shared general life history characteristics of all these anadromous salmonids, the essential habitat features will likewise be similar to those for existing salmon and steelhead designations.

The lower Columbia River Team's assessment for this DPS addressed 10 subbasins containing 55 occupied watersheds, as well as the lower Columbia River rearing/migration corridor. Each of these 56 areas constituted the specific areas for the analysis of critical habitat for this species. The Team evaluated the conservation value of habitat areas on the basis of the habitat requirements of lower Columbia River coho, consistent with the PCEs described in the ''Primary Constituent Elements and Physical or Biological Features Essential to the Conservation of the Species'' section above. The Team also considered the conservation value of each specific area in the context of the populations within the strata identified by a separate Technical Recovery Team (TRT) convened to address biological issues relating to the recovery of this DPS (Myers *et al.,* 2006). Summarized information is presented below by USGS subbasin because the subbasin presents a convenient and systematic way to organize the Team's watershed assessments for this DPS and their names are generally more recognizable because they typically identify major river systems. Full details are in the biological report supporting this proposed designation (NMFS, 2012a).

Middle Columbia/Hood Subbasin—This subbasin contains 13 watersheds, 8 of which are occupied by this DPS. Occupied watersheds encompass approximately 1,370 mi^2 (3,548 km^2). Fish distribution and habitat use data identify approximately 212 miles (341 km) of occupied riverine habitat in the watersheds, including a 23-mile (37-km) segment of the Columbia River (ODFW, 2010a; WDFW, 2010). Myers *et al.* (2006) identified a single ecological zone (Columbia Gorge) containing three populations: Upper Gorge Tributaries, Big White Salmon River, and Hood River. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, irrigation impoundments and withdrawals, and urbanization (NMFS, 2012a). The Team also determined that the occupied watersheds in this subbasin were of either high or medium conservation value to the DPS. Of the eight watersheds reviewed, five were rated as having high conservation value and three were rated as having medium conservation value to the DPS. The Team noted that two watersheds (Middle Columbia/Eagle Creek and Middle Columbia/Grays Creek) contain a high value rearing and migration corridor in the Columbia River connecting high value upstream watersheds with downstream reaches and the ocean. The Team also considered whether blocked historical habitat above Condit Dam (on the White Salmon River) may be essential for conservation of the DPS. The decommissioning of this 100-year-old dam occurred in the summer of 2011 and will allow coho and other salmonids access to at least 26 miles (42 km) of habitat in the basin upstream (PacifiCorp, 2012a; PacifiCorp, 2012b). The Team determined that accessing this habitat would likely provide a benefit to the DPS. However, the Team concluded that it was unclear whether the areas above Condit Dam are essential for conservation of the entire DPS, especially in comparison to other, more extensive, historical habitats where coho are actively being reintroduced and that may be of greater potential benefit to the DPS (e.g., areas in the Upper Lewis River). We seek comments and information specific to this unoccupied area and whether it is essential to the conservation of lower Columbia River coho.

Lower Columbia/Sandy Subbasin—This subbasin contains nine watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 1,076 mi^2 (2,787 km^2). Fish distribution and habitat use data identify approximately 453 miles (729 km) of occupied riverine habitat in the watersheds, including a 26-mile (42-km) segment of the Columbia River (ODFW, 2010a; WDFW, 2010). Myers *et al.* (2003) identified two ecological zones associated with this subbasin (Western Cascade Range and Columbia Gorge) containing four populations (Lower Gorge tributaries, Sandy River, Washougal River, and Salmon Creek). The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, irrigation impoundments and withdrawals, road building/maintenance, and urbanization (NMFS, 2012a). The Team also determined that the occupied watersheds in this subbasin were of high or medium conservation value to the DPS. Of the nine watersheds reviewed, four were rated as having high conservation value and five were rated as having medium conservation value to the DPS. The Team also noted that one watershed (Columbia Gorge Tributaries) contains a high value rearing and migration corridor in the Columbia River connecting high value upstream watersheds with downstream reaches and the ocean.

Lewis Subbasin—This subbasin contains six watersheds, all of which are currently occupied by this DPS (including four watersheds above Merwin Dam now accessible to coho via trap and haul operations in the Upper Lewis River (PacifiCorp *et al.,* 2004). Occupied watersheds encompass approximately 456 mi² (1,181 km²). Fish distribution and habitat use data identify approximately 299 miles (481 km) of occupied riverine habitat in the watersheds (WDFW, 2010). Myers *et al.* (2003) identified one ecological zone associated with this subbasin (Western Cascade Range) containing two populations—one in the East Fork Lewis River and the other in the North Fork Lewis River. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, irrigation impoundments and withdrawals, road building/maintenance, and urbanization (NMFS, 2012a). The Team also determined that the occupied watersheds in this subbasin ranged from high to low conservation value to the DPS. Of the six watersheds reviewed, three were rated as having high conservation value, two were rated as having medium conservation value, and one was rated as having low conservation value to the DPS.

Lower Columbia/Clatskanie Subbasin—This subbasin contains six watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 841 mi² (2,178 km²). Fish distribution and habitat use data identify approximately 387 miles (623 km) of occupied riverine habitat in the watersheds (ODFW, 2010a; WDFW, 2010). Myers *et al.* (2003) identified two ecological zones (Coast Range and Western Cascade Range) containing four populations (Kalama River, Clatskanie River, Elochoman Creek, and Scappoose Creek) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, irrigation impoundments and withdrawals, road building/maintenance, urbanization, and wetlands loss/removal (NMFS, 2012a). The Team also determined that the occupied watersheds in this subbasin were of high or medium conservation value to the DPS. Of the six watersheds reviewed, three were rated as having high conservation value and three were rated as having medium conservation value to the DPS.

Upper Cowlitz Subbasin—This subbasin contains five watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 1,030 mi² (2,668 km²). Fish distribution and habitat use data identify approximately 181 miles (291 km) of occupied riverine habitat in the watersheds (WDFW, 2010). This entire habitat is located upstream of impassable dams (Mayfield and Mossyrock dams) and only accessible to anadromous fish via trap and haul operations. Myers *et al.* (2003) identified one ecological zone (Western Cascade Range) containing two populations (Upper Cowlitz River and Cispus River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, road building/maintenance, and urbanization (NMFS, 2012a). The Team also determined that four of the occupied HUC5 watersheds in this subbasin were of high conservation value and one was of medium conservation value to the DPS.

Lower Cowlitz Subbasin—This subbasin contains eight watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 1,460 mi² (3,781 km²). Fish distribution and habitat use data identify approximately 791 miles (1,273 km) of occupied riverine habitat in the watersheds (WDFW, 2010). Habitat in two watersheds—Tilton River and Riffe Reservoir—is located upstream of impassable dams (Mayfield Dam and Mossyrock Dam) and only accessible to anadromous fish via trap and haul operations. Myers *et al.* (2003) identified one ecological zone (Western Cascade Range) containing six populations (Upper Cowlitz River, Lower Cowlitz River, Tilton River, Coweeman River, North Fork Toutle River, and South Fork Toutle River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, irrigation impoundments and withdrawals, road building/maintenance, urbanization, and wetlands loss/removal (NMFS, 2012a). The Team also determined that the occupied watersheds in this subbasin ranged from high to low conservation value to the DPS. Of the eight watersheds reviewed, six were rated as having high conservation value, one was rated as having medium conservation value, and one was rated as having low conservation value to the DPS.

Lower Columbia Subbasin—This subbasin contains three watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 515 mi² (1,334 km²). Fish distribution and habitat use data identify approximately 370 miles (595 km) of occupied riverine habitat in the watersheds (ODFW, 2010a; WDFW, 2010). Myers *et al.* (2003) identified one ecological zone (Coast Range) containing three populations (Grays/Chinook Rivers, Big Creek, and Youngs Bay) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, irrigation impoundments and withdrawals, road building/maintenance, urbanization, and wetlands loss/removal (NMFS, 2012a). Of the three watersheds reviewed, one was rated as having high conservation value and two were rated as having medium conservation value to the DPS.

Middle Willamette Subbasin—The occupied portion of this subbasin is downstream of Willamette Falls and includes a single watershed (Abernethy Creek) as well as a short segment (approximately 1 mile (1.6 km)) of the Willamette River downstream of Willamette Falls. The Abernethy Creek watershed encompasses approximately 134 mi² (347 km²). Fish distribution and habitat use data from ODFW identify approximately 27 miles (43 km) of occupied riverine habitat in the subbasin (ODFW, 2010a). Myers *et al.* (2003) identified one ecological zone (Western Cascade Range) containing one population (Clackamas River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, irrigation impoundments and withdrawals, road building/maintenance, urbanization, and wetlands loss/removal (NMFS, 2012a). The Team also determined that the single occupied watershed in this subbasin was of low conservation value to the DPS.

Clackamas Subbasin—This subbasin contains six watersheds, two of which are occupied by this DPS. Occupied watersheds encompass approximately 270 mi² (699 km²). Fish distribution and

habitat use data identify approximately 253 miles (407 km) of occupied riverine habitat in the watersheds (ODFW, 2010a). Myers *et al.* (2003) identified one ecological zone (Western Cascade Range) containing one population (Clackamas River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, irrigation impoundments and withdrawals, road building/maintenance, urbanization, and wetlands loss/removal (NMFS, 2012a). The Team also determined that all of the occupied watersheds in this subbasin were of high conservation value to the DPS.

Lower Willamette Subbasin— This subbasin contains three watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 407 mi^2 (1,054 km^2). Fish distribution and habitat use data identify approximately 163 miles (262 km) of occupied riverine habitat in the watersheds (ODFW, 2010b). Myers *et al.* (2003) identified two ecological zones (Coast Range and Western Cascade Range) containing two populations (Clackamas River and Scappoose Creek) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, irrigation impoundments and withdrawals, road building/maintenance, urbanization, and wetlands loss/removal (NMFS, 2012a). Of the three watersheds reviewed, two were rated as having high conservation value and one was rated as having medium conservation value to the DPS.

Lower Columbia River Corridor—The lower Columbia River rearing and migration corridor consists of that segment of the Columbia River from the confluences of the Sandy River (Oregon) and Washougal River (Washington) to the Pacific Ocean. Fish distribution and habitat use data from ODFW and WDFW identify approximately 118 miles (190 km) of occupied riverine and estuarine habitat in this corridor (ODFW 2010a, WDFW 2010). After reviewing the best available scientific data for all of the areas within the freshwater and estuarine range of this DPS, the Team concluded that the lower Columbia River corridor was of high conservation value to the DPS. Other upstream reaches of the Columbia River corridor (within the Middle Columbia/Hood and Lower Columbia/Sandy subbasins above) are also high value for rearing/migration. The Team noted that the lower Columbia River corridor connects every watershed and population in this DPS with the ocean and is used by rearing/migrating juveniles and migrating adults. The Columbia River estuary is a particularly important area for this DPS as both juveniles and adult salmon make the critical physiological transition between life in freshwater and marine habitats (Interdisciplinary Scientific Advisory Board, 2000; Marriott *et al.,* 2002).

Unoccupied Areas—The Team also considered whether any blocked historical habitats may be essential for conservation of the DPS. As noted above in the Middle Columbia/Hood Subbasin, efforts are underway to allow salmon to access areas in the upper White Salmon River above Condit Dam. Access to these historical habitats will likely benefit lower Columbia River coho. However, the Team concluded that it was unclear whether the areas above Condit Dam are essential for conservation of the entire DPS, especially in comparison to other, more extensive, historical habitats where coho are actively being reintroduced and that may be of greater potential benefit to the DPS (e.g., areas in the Upper Lewis River). We solicit information and public comment on the importance of these areas to coho salmon and whether our final designation should include these areas as designated critical habitat.

Puget Sound Steelhead Life History and Conservation Status

Steelhead populations can be divided into two basic reproductive ecotypes, based on the state of sexual maturity at the time of river entry (summer or winter) and duration of spawning migration (Burgner *et al.,* 1992). The Puget Sound DPS includes all naturally spawned anadromous winter-run and summer-run steelhead populations in streams in the river basins of the Strait of Juan de Fuca, Puget Sound, and Hood Canal, Washington, bounded to the west by the Elwha River (inclusive) and to the north by the Nooksack River and Dakota Creek (inclusive), as well as the Green River natural and Hamma Hamma winter-run steelhead hatchery stocks. Non-anadromous ''resident'' *O. mykiss* occur within the range of Puget Sound steelhead, but are not part of the DPS due to marked differences in physical, physiological, ecological, and behavioral characteristics (71 FR 15666, March 29, 2006).

Stream-maturing steelhead, also called summer-run steelhead, enter fresh water at an early stage of maturation, usually from May to October. These summer-run fish migrate to headwater areas and hold for several months before spawning in the spring. Ocean-maturing steelhead, also called winter-run steelhead, enter fresh water from December to April at an advanced stage of maturation and spawn from March through June (Hard *et al.,* 2007). While there is some temporal overlap in spawn timing between these forms, in basins where both winter- and summer-run steelhead are present, summer-run steelhead spawn farther upstream, often above a partially impassable barrier. In many cases it appears that the summer migration timing evolved to access areas above falls or cascades that present velocity barriers to migration during high winter flow months, but are passable during low summer flows. Winter-run steelhead are predominant in Puget Sound, in part because there are relatively few basins in the Puget Sound DPS with the geomorphological and hydrological characteristics necessary to establish the summer-run life history. Summer-run steelhead stocks within this DPS are all small and occupy limited habitat.

Steelhead eggs incubate from one to four months (depending on water temperature) before hatching, generally between February and June. After emerging from the gravel, fry commonly occupy the margins of streams and side channels, seeking cover to make them less vulnerable to predation (WDFW, 2008). Juvenile steelhead forage for one to four years before emigrating to sea as smolts. Smoltification and seaward migration occur principally from April to mid-May. The nearshore migration pattern of Puget Sound steelhead is not well understood, but it is generally thought that smolts move quickly offshore, bypassing the extended estuary transition stage which many other salmonids need (Hartt and Dell, 1986).

Steelhead oceanic migration patterns are also poorly understood. Evidence from tagging and genetic studies indicates that Puget Sound steelhead travel to the central North Pacific Ocean (French *et al.,* 1975; Hartt and Dell, 1986; Burgner *et al.,* 1992). Puget Sound steelhead feed in the ocean for one to three years before returning to their natal stream to spawn. They typically spend two years in the ocean, although, notably, Deer Creek summer-run steelhead spend only a single year in the ocean before spawning. In contrast with other species of Pacific salmonids, steelhead are iteroparous, capable of repeat spawning. While winter steelhead spawn shortly after returning to fresh water, adult summer steelhead rely on ''holding habitat''—typically

cool, deep pools—for up to 10 months prior to spawning (WDFW, 2008). Adults tend to spawn in moderate to high-gradient sections of streams. In contrast to semelparous Pacific salmon, steelhead females do not guard their redds, or nests, but return to the ocean following spawning (Burgner *et al.,* 1992). Spawned-out fish that return to the sea are referred to as ''kelts.''

The Puget Sound steelhead DPS includes more than 50 stocks of summer- and winter-run fish (WDFW, 2002). Hatchery steelhead production in Puget Sound is widespread and focused primarily on the propagation of winter-run fish derived from a stock of domesticated, mixed-origin steelhead (the Chambers Creek Hatchery stock) originally native to a small Puget Sound stream that is now extirpated from the wild. Hatchery summer-run steelhead are also produced in Puget Sound; these fish are derived from the Skamania River in the Columbia River Basin.

Habitat utilization by steelhead in the Puget Sound area has been dramatically affected by large dams and other manmade barriers in a number of drainages, including the Nooksack, Skagit, White, Nisqually, Skokomish, and Elwha river basins. In addition to limiting habitat accessibility, dams affect habitat quality through changes in river hydrology, altered temperature profile, reduced downstream gravel recruitment, and the reduced recruitment of large woody debris. Such changes can have significant negative impacts on salmonids (e.g., increased water temperatures resulting in decreased disease resistance) (Spence *et al.,* 1996; McCullough, 1999).

Many upper tributaries in the Puget Sound region have been affected by poor forestry practices, while many of the lower reaches of rivers and their tributaries have been altered by agriculture and urban development. Urbanization has caused direct loss of riparian vegetation and soils, significantly altered hydrologic and erosional rates and processes (e.g., by creating impermeable surfaces such as roads, buildings, parking lots, sidewalks etc.), and polluted waterways with stormwater and point-source discharges. The loss of wetland and riparian habitat has dramatically changed the hydrology of many streams, with increases in flood frequency and peak low during storm events and decreases in groundwater driven summer flows (Moscrip and Montgomery, 1997; Booth *et al.,* 2002; May *et al.,* 2003). River braiding and sinuosity have been reduced through the construction of dikes, hardening of banks with riprap, and channelization of the mainstem. Constriction of river flows, particularly during high flow events, increases the likelihood of gravel scour and the dislocation of rearing juveniles. The loss of side-channel habitats has also reduced important areas for spawning, juvenile rearing, and overwintering habitats. Estuarine areas have been dredged and filled, resulting in the loss of important juvenile rearing areas. In addition to being a factor that contributed to the present decline of Puget Sound steelhead populations, the continued destruction and modification of steelhead habitat is the principal factor limiting the viability of the Puget Sound steelhead DPS into the foreseeable future. Because of their limited distribution in upper tributaries, summer-run steelhead may be at higher risk than winter-run steelhead from habitat degradation in larger, more complex watersheds.

Recovery planning in Puget Sound is proceeding as a collaborative effort between NMFS and numerous tribal, state, and local governments and interested stakeholders. The Puget Sound Partnership is the entity responsible for working with NMFS to recover the listed Puget Sound Chinook salmon DPS. The Hood Canal Coordinating Council is the regional board implementing the recovery plan for the Hood Canal summer chum salmon DPS. There is a good deal of overlap between the geographical area occupied by Puget Sound steelhead and these two salmon DPSs, both of which had critical habitat designated on September 2, 2005 (70 FR 52630). A Technical Recovery Team was convened in 2008 to identify the historically independent spawning populations of steelhead within, and viability criteria for, the Puget Sound steelhead DPS. In 2011 the TRT completed an initial draft assessment (Puget Sound Steelhead Technical Recovery Team, 2011) and has begun work on viability criteria for this DPS. Upon completion of the technical work from the TRT, we will develop a recovery plan for Puget Sound steelhead and will work directly with the two regional boards to augment implementation plans to include measures to recover Puget Sound steelhead. During the critical habitat designation process for Puget Sound steelhead we will continue to review and incorporate as appropriate the information from these regional recovery plans as well as the ongoing population work by the TRT.

Critical habitat is currently designated for other salmonid DPSs that inhabit Puget Sound watersheds, including Puget Sound Chinook salmon and Hood Canal summer-run chum salmon (70 FR 52630, September 2, 2005) as well as bull trout (75 FR 63898, October 18, 2010). These existing designations have extensive overlap with areas under consideration as critical habitat for Puget Sound steelhead. In the case of ESA-listed Chinook and chum salmon, the PCEs we identified are the same as those proposed for Puget Sound steelhead (NMFS, 2012a). However, watershed conservation values for steelhead may differ due to species-specific differences in population structure and habitat utilization.

The Puget Sound Team's assessment for this DPS addressed 18 subbasins containing 66 occupied watersheds. Each of these 66 areas constituted the specific areas for the analysis of critical habitat for this species. The Team evaluated the conservation value of habitat areas on the basis of the physical and biological habitat requirements of Puget Sound steelhead, consistent with the PCEs described in the ''Primary Constituent Elements and Physical or Biological Features Essential to the Conservation of the Species'' section above. The Team also considered the conservation value of each watershed in the context of the demographically independent populations within the three ecological zones/major population groups (MPGs) (Northern Cascades, Central and South Puget Sound, and Olympic Peninsula) in Puget Sound identified by the Puget Sound TRT (2011). Summarized information is again presented below by USGS subbasin because they present a convenient and systematic way to organize the Team's watershed assessments for this DPS and their names are generally more recognizable because they typically identify major river systems. Full details are in the biological report supporting this proposed designation (NMFS, 2012a).

Strait of Georgia Subbasin—This subbasin contains three watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 428 mi^2 (1,109 km^2). Fish distribution and habitat use data from WDFW (2010) and the Northwest Indian Fisheries Commission (NWIFC) (2011) identify approximately 118 miles (190 km) of occupied riverine habitat in the watersheds. Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Northern Cascades) containing two winter-run populations (Drayton Harbor Tributaries and Samish River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel

modifications/diking, forestry, irrigation impoundments and withdrawals, forestry, and urbanization (NMFS, 2012a). The Team also determined that all of the occupied watersheds in this subbasin were of medium conservation value to the DPS.

Nooksack Subbasin—This subbasin contains five watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 795 mi^2 (2,059 km^2). Fish distribution and habitat use data identify approximately 324 miles (521 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Northern Cascades) containing one winter-run population (Nooksack River) and one summer-run population (South Fork Nooksack River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, irrigation impoundments and withdrawals, and road building/maintenance (NMFS, 2012a). Of the five watersheds reviewed, three were rated as having high conservation value and two were rated as having medium conservation value to the DPS.

Upper Skagit Subbasin—This subbasin contains five watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 999 mi^2 (2,587 km^2). Fish distribution and habitat use data identify approximately 167 miles (269 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Northern Cascades) containing two winter-run populations (Baker River and Skagit River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including, dams, forestry, and road building/maintenance (NMFS, 2012a). Of the five watersheds reviewed, four were rated as having high conservation value and one was rated as having medium conservation value to the DPS.

Sauk Subbasin—This subbasin contains four watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 741 mi^2 (1,919 km^2). Fish distribution and habitat use data identify approximately 156 miles (251 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Northern Cascades) containing one winter-run population (Sauk River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and management activities that may affect the PCEs, including forestry and road building/maintenance (NMFS, 2012a). Of the four watersheds reviewed, three were rated as having high conservation value and one was rated as having medium conservation value to the DPS.

Lower Skagit Subbasin—This subbasin contains two watersheds, both of which are occupied by this DPS. Occupied watersheds encompass approximately 447 mi^2 (1,158 km^2). Fish distribution and habitat use data identify approximately 210 miles (338 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Northern Cascades) containing four winter-run populations (Baker River, Nookachamps Creek, Sauk River, and Skagit River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including, agriculture, channel modifications/diking, forestry, wetland loss/removal, and urbanization (NMFS, 2012a). The Team also determined that both of the occupied watersheds in this subbasin were of high conservation value to the DPS.

Stillaguamish Subbasin—This subbasin contains three watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 704 mi^2 (1.823 km^2). Fish distribution and habitat use data identify approximately 351 miles (465 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Northern Cascades) containing two summer-run populations (Deer Creek and Canyon Creek) and one winter-run population (Stillaguamish River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including, forestry, wetland loss/removal, and urbanization (NMFS, 2012a). The Team also determined that all of the occupied watersheds in this subbasin were of high conservation value to the DPS.

Skykomish Subbasin—This subbasin contains five watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 853 mi^2 (2,209 km^2). Fish distribution and habitat use data identify approximately 230 miles (370 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Northern Cascades) containing one summer-run population (North Fork Skykomish River) and one winter-run population (Snohomish/Skykomish River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including, agriculture, dams, forestry, road building/maintenance, and urbanization (NMFS 2012a). Of the five watersheds reviewed, three were rated as having high conservation value and two were rated as having medium conservation value to the DPS.

Snoqualmie Subbasin—This subbasin contains two watersheds, both of which are occupied by this DPS. Occupied watersheds encompass approximately 504 mi^2 (1,305 km^2). Fish distribution and habitat use data identify approximately 199 miles (320 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Northern Cascades) containing one summer-run population (Tolt River) and one winter-run population (Snoqualmie River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture and forestry (NMFS, 2012a). The Team also determined that both of the occupied watersheds in this subbasin were of high conservation value to the DPS.

Snohomish Subbasin—This subbasin contains two watersheds, both of which are occupied by this DPS. Occupied watersheds encompass approximately 278 mi^2 (720 km^2). Fish distribution and habitat use data identify approximately 215 miles (557 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Northern Cascades) containing two summer-run populations (North Fork Skykomish River and Tolt River) and

three winter-run populations (Pilchuck River, Snohomish/Skykomish River, and Snoqualmie River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, dams, forestry, urbanization, and sand/gravel mining (NMFS, 2012a). The Team also determined that both of the occupied watersheds in this subbasin were of high conservation value to the DPS.

Lake Washington Subbasin—This subbasin contains four watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 619 mi² (1,603 km²). Fish distribution and habitat use data identify approximately 202 miles (325 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Central and South Puget Sound) containing two winter-run populations (Cedar River and Lake Washington Tributaries) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including, channel modifications/diking, dams, road building/maintenance, forestry, and urbanization (NMFS, 2012a). Of the four watersheds reviewed, one was rated as having medium conservation value and three were rated as having low conservation value to the DPS.

Duwamish Subbasin—This subbasin contains three watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 487 mi² (1,261 km²). Fish distribution and habitat use data identify approximately 178 miles (286 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Central and South Puget Sound) containing one winter-run population (Green River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, dams, irrigation impoundments/withdrawals, and urbanization (NMFS, 2012a). The Team also determined that all of the occupied watersheds in this subbasin were of high conservation value to the DPS.

Puyallup Subbasin—This subbasin contains five watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 996 mi² (2,580 km²). Fish distribution and habitat use data identify approximately 272 miles (438 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Central and South Puget Sound) containing two winter-run populations (Puyallup River/Carbon River and White River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, dams, irrigation impoundments/withdrawals, and urbanization (NMFS, 2012a). The Team also determined that all of the occupied watersheds in this subbasin were of high conservation value to the DPS.

Nisqually Subbasin—This subbasin contains two watersheds, both of which are occupied by this DPS. Occupied watersheds encompass approximately 472 mi² (1,222 km²). Fish distribution and habitat use data identify approximately 161 miles (259 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Central and South Puget Sound) containing one winter-run population (Nisqually River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, dams, and urbanization (NMFS, 2012a). The Team also determined that both of the occupied watersheds in this subbasin were of high conservation value to the DPS.

Deschutes Subbasin—This subbasin contains two watersheds, both of which are occupied by this DPS. Occupied watersheds encompass approximately 168 mi² (435 km²). Fish distribution and habitat use data identify approximately 63 miles (101 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Central and South Puget Sound) in this subbasin. The Puget Sound TRT did not identify a demographically independent population of steelhead in this subbasin and noted that the Deschutes River was historically impassable to anadromous fish at Tumwater Falls. Winter steelhead were introduced into the Deschutes River when a fish ladder was installed at Tumwater Falls in 1954, but it is unclear if a naturally self-sustaining population exists (WDFW, 2008). Despite these uncertainties, the Team noted that steelhead spawning in this watershed would likely be considered part of the listed DPS. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, forestry, and grazing (NMFS, 2012a). The Team also determined that both of the occupied watersheds in this subbasin were of low conservation value to the DPS.

Skokomish Subbasin—This subbasin consists of one watershed occupied by this DPS, encompassing approximately 248 mi² (642 km²). Fish distribution and habitat use data identify approximately 86 miles (138 km) of occupied riverine habitat in the watershed (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Olympic Peninsula) containing one winter-run population (Skokomish River) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including channel modifications/diking, dams, forestry, and urbanization (NMFS, 2012a). The Team also determined that the single occupied watershed in this subbasin was of high conservation value to the DPS.

Hood Canal Subbasin—This subbasin contains seven watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 605 mi² (1,567 km²). Fish distribution and habitat use data identify approximately 153 miles (246 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Olympic Peninsula) containing three winter-run populations (East, West, and South Hood Canal Tributaries) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, road building/maintenance, and urbanization (NMFS, 2012a). Of the seven watersheds reviewed, four were rated as having

high conservation value and three were rated as having medium conservation value to the DPS.

Kitsap Subbasin—This subbasin contains six watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 1,087 mi^2 (2,815 km^2). Fish distribution and habitat use data identify approximately 260 miles (418 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified two ecological zones/MPGs (Olympic Peninsula and South Central Cascades) containing three winter-run populations (Strait of Juan de Fuca Lowland Tributaries, East Kitsap Peninsula Tributaries, and South Sound Tributaries) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, forestry, grazing, and urbanization (NMFS, 2012a). Of the six watersheds reviewed, four were rated as having low conservation value and two were rated as having medium conservation value to the DPS.

Dungeness/Elwha Subbasin—This subbasin contains five watersheds, all of which are occupied by this DPS. Occupied watersheds encompass approximately 828 mi^2 (2,145 km^2). Fish distribution and habitat use data identify approximately 144 miles (232 km) of occupied riverine habitat in the watersheds (WDFW, 2010; NWIFC, 2011). Preliminary analyses by the Puget Sound TRT (2011) have identified one ecological zone/MPG (Olympic Peninsula) containing four winter-run populations (Dungeness River, Elwha River, Strait of Juan de Fuca Lowland Tributaries, and Strait of Juan de Fuca Independent Tributaries) in this subbasin. The Team concluded that all occupied areas contain spawning, rearing, or migration PCEs for this DPS and identified several management activities that may affect the PCEs, including agriculture, channel modifications/diking, dams, forestry, irrigation impoundments/withdrawals, road building/maintenance, and urbanization (NMFS, 2012a). Of the five watersheds reviewed, four were rated as having high conservation value and one was rated as having medium conservation value to the DPS.

Unoccupied Areas—The Team also considered whether blocked historical habitat above Elwha Dam and Glines Canyon Dam (on the Elwha River) may be essential for conservation of the DPS. The decommissioning of these dams began in 2011 and will allow steelhead and other salmonids access to at least 45 miles (72 km) of habitat in the basin upstream (WDFW, 2011; Olympic National Park, 2012). The Team determined that stream reaches above both dams are essential for conservation of the DPS, noting the significant amount of additional spawning habitat available relative to other much smaller streams in the Strait of Juan de Fuca, as well as the high likelihood that these habitats will likely be able to support both summer- and winter-run life forms of steelhead. We seek comments and information specific to this unoccupied area and our conclusion that it is essential to the conservation of Puget Sound steelhead.

Nearshore Marine Areas of Puget Sound—Unlike most other Pacific salmonids, steelhead appear to make only ephemeral use of nearshore marine waters. The species' lengthy freshwater rearing period results in large smolts that are prepared to move rapidly through estuaries and nearshore waters to forage on larger prey in offshore marine areas (Quinn, 2005; Welch, 2010). Although data specific to Puget Sound are limited, recent studies of steelhead migratory behavior strongly suggest that juveniles spend little time (a matter of hours in some cases) in estuarine and nearshore areas and do not favor migration along shorelines (Moore *et al.,* 2010a, Moore *et al.,* 2010b; Romer, 2010). In contrast, stream-type Puget Sound Chinook and Hood Canal summer-run chum salmon are known to make extensive use of nearshore areas in Puget Sound, spending from several days to several months in and adjacent to natal estuaries (WDFW and Point No Point Treaty Tribes, 2000; Redman *et al.,* 2005; Fresh, 2006). That well-documented behavior led us to designate specific nearshore areas as critical habitat for those two species (70 FR 52630, September 2, 2005). The data for steelhead, however, suggest the opposite conclusion.

Anecdotal reports suggest that juvenile steelhead may travel short distances in nearshore areas as they move between adjacent river mouths. There are similar reports of limited nearshore use by precocious steelhead (i.e., fish that are reproductively mature but have not reached their typical adult age and size). Although such behaviors could be important life history strategies for steelhead, it is uncertain whether and where such behaviors occur in Puget Sound. Therefore, given the best available information, we conclude that there are not specific nearshore areas within the geographical area occupied by Puget Sound steelhead on which are found those physical or biological features essential to their conservation. We request comments and information regarding this conclusion.

Application of ESA Section 4(b)(2)

The foregoing discussion describes those areas that are eligible for designation as critical habitat—the specific areas that fall within the ESA section 3(5)(A) definition of critical habitat, not including lands owned or controlled by the Department of Defense, or designated for its use, that are covered by an INRMP that we have determined in writing provides a benefit to the species. Specific areas eligible for designation are not automatically designated as critical habitat. Section 4(b)(2) of the ESA requires that the Secretary consider the economic impact, impact on national security, and any other relevant impact of designating those areas. The Secretary has the discretion to exclude a ''particular area'' from designation if he determines the benefits of exclusion (that is, avoiding the impact that would result from designation), outweigh the benefits of designation. The Secretary may not exclude an area from designation if, based on the best available scientific and commercial information, exclusion will result in the extinction of the species. Because the authority to exclude is ''wholly'' discretionary, exclusion is not required for any areas.

The first step in conducting an ESA section 4(b)(2) analysis is to identify the ''particular areas'' to be analyzed. Section 3(5) of the ESA defines critical habitat as ''specific areas,'' while section 4(b)(2) requires the agency to consider certain factors before designating any ''particular area.'' Depending on the biology of the species, the characteristics of its habitat, and the nature of the impacts of designation, ''specific'' areas might be different from, or the same as, ''particular'' areas. For lower Columbia River coho and Puget Sound steelhead, we analyzed two types of ''particular'' areas. Where we considered economic impacts, and weighed the economic benefits of exclusion against the conservation benefits of designation, we used the same biologically based ''specific'' areas we had identified under section 3(5)(A), the HUC5 watershed. This worked well because upslope and upstream activities in a watershed can affect the stream within the watershed (see the draft Economic Analysis Report (NMFS 2012b) for definition of the HUC5s and more information). This approach allowed us to most effectively consider the conservation value of the different

areas when balancing conservation benefits of designation against economic benefits of exclusion. Where we considered impacts on Indian lands and lands subject to a habitat conservation plan (HCP), however, we instead used a delineation of ''particular'' areas based on ownership or control of the area. Specifically, these particular areas consisted of occupied freshwater and estuarine areas that overlap with Indian and HCP lands. This approach allowed us to consider impacts and benefits associated with land ownership and management by Indian tribes and HCP partners.

The use of two different types of areas required us to account for overlapping boundaries (that is, ownership may span many watersheds and watersheds may have mixed ownership). The order in which we conducted the 4(b)(2) balancing became important because of this overlap. To ensure we were not double-counting the benefits of exclusion, we first considered exclusion of particular areas based on land ownership and determined which areas to recommend for exclusion. We then considered economic exclusion of particular areas based on watersheds, with the economic impact for each watershed adjusted based on whether a given type of ownership had already been recommended for exclusion.

Benefits of Designation

The primary benefit of designation is the protection afforded under the ESA section 7 requirement that all Federal agencies ensure their actions are not likely to destroy or adversely modify designated critical habitat. This type of benefit is sometimes referred to as an incremental benefit because the protections afforded to the species from critical habitat designation are in addition to the requirement that all Federal agencies ensure their actions are not likely to jeopardize the continued existence of the species. In addition, the designation may enhance the conservation of habitat by informing the public about areas and features important to species conservation, which may help focus and contribute to conservation efforts for salmon and steelhead and their habitats.

With sufficient information, it may be possible to monetize these benefits of designation by first quantifying the benefits expected from an ESA section 7 consultation and translating that into dollars. We are not aware, however, of any available data to monetize the benefits of designation (e.g., estimates of the monetary value of the physical and biological features within specific areas that meet the definition of critical habitat, or of the monetary value of general benefits such as education and outreach). In an alternative approach that we have commonly used in the past (70 FR 52630, September 2, 2005), we qualitatively assessed the benefit of designation for each of the specific areas identified as meeting the definition of critical habitat for each DPS. Our qualitative consideration began with an evaluation of the conservation value of each area. We considered a number of factors to determine the conservation value of an area, including the quantity and quality of physical or biological features, the relationship of the area to other areas within the DPS, and the significance to the DPS of the population occupying that area.

There are many Federal activities that occur within the specific areas that could impact the conservation value of these areas. Regardless of designation, Federal agencies are required under Section 7 of the ESA to ensure these activities are not likely to jeopardize the continued existence of lower Columbia River coho and Puget Sound steelhead. If the specific areas are designated as critical habitat, Federal agencies will additionally be required to ensure their actions are not likely to adversely modify the critical habitat. We grouped the potential Federal activities that would be subject to this additional protection into several broad categories: water supply, in-stream work, development, Federal lands management, transportation, utilities, mining, and hydropower.

The benefit of designating a particular area depends upon the likelihood of a section 7 consultation occurring in that area and the degree to which a consultation would yield conservation benefits for the species. Based on past consultations for listed salmon and steelhead in this region, we estimated that a total of 55 actions would require section 7 consultation annually for lower Columbia River coho within the particular areas being considered for designation (NMFS, 2012b). For Puget Sound steelhead, we estimated that a total of 117 actions would require section 7 consultation annually within the particular areas being considered for designation (NMFS, 2012b). The most common activity types subject to consultation in the range of each DPS would be in-stream work and transportation projects, accounting for approximately 80 percent of estimated actions (a complete list of the estimated annual actions, allocated by particular area, is included in the Draft Economic Analysis [NMFS, 2012b]). These activities have the potential to adversely affect water quality and substrate composition and quality for salmon and steelhead. Consultation would yield conservation benefits for the species by preventing or ameliorating such habitat effects.

Impacts of Designation

Section 4(b)(2) of the ESA provides that the Secretary shall consider ''the economic impact, impact on national security, and any other relevant impact of specifying any particular area as critical habitat.'' The primary impact of a critical habitat designation stems from the requirement under section 7(a)(2) of the ESA that Federal agencies ensure their actions are not likely to result in the destruction or adverse modification of critical habitat. Determining this impact is complicated by the fact that section 7(a)(2) contains the overlapping requirement that Federal agencies must ensure their actions are not likely to jeopardize the species' continued existence. The true impact of designation is the extent to which Federal agencies modify their actions to ensure their actions are not likely to destroy or adversely modify the critical habitat of the species, beyond any modifications they would make because of listing and the jeopardy requirement. Additional impacts of designation include state and local protections that may be triggered as a result of the designation. In addition, if the area proposed for designation overlaps an area already designated as critical habitat for another species, the true impact of designation is the modification Federal agencies would make beyond any modification they would make to avoid adversely modifying the already-designated critical habitat.

In determining the impacts of designation, we predicted the incremental change in Federal agency actions as a result of critical habitat designation and the adverse modification prohibition, beyond the changes predicted to occur as a result of listing and the jeopardy provision. In August 2012 we and the U.S. Fish and Wildlife Service published a proposed rule to amend our joint regulations at 50 CFR 424.19 to clarify that in considering impacts of designation as required by Section 4(b)(2), we would consider the incremental impacts (77 FR 51503, August 24, 2012). This approach is in contrast to our 2005 critical habitat designations for salmon and steelhead (70 FR 52630, September 2, 2005) and for Southern Resident killer whales (71 FR 69054, November 29, 2006), where we considered the ''coextensive'' impact of designation. The consideration of co-extensive impacts was in accordance

with a Tenth Circuit Court decision (*New Mexico Cattle Growers Association* v. *U.S. Fish and Wildlife Service,* 248 F.3d 1277 (10th Cir. 2001)). More recently, several courts (including the 9th Circuit Court of Appeals) have approved an approach that considers the incremental impact of designation. The Federal Register Notice announcing the proposed policy on considering impacts of designation (77 FR 51503, August 24, 2012) describes and discusses these court cases (*Arizona Cattlegrowers' Ass'n* v. *Salazar,* 606 F3d 1160, 1172–74 (9th Cir. 2010), cert. denied, 131 S.Ct. 1471, 179 L. Ed. 2d 300 (2011); *Homebuilders Ass'n* v. *FWS,* 616 F3d 983 (9th Cir. 2010) cert. denied, 131 S. Ct. 1475, 179 L. Ed. 2d 301 (2011); M–3706 The Secretary's Authority to Exclude Areas from Critical Habitat Designation Under 4(b)(2) of the Endangered Species Act (October 3, 2008) (DOI 2008)). In more recent critical habitat designations, both NMFS and the U.S. Fish and Wildlife Service have considered the incremental impact of critical habitat designation (for example, NMFS' designation of critical habitat for the Southern DPS of green sturgeon (74 FR 52300, October 9, 2009) and the Southern DPS of Pacific eulachon (76 FR 65324, October 20, 2011), and the U.S. Fish and Wildlife's designation of critical habitat for the Oregon chub (75 FR 11031, March 10, 2010)). Consistent with our proposed regulatory amendments, the more recent court cases, and more recent agency practice, we estimated the incremental impacts of designation, beyond the impacts that would result from the listing and jeopardy provision. In addition, because these proposed designations almost completely overlap our previous salmonid critical habitat designations, and the essential features are the same, we estimated only the incremental impacts of designation beyond the impacts already imposed by those prior designations.

To determine the impact of designation, we examined what the state of the world would be with the designation of critical habitat for the lower Columbia River coho and Puget Sound steelhead DPSs and compared it to the state of the world without the designations. The ''without critical habitat'' scenario represents the baseline for the analysis. It includes process requirements and habitat protections already afforded these DPSs under their Federal listing or under other Federal, state, and local regulations. Such regulations include protections afforded to habitat supporting these two DPSs from other co-occurring ESA listings and critical habitat designations, in particular listings/designations for West Coast salmon and steelhead (70 FR 52630, September 2, 2005). In the case of lower Columbia River coho, the proposed designation overlaps with existing designations for lower Columbia River steelhead and Chinook, and Columbia River chum, as well as several DPSs that spawn upstream in the middle and upper Columbia and Snake Rivers. In the case of Puget Sound steelhead, the proposed designation overlaps with existing designations for Puget Sound Chinook and Hood Canal summer-run chum. The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for lower Columbia River coho and Puget Sound steelhead. The primary impacts of critical habitat designation we found were: (1) The costs associated with additional administrative effort of including a critical habitat analysis in section 7 consultations for these two DPSs; (2) project modifications required solely to avoid destruction or adverse modification of their critical habitat; (3) potential impacts on national security if particular areas were designated critical habitat for Puget Sound steelhead; and (4) the possible harm to our working relationship with Indian tribes and some HCP landowners. There are no military areas eligible for designation that overlap with critical habitat areas, so we did not consider impacts to national security. Because we have chosen to balance benefits and consider exclusions, we consider these impacts in more detail below in the section devoted to each type of impact.

Economic Impacts

Our economic analysis sought to determine the impacts on land uses and activities from the proposed designation of critical habitat that are above and beyond—or incremental to—those ''baseline'' impacts due to existing or planned conservation efforts being undertaken due to other Federal, State, and local regulations or guidelines (NMFS, 2012b). Other Federal agencies, as well as State and local governments, may also seek to protect the natural resources under their jurisdiction. If compliance with the Clean Water Act or State environmental quality laws, for example, protects habitat for the species, such protective efforts are considered to be baseline protections and costs associated with these efforts are not quantified as impacts of critical habitat designation.

When critical habitat is designated, section 7 of the ESA requires Federal agencies to ensure that their actions will not result in the destruction or adverse modification of critical habitat (in addition to ensuring that the actions are not likely to jeopardize the continued existence of the species). The added administrative costs of considering critical habitat in section 7 consultations and the additional impacts of implementing project modifications to protect critical habitat are the direct result of the designation of critical habitat. These costs are not in the baseline, and are considered incremental impacts of the rulemaking.

Incremental impacts may also include the direct costs associated with additional effort for future consultations, reinitiated consultations, new consultations occurring specifically because of the designation, and additional project modifications that would not have been required to avoid jeopardizing the continued existence of the species. Additionally, incremental impacts may include indirect impacts resulting from reaction to the potential designation of critical habitat (e.g., developing ESA habitat conservation plans (HCPs) in an effort to avoid designation of critical habitat), triggering of additional requirements under State or local laws intended to protect sensitive habitat, and uncertainty and perceptional effects on markets.

To evaluate the economic impact of critical habitat we first examined our ESA section 7 consultation record for West Coast salmon and steelhead. That voluminous record includes consultations on habitat-modifying Federal actions both where critical habitat has been designated and where it has not. As further explained in the supporting economic report (NMFS, 2012b), to quantify the economic impact of designation, we employed the following three steps:

(1) Define the geographic study area for the analysis, and identify the units of analysis (the ''particular areas''). In this case, we defined HUC5 watersheds that encompass occupied stream reaches as the study area.

(2) Identify potentially affected economic activities and determine how management costs may increase due to the designation of critical habitat for lower Columbia River coho and Puget Sound steelhead, both in terms of project administration and project modification.

(3) Estimate the economic impacts associated with these changes in management.

We estimated a total annualized incremental cost of approximately $357,815 for designating all specific

areas as critical habitat for lower Columbia River coho. The greatest costs are associated with transportation, water supply, and in-stream work activities (see NMFS, 2012b). The Columbia Slough/Willamette River HUC5 watershed had the largest estimated annual impacts ($54,000) while the Jackson Prairie HUC5 watershed had the lowest, with zero estimated annual impacts (NMFS, 2012b).

For Puget Sound steelhead, we estimated a total annualized incremental administrative cost of approximately $460,924 for designating all specific areas as critical habitat. The greatest costs are associated with transportation and in-stream work activities (see NMFS, 2012b). Several watersheds located throughout the range of the DPS had zero estimated annual impacts, while the Lake Washington HUC5 watershed had the largest estimated annual impacts ($103,000) (NMFS, 2012b).

In weighing economic impacts, we followed the policy direction in Executive Order 12866 to ''maximize net benefits'' and seek to achieve regulatory objectives in ''the most cost effective manner.'' Consistent with our past practice for salmon and steelhead critical habitat designations, we took into consideration a cost-effectiveness approach giving priority to excluding habitat areas with a relatively lower benefit of designation and a relatively higher economic impact. The circumstances of these and other listed salmon and steelhead DPSs can make a cost-effectiveness approach useful because different areas have different conservation value relative to one another. Pacific salmon and steelhead are wide-ranging species and occupy numerous habitat areas with thousands of stream miles. Not all occupied areas are of equal importance to conserving a DPS. Within the currently occupied range there are areas that historically were more or less productive, that are currently more or less degraded, or that support populations that are more or less central to conservation of the DPS as a whole. As a result, in many cases it may be possible to construct a designation scenario in which conservation of the DPS as a whole will be possible even if the entire area meeting the definition of critical habitat is not designated. This creates the potential to consider exclusions where conservation values are relatively low and economic impacts are relatively high. This is the same approach we took in our 2005 salmonid critical habitat designations (70 FR 52630, September 2, 2005) and green sturgeon critical habitat designation (74 FR 52300, October 9, 2009).

In seeking a cost-effective designation that would minimize economic impacts, we also heeded the policy direction to conserve salmon and steelhead habitat described above. In accordance with the policy direction to conserve salmon and steelhead habitat, we do not propose to exclude any habitat areas based on economic impacts if exclusion would ''significantly impede conservation.'' We adopted this test because habitat loss and degradation are leading factors for the decline of both DPSs (70 FR 37160, June 28, 2005; 72 FR 26722, May 11, 2007), and habitat protection and restoration have been identified as key actions in Lower Columbia River and Puget Sound recovery plans and assessments (Puget Sound Salmon Recovery Plan, 2009; Judge, 2011; NMFS, 2012d). Consistent with this test, we did not consider any areas for an economic exclusion that we had identified as having a high conservation value. We gave greater weight to the benefit of designating these high value areas than to the benefit of avoiding economic impacts because of the historic loss and degradation of habitat, the ongoing threats to habitat, and the importance of habitat protection and restoration in recovering the DPSs. The approach taken here is the same approach we took in our 2005 salmon and steelhead critical habitat designations (70 FR 52630, September 2, 2005) and green sturgeon critical habitat designation (74 FR 52300, October 9, 2009). Also consistent with this test, we do not propose to exclude any medium or low quality habitat areas if we concluded that their exclusion would significantly impede conservation, as described further below.

In the first step of balancing economic benefits, we identified for potential exclusion the low value habitat areas with an annual economic impact greater than or equal to $10,000 and the medium value habitat areas with an annual economic impact greater than or equal to $100,000. These dollar thresholds are substantially lower than the thresholds we used in our 2005 designations because here we have used the incremental impact of designation, while in the 2005 rule we used the co-extensive impact of designation. (Our 2005 rule explains in greater detail how and why we relied on co-extensive impacts [see 70 FR 52630, September 2, 2005 and NMFS, 2005].) As with the 2005 designations, the thresholds we selected for identifying habitat areas eligible for exclusion do not represent an objective judgment that, for example, a low value area is worth a certain dollar amount and no more. The statute directs us to balance dissimilar values but also emphasizes the discretionary nature of the balancing task. The cost estimates developed by our economic analysis do not have obvious break points that would lead to a logical division between ''high,'' ''medium,'' and ''low'' costs. Given these factors, a judgment that any particular dollar threshold is objectively ''right,'' would be neither necessary nor possible. Rather, what economic impact is ''high'' and, therefore, might outweigh the benefit of designating a medium or low value habitat area is a matter of discretion and depends on the policy context.

In the second step of the process, we asked the Teams whether exclusion of any of the low- or medium-value habitat areas would significantly impede conservation of the DPS. The Teams considered this question in the context of: (1) The Indian lands and HCP lands they assumed would be excluded based on ''other relevant impacts'' (exclusions discussed later in this report); (2) all of the areas eligible for economic exclusion; and (3) the information they had developed in providing the initial conservation ratings. The Critical Habitat Designations section below describes the results of applying the two-step process to each DPS. The results are discussed in greater detail in a separate report that is available for public review and comment (NMFS, 2012c).

Other Relevant Impacts—Impacts to Tribal Sovereignty and Self-Governance

Much of the benefit of designating critical habitat on Indian lands is the same as designating critical habitat on other lands. In an ESA section 7 consultation, Federal agencies must ensure their actions do not destroy or adversely modify the designated critical habitat, in addition to ensuring their actions do not jeopardize the continued existence of the species. There is a broad array of activities on Indian lands that may trigger section 7 consultations. The other benefit is the notice that designation gives that an area is important to conservation of the species. Both of these benefits may be diminished by the fact that tribes are actively working to address the habitat needs of the species on their lands as well as in the larger ecosystem, and are fully aware of the conservation value of their lands. (This is documented in correspondence from the tribes, several in response to the agency's ANPR (76 FR 1392, January 10, 2011)).

Indian lands potentially affected by a critical habitat designation only occur

within the range of the Puget Sound steelhead DPS, and they comprise only a minor portion (approximately 2 percent) of the total habitat under consideration for designation (NMFS, 2012c). This percentage is likely an overestimate as it includes all habitat area within reservation boundaries. In many cases, a considerable portion of the land within the reservation boundaries is no longer held in trust for the tribe or in fee status by individual tribal members.

The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes with respect to Indian lands, tribal trust resources, and the exercise of tribal rights (e.g., Executive Order 13175 and Secretarial Order 3206). Pursuant to these federal policies and authorities lands have been retained by Indian Tribes or have been set aside for tribal use. These lands are managed by Indian Tribes in accordance with tribal goals and objectives within the framework of applicable treaties and laws.

In addition to the distinctive trust relationship, for Pacific salmonids in the Northwest, there is a unique partnership between the Federal government and Indian tribes regarding salmonid management. Northwest Indian tribes are regarded as ''co-managers'' of the salmonid resource, along with Federal and state managers. This co-management relationship evolved as a result of numerous court decisions clarifying the tribes' treaty right to take fish in their usual and accustomed places. The tribes have stated in letters and meetings that designation of Indian lands as critical habitat will undermine long-term working relationships and reduce the capacity of tribes to participate at current levels in the many and varied forums addressing ecosystem management and conservation of fisheries resources. In the decision *Center for Biological Diversity* v. *Norton,* 240 F. Supp. 2d 1090 (D. Ariz. 2003), the court held that a positive working relationship with Indian tribes is a relevant impact that can be considered when weighing the relative benefits of a critical habitat.

The current co-manager process addressing activities on an ecosystem-wide basis throughout the Northwest is beneficial for the conservation of the salmonids. We also believe that maintaining our current co-manager relationship consistent with existing policies is an important benefit to continuing our tribal trust responsibilities and relationship. Based upon our consultation with the Tribes, we believe that designation of Indian lands as critical habitat would adversely impact our working relationship and the benefits resulting from this relationship. The benefits of excluding Indian lands from designation include: (1) Furthering established national policies, our Federal trust obligations and our deference to the tribes in management of natural resources on their lands; (2) maintaining effective long-term working relationships to promote the conservation of salmonids on an ecosystem wide basis across four states; (3) allowing continued meaningful collaboration and cooperation in scientific work to learn more about the conservation needs of the species on an ecosystem-wide basis; and (4) continued respect for tribal sovereignty over management of natural resources on Indian lands through established tribal natural resource programs.

Based upon these considerations, we have determined to exercise agency discretion under ESA section 4(b)(2) and propose to exclude Indian lands from the critical habitat designation for Puget Sound steelhead. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order, including: (1) lands held in trust by the United States for the benefit of any Indian tribe; (2) lands held in trust by the United States for any Indian Tribe or individual subject to restrictions by the United States against alienation; (3) fee lands, either within or outside the reservation boundaries, owned by the tribal government; and (4) fee lands within the reservation boundaries owned by individual Indians. These particular areas comprise only 2 percent of the total area under consideration for designation as critical habitat for Puget Sound steelhead (NMFS, 2012c).

Other Relevant Impacts—Impacts to Landowners With Contractual Commitments to Conservation

Conservation agreements with non-Federal landowners (e.g., HCPs) enhance species conservation by extending species protections beyond those available through section 7 consultations. We have encouraged non-Federal landowners to enter into conservation agreements, based on a view that we can achieve greater species' conservation on non-Federal land through such voluntary partnerships than we can through coercive methods (61 FR 63854, December 2, 1996).

Section 10(a)(1)(B) of the ESA authorizes us to issue to non-Federal entities a permit for the incidental take of endangered and threatened species. This permit allows a non-Federal landowner to proceed with an activity that is legal in all other respects, but that results in the incidental taking of a listed species (i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). The ESA specifies that an application for an incidental take permit must be accompanied by a conservation plan, and specifies the content of such a plan. The purpose of such an HCP is to describe and ensure that the effects of the permitted action on covered species are adequately minimized and mitigated, and that the action does not appreciably reduce the likelihood of the survival and recovery of the species.

In previous critical habitat designations for West Coast salmon and steelhead (70 FR 52630, September 2, 2005), we have exercised discretion to exclude some (but not all) lands covered by an HCP from designation after concluding that benefits of exclusion outweighed the benefits of designation. For lands covered by an HCP, the benefits of designation typically arise from section 7 protections as well as enhanced public awareness. The benefits of exclusion generally include relieving regulatory burdens on existing conservation partners, maintaining good working relationships with them (thus enhancing implementation of existing HCPs), and encouraging the development of new partnerships.

We contacted the HCP landowners whose lands were excluded in our 2005 designations (Washington Department of Natural Resources, Green Diamond Resources Company, and West Fork Timber Company) to discuss the critical habitat designations for lower Columbia River coho and Puget Sound steelhead. We also contacted several additional landowners whose HCPs had been authorized subsequent to our 2005 critical habitat designations (Washington Forest Practices, City of Portland-Bull Run Water Supply, City of Kent Water Supply) or were existing then but now determined to overlap with new habitat areas being considered for designation (J.L. Storedahl and Sons). All of them except one (City of Portland) requested that their lands be excluded from designation as critical habitat for these DPSs, and were of the opinion that exclusion would be a

benefit and enhance the partnership between NMFS and the HCP landowner. We also reviewed the activities covered by the HCPs, the protections afforded by the HCP agreement, and the Federal activities that are likely to occur on the affected lands (NMFS, 2012c). From this information we determined that the conservation benefits to the species from the HCPs outweigh the conservation benefits of designation and therefore are proposing to exclude HCP lands where the landowner requested exclusion.

Exclusion Will Not Result in Extinction of the Species

Section 4(b)(2) limits our discretion to exclude areas from designation if exclusion will result in extinction of the species.

Since we have not recommended excluding any habitat areas based on economic impacts if the exclusion would significantly impede conservation, we have determined for each DPS that the exclusion of the areas we recommend based on economic impacts will not result in the extinction of either DPS. All areas proposed for exclusion are of low conservation value. Moreover, they comprise a small fraction—less than 5 percent—of all habitat areas considered for designation as critical habitat for either DPS.

We also conclude that excluding Indian lands—and thereby furthering the federal government's policy of promoting respect for tribal sovereignty and self-governance—will not result in extinction of either species. Habitat on Indian lands represents a small proportion of total area occupied by the Puget Sound steelhead DPS, and the Tribes are actively engaged in fisheries, habitat management, and species recovery programs that benefit steelhead and other salmonids.

In addition, we conclude that excluding lands covered by several HCPs will not result in extinction of either species. These particular HCPs result in management actions that promote conservation of the listed species in a manner that is not available through the section 7 requirements regarding critical habitat. Excluding these HCP areas from designation is expected to enhance our relationship with the landowner and may provide an incentive to other landowners to seek conservation agreements with us. These outcomes will in turn generally benefit our recovery efforts to foster voluntary efforts on vast areas of nonfederal lands which make up a large proportion of each species' range and will play a critical role in avoiding species extinction.

In total, for Lower Columbia River coho we are proposing to designate 2,288 stream miles and exclude 1,065 stream miles, and for Puget Sound steelhead we are proposing to designate 1,880 stream miles and exclude 1,639 stream miles. For the following reasons, we conclude that these exclusions in combination will not result in the extinction of either DPS: (1) Except for exclusions due to economic impacts, there are no watersheds that are proposed for exclusion in their entirety. The most area excluded for any single watershed is the Puget Sound/East Passage watershed, with 70% proposed for exclusion due to the presence of HCPs. This area was rated as having a low conservation value; (2) although the extent of the exclusions overall is significant (nearly 50% of the critical habitat for Puget Sound steelhead and nearly 30% of the critical habitat for lower Columbia coho), and many of the areas excluded are of medium or high conservation value to the species, most of the exclusions are based on the presence of HCPs, which have a conservation benefit for the species. Also, the likely leverage to obtain significant conservation benefits from an ESA section 7 consultation is expected to be low for most areas. Because the presence of high quality forested habitat is key to salmon and steelhead recovery, the protections of the HCP, which all involve forested/riparian lands, will have significant benefits over the long term as riparian forest habitat is developed. In addition, we believe that the HCP exclusions in particular may provide an incentive to other landowners to seek conservation agreements with us; (3) the few cases where an entire watershed was proposed for exclusion (due to economic impacts) all involved habitat areas that the Teams deemed to be of low conservation value; and (4) the proposed Indian land exclusions involve stream reaches that are already managed by the tribes for salmonid conservation.

Critical Habitat Designations

In previous salmonid critical habitat designations we identified the end-point of designated stream segments using latitude and longitude coordinates and provided maps depicting the designated areas (70 FR 52630, September 2, 2005). In May of 2012, we and the USFWS amended our regulations regarding critical habitat designation (77 FR 25611, May 1, 2012). The revised regulation provides that the boundaries of critical habitat as mapped or otherwise described in the Regulation Promulgation section of a rulemaking published in the **Federal Register** will be the official delineation of the designation (50 CFR 424.12). In this proposed designation we include both the latitude-longitude coordinates and maps to make it easier to compare the areas proposed for designation with overlapping areas designated for other salmon and steelhead DPSs in 2005 (70 FR 52630, September 2, 2005).

Lower Columbia River Coho Salmon

We are proposing to designate approximately 2,288 stream miles (3,681 km) within the geographical area presently occupied by the lower Columbia River coho DPS (see Table 1). Other ESA-listed species in this area with designated critical habitat include lower Columbia River Chinook and steelhead, Columbia River chum (70 FR 52630, September 2, 2005), bull trout (75 FR 63898, October 18, 2010), green sturgeon (74 FR 52300, October 9, 2009), and the Southern DPS of Pacific eulachon (76 FR 65324, October 20, 2011). Also, the mainstem lower Columbia River is designated critical habitat for numerous other salmon and steelhead DPSs whose spawning range is upstream of the area presently occupied by lower Columbia River coho (70 FR 52630, September 2, 2005).

TABLE 1—APPROXIMATE QUANTITY OF HABITAT AND OWNERSHIP WITHIN WATERSHEDS CONTAINING HABITAT AREAS PROPOSED FOR DESIGNATION AS CRITICAL HABITAT FOR LOWER COLUMBIA RIVER COHO SALMON

Streams and lakes mi (km)	Land ownership type (percent)			
	Federal	Tribal	State	Private
2,288 (3,681)	14.6	0	2.0	83.4

The areas proposed for designation are all occupied and contain physical and biological features essential to the conservation of the species and that may require special management considerations or protection. No unoccupied areas were identified that are considered essential for the conservation of the species, but several areas above Condit Dam on the White Salmon River may warrant consideration in the future. There are 55 watersheds within the range of this DPS. Three watersheds received a low conservation value rating, 18 received a medium rating, and 34 received a high rating (NMFS 2012a). The lower Columbia River rearing/migration corridor downstream of the spawning range is considered to have a high conservation value. As a result of the balancing process for economic impacts described above, we are proposing to exclude from the designation all or portions of 28 watersheds listed in Table 2. Of the habitat areas eligible for designation, approximately 27 stream miles (43 km) or 0.8 percent are being proposed for exclusion because the economic benefits of exclusion outweigh the benefits of designation. Also, we are proposing to exclude approximately 1,038 stream miles (1,671 km) covered by four HCPs (J.L. Storedahl and Sons HCP, Washington Department of Natural Resources—West of Cascades HCP, Washington Forest Practices HCP, and West Fork Timber HCP) because the benefits of exclusion outweigh the benefits of designation. None of the HCP exclusions overlap with areas also proposed for exclusion due to economic impacts. Total potential estimated economic impact, with no exclusions, would be $357,815. The proposed economic-related exclusions identified in Table 2 would reduce the total estimated economic impact approximately 4 percent to $344,315 (NMFS, 2012b).

TABLE 2—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF LOWER COLUMBIA RIVER COHO SALMON AND PROPOSED FOR EXCLUSION FROM CRITICAL HABITAT

[WDNR = Washington Department of Natural Resources; WFP = Washington Forest Practices]

Watershed code	Watershed name	Area(s) proposed for exclusion
1707010509	Wind River	WFP HCP lands.
1707010511	Wind River	WDNR and WFP HCP lands.
1707010512	Middle Columbia/Grays Creek	WFP HCP lands.
1707010513	Middle Columbia/Eagle Creek	WFP HCP lands.
1708000106	Washougal River	WDNR and WFP HCP lands.
1708000107	Columbia River Gorge Tributaries	WDNR and WFP HCP lands.
1708000109	Salmon Creek	WDNR and WFP HCP lands.
1708000201	Upper Lewis River	WFP HCP lands.
1708000202	Muddy River	WFP HCP lands.
1708000203	Swift Reservoir	WDNR and WFP HCP lands.
1708000204	Yale Reservoir	WDNR and WFP HCP lands.
1708000205	East Fork Lewis River	WDNR, WFP, and Storedahl HCP lands.
1708000206	Lower Lewis River	WDNR and WFP HCP lands.
1708000301	Kalama River	WDNR and WFP HCP lands.
1708000304	Germany/Abernathy	WDNR and WFP HCP lands.
1708000305	Skamokawa/Elochoman	WDNR and WFP HCP lands.
1708000402	Upper Cowlitz River	WDNR and WFP HCP lands.
1708000403	Cowlitz Valley Frontal	WDNR, WFP, and WFT HCP lands.
1708000405	Lower Cispus River	WFP HCP lands.
1708000501	Tilton River	WDNR, WFP, and WFT HCP lands.
1708000502	Riffe Reservoir	WDNR and WFP HCP lands.
1708000503	Jackson Prairie	WDNR and WFP HCP lands.
1708000504	North Fork Toutle River	WDNR and WFP HCP lands.
1708000506	South Fork Toutle River	WFP HCP lands.
1708000507	East Willapa	WDNR and WFP HCP lands.
1708000508	Coweeman	WDNR and WFP HCP lands.
1708000603	Grays Bay	WDNR and WFP HCP lands.
1709000704	Abernethy Creek	Entire watershed due to economic impacts.

Puget Sound Steelhead

We are proposing to designate approximately 1,880 stream miles (3,026 km) within the geographical area presently occupied by the Puget Sound steelhead DPS (see Table 3). Other ESA-listed salmonids in this area with designated critical habitat include Puget Sound Chinook, Hood Canal summer-run chum (70 FR 52630, September 2, 2005), and bull trout (75 FR 63898, October 18, 2010).

TABLE 3—APPROXIMATE QUANTITY OF HABITAT AND OWNERSHIP WITHIN WATERSHEDS CONTAINING HABITAT AREAS PROPOSED FOR DESIGNATION AS CRITICAL HABITAT FOR PUGET SOUND STEELHEAD

Streams mi (km)	Land ownership type (percent)			
	Federal	Tribal	State	Private
1,880 (3,026)	15.5	0	3.8	80.7

Most of the areas proposed for designation are occupied and contain physical and biological features essential to the conservation of the species and that may require special management considerations or protection. One unoccupied area in the upper Elwha River watershed was identified as essential for the conservation of the species and is being proposed for designation as critical habitat. There are 66 watersheds within the range of this DPS. Nine watersheds received a low conservation value rating, 16 received a medium rating, and 41 received a high rating to the DPS (NMFS, 2012a).

Approximately 28 stream miles (45 km) are not proposed for designation because they are within lands controlled by the military that contain qualifying INRMPs. Approximately 68 miles (109 km) of stream are within the boundaries of Indian reservations, but only those reaches defined as Indian lands (see Government-to-Government Relationship With Tribes) are proposed for exclusion. Also, we are proposing to exclude approximately 1,434 miles (2,307 km) of stream covered by four HCPs (City of Kent, Green Diamond, Washington Department of Natural Resources—West of Cascades HCP, and Washington Forest Practices HCP) because the benefits of exclusion outweigh the benefits of designation. As a result of the balancing process for economic impacts described above, the Secretary is proposing to exclude from the designation all or portions of the 60 watersheds listed in Table 4. Of the habitat areas eligible for designation, approximately 138 stream miles (262 km) or 3.9 percent are being proposed for exclusion because the economic benefits of exclusion outweigh the benefits of designation. Only a small amount (24 stream miles (39 km)) proposed for exclusion due to economic impacts overlap with areas also proposed for exclusion as HCP lands or Indian lands. Total potential estimated economic impact, with no exclusions, would be $460,924. The proposed economic-related exclusions identified in Table 4 would reduce the total estimated economic impact approximately 29 percent to $326,966 (NMFS, 2012c).

TABLE 4—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF PUGET SOUND STEELHEAD AND PROPOSED FOR EXCLUSION FROM CRITICAL HABITAT

[WDNR = Washington Department of Natural Resources; WFP = Washington Forest Practices]

Watershed code	Watershed name	Area(s) proposed for exclusion
1711000201	Bellingham Bay	WDNR and WFP HCP lands.
1711000202	Samish River	WDNR and WFP HCP lands.
1711000204	Birch Bay	WFP HCP lands.
1711000401	Upper North Fork Nooksack River	WDNR and WFP HCP lands.
1711000402	Middle Fork Nooksack River	WDNR and WFP HCP lands.
1711000403	South Fork Nooksack River	Indian lands and WDNR and WFP HCP lands.
1711000404	Lower North Fork Nooksack River	Indian lands and WDNR and WFP HCP lands.
1711000405	Nooksack River	Indian lands and WDNR and WFP HCP lands.
1711000504	Skagit River/Gorge Lake	WFP HCP lands.
1711000505	Skagit River/Diobsud Creek	WDNR and WFP HCP lands.
1711000506	Cascade River	WDNR and WFP HCP lands.
1711000507	Skagit River/Illabot Creek	WDNR and WFP HCP lands.
1711000508	Baker River	WFP HCP lands.
1711000601	Upper Sauk River	WFP HCP lands.
1711000603	Lower Suiattle River	WDNR and WFP HCP lands.
1711000604	Lower Sauk River	Indian lands and WDNR and WFP HCP lands.
1711000701	Middle Skagit River/Finney Creek	WDNR and WFP HCP lands.
1711000702	Lower Skagit River/Nookachamps Creek	WDNR and WFP HCP lands.
1711000801	North Fork Stillaguamish River	WDNR and WFP HCP lands.
1711000802	South Fork Stillaguamish River	WDNR and WFP HCP lands and DOD lands.
1711000803	Lower Stillaguamish River	WDNR and WFP HCP lands.
1711000901	Tye and Beckler Rivers	WDNR and WFP HCP lands.
1711000902	Skykomish River Forks	WDNR and WFP HCP lands.
1711000903	Skykomish River/Wallace River	WDNR and WFP HCP lands.
1711000904	Sultan River	WDNR and WFP HCP lands.
1711000905	Skykomish River/Woods Creek	WDNR and WFP HCP lands.
1711001003	Middle Fork Snoqualmie River	WDNR and WFP HCP lands.
1711001004	Lower Snoqualmie River	WDNR and WFP HCP lands.
1711001101	Pilchuck River	WDNR and WFP HCP lands.
1711001102	Snohomish River	Indian lands and WDNR and WFP HCP lands.
1711001201	Cedar River	WDNR and City of Kent HCP lands.
1711001202	Lake Sammamish	Entire watershed due to economic impacts (including WDNR and WFP HCP lands).
1711001203	Lake Washington	Entire watershed due to economic impacts.
1711001204	Sammamish River	Entire watershed due to economic impacts (including WDNR and WFP HCP lands).
1711001301	Upper Green River	WFP HCP lands.
1711001302	Middle Green River	WDNR HCP lands.
1711001401	Upper White River	WDNR and WFP HCP lands.
1711001402	Lower White River	Indian lands and WFP HCP lands.
1711001403	Carbon River	WDNR and WFP HCP lands.
1711001405	Lower Puyallup River	Indian lands and WFP HCP lands.
1711001502	Mashel/Ohop	WDNR and WFP HCP lands.
1711001503	Lowland	Indian lands, DOD lands, and WFP HCP lands.
1711001601	Prairie 1	WFP HCP lands.
1711001602	Prairie 2	WFP HCP lands.

TABLE 4—HABITAT AREAS WITHIN THE GEOGRAPHICAL RANGE OF PUGET SOUND STEELHEAD AND PROPOSED FOR EXCLUSION FROM CRITICAL HABITAT—Continued

[WDNR = Washington Department of Natural Resources; WFP = Washington Forest Practices]

Watershed code	Watershed name	Area(s) proposed for exclusion
1711001701	Skokomish River	Indian lands and WFP and Green Diamond HCP lands.
1711001802	Lower West Hood Canal Frontal	WDNR and WFP HCP lands.
1711001804	Duckabush River	WDNR and WFP HCP lands.
1711001806	Big Quilcene River	WDNR and WFP HCP lands.
1711001807	Upper West Hood Canal Frontal	WDNR and WFP HCP lands and DOD lands.
1711001808	West Kitsap	WDNR and WFP HCP lands.
1711001900	Kennedy/Goldsborough	Indian lands and WDNR and WFP, and Green Diamond HCP lands.
1711001901	Puget	WDNR and WFP HCP lands.
1711001902	Prairie 3	WDNR and WFP HCP lands.
1711001906	Chambers Creek	DOD Lands.
1711001908	Port Ludlow/Chimacum Creek	WDNR and WFP HCP lands.
1711002001	Discovery Bay	WDNR and WFP HCP lands.
1711002002	Sequim Bay	Indian lands and WDNR and WFP HCP lands.
1711002003	Dungeness River	WDNR and WFP HCP lands.
1711002004	Port Angeles Harbor	WDNR and WFP HCP lands.
1711002007	Elwha River	Indian lands and WDNR and WFP HCP lands.

Lateral Extent of Critical Habitat

In past designations we have described the lateral extent of critical habitat in various ways ranging from fixed distances to ''functional'' zones defined by important riparian functions (65 FR 7764, February 16, 2000). Designating a set riparian zone width will (in some places) accurately reflect the distance from the stream on which PCEs might be found, but in other cases may over- or understate the distance. Designating a functional buffer avoids that problem, but makes it difficult for Federal agencies to know in advance what areas are critical habitat. To address these issues we are proposing to define the lateral extent of designated critical habitat as the width of the stream channel defined by the ordinary high water line as defined by the U.S. Army Corps of Engineers in 33 CFR 329.11. In areas for which ordinary high-water has not been defined pursuant to 33 CFR 329.11, the width of the stream channel shall be defined by its bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain (Rosgen, 1996) and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series (Leopold *et al.,* 1992). Such an interval is commensurate with nearly all of the juvenile freshwater life phases of most salmon and steelhead DPSs. Therefore, it is reasonable to assert that for an occupied stream reach this lateral extent is regularly ''occupied.'' Moreover, the bankfull elevation can be readily discerned for a variety of stream reaches and stream types using recognizable water lines (e.g., marks on rocks) or vegetation boundaries (Rosgen, 1996). Since 2005 this has proven to be a successful approach for defining the lateral extent of critical habitat for West Coast salmon and steelhead (70 FR 52630, September 2, 2005); therefore, we propose to continue the practice in this proposed rule.

As underscored in previous critical habitat designations, the quality of aquatic habitat within stream channels is intrinsically related to the adjacent riparian zones and floodplain, to surrounding wetlands and uplands, and to non-fish-bearing streams above occupied stream reaches. Human activities that occur outside the stream or designated critical habitat can modify or destroy physical and biological features of the stream. In addition, human activities that occur within and adjacent to reaches upstream (e.g., road failures) or downstream (e.g., dams) of designated stream reaches can also have demonstrable effects on physical and biological features of designated reaches. This designation will help to ensure that Federal agencies are aware of these important habitat linkages for lower Columbia River coho and Puget Sound steelhead.

In the few cases where we are proposing to designate lakes/reservoirs as critical habitat, the lateral extent may best be defined as the perimeter of the water body as displayed on standard 1:24,000 scale topographic maps or the elevation of ordinary high water, whichever is greater.

Effects of Critical Habitat Designation

Section 7(a)(2) of the ESA requires Federal agencies to insure that any action authorized, funded, or carried out by the agency (agency action) does not jeopardize the continued existence of any threatened or endangered species or destroy or adversely modify designated critical habitat. Federal agencies are also required to confer with us regarding any actions likely to jeopardize a species proposed for listing under the ESA, or likely to destroy or adversely modify proposed critical habitat, pursuant to section 7(a)(4). A conference involves informal discussions in which we may recommend conservation measures to minimize or avoid adverse effects. The discussions and conservation recommendations are to be documented in a conference report provided to the Federal agency. If requested by the Federal agency, a formal conference report may be issued (including a biological opinion prepared according to 50 CFR 402.14). A formal conference report may be adopted as the biological opinion when the species is listed or critical habitat designated, if no significant new information or changes to the action alter the content of the opinion.

When a species is listed or critical habitat is designated, Federal agencies must consult with NMFS on any agency actions to be conducted in an area where the species is present and that may affect the species or its critical habitat. During the consultation, we would evaluate the agency action to determine whether the action may adversely affect listed species or critical habitat and issue our findings in a biological opinion or concurrence letter. If we conclude in the biological opinion that the agency action would likely result in the destruction or adverse

modification of critical habitat, we would also recommend any reasonable and prudent alternatives to the action. Reasonable and prudent alternatives (defined in 50 CFR 402.02) are alternative actions identified during formal consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid the destruction or adverse modification of critical habitat.

Regulations at 50 CFR 402.16 require Federal agencies that have retained discretionary involvement or control over an action, or where such discretionary involvement or control is authorized by law, to reinitiate consultation on previously reviewed actions in instances where: (1) Critical habitat is subsequently designated; or (2) new information or changes to the action may result in effects to critical habitat not previously considered in the biological opinion. Consequently, some Federal agencies may request reinitiation of a consultation or conference with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities subject to the ESA section 7 consultation process include activities on Federal lands and activities on private or state lands requiring a permit from a Federal agency (e.g., a Clean Water Act, Section 404 dredge or fill permit from U.S. Army Corps of Engineers) or some other Federal action, including funding (e.g., Federal Highway Administration funding for transportation projects). ESA section 7 consultation would not be required for Federal actions that do not affect listed species or critical habitat and for actions on non-Federal and private lands that are not Federally funded, authorized, or carried out.

Activities That May Be Affected by Critical Habitat Designation

ESA section 4(b)(8) requires in any proposed or final regulation to designate critical habitat an evaluation and brief description of those activities (whether public or private) that may adversely modify such habitat or that may be affected by such designation. A wide variety of activities may affect the proposed critical habitat and may be subject to the ESA section 7 consultation process when carried out, funded, or authorized by a Federal agency. These include water and land management actions of Federal agencies (e.g., U.S. Forest Service (USFS)), Bureau of Land Management (BLM), U.S. Army Corps of Engineers (USACE), U.S. Bureau of Reclamation (BOR), Natural Resource Conservation Service, National Park Service (NPS), Bureau of Indian Affairs (BIA), the Federal Energy Regulatory Commission (FERC), and the Nuclear Regulatory Commission (NRC)) and related or similar Federally-regulated projects and activities on Federal lands, including hydropower sites licensed by the FERC; nuclear power sites licensed by the NRC; dams built or operated by the USACE or BOR; timber sales and other vegetation management activities conducted by the USFS, BLM and BIA; irrigation diversions authorized by the USFS and BLM; and road building and maintenance activities authorized by the USFS, BLM, NPS, and BIA. Other actions of concern include dredging and filling, mining, diking, and bank stabilization activities authorized or conducted by the USACE, habitat modifications authorized by the Federal Emergency Management Agency, and approval of water quality standards and pesticide labeling and use restrictions administered by the Environmental Protection Agency.

Private entities may also be affected by these proposed critical habitat designations if a Federal permit is required, if Federal funding is received, or the entity is involved in or receives benefits from a Federal project. For example, private entities may have special use permits to convey water or build access roads across Federal land; they may require Federal permits to construct irrigation withdrawal facilities, or build or repair docks; they may obtain water from Federally funded and operated irrigation projects; or they may apply pesticides that are only available with Federal agency approval. These activities will need to be evaluated with respect to their potential to destroy or adversely modify critical habitat for lower Columbia River coho and Puget Sound steelhead. Changes to some activities, such as the operations of dams and dredging activities, may be necessary to minimize or avoid destruction or adverse modification of proposed critical habitat. Transportation and utilities sectors may need to modify the placement of culverts, bridges, and utility conveyances (e.g., water, sewer, and power lines) to avoid barriers to fish migration. Developments (e.g., marinas, residential, or industrial facilities) occurring in or near streams, estuaries, or marine waters designated as critical habitat that require Federal authorization or funding may need to be altered or built in a manner to ensure that critical habitat is not destroyed or adversely modified as a result of the construction or subsequent operation of the facility. Questions regarding whether specific activities will constitute destruction or adverse modification of critical habitat should be directed to NMFS (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**).

Public Comments Solicited

We solicit comments or suggestions from the public, other concerned governments and agencies, the scientific community, industry, non-governmental organizations, or any other interested party concerning the proposed designations and exclusions as well as the documents supporting this rulemaking. We are particularly interested in comments and information in the following areas: (1) Information describing the abundance, distribution, and habitat use of lower Columbia River coho and Puget Sound steelhead; (2) information on the identification, location, and the quality of physical or biological features which may be essential to the conservation of the species; (3) information regarding potential benefits of designating any particular area as critical habitat, including information on the types of Federal actions that may affect the area's physical and biological features; (4) information regarding potential impacts of designating any particular area, including the types of Federal actions that may trigger an ESA section 7 consultation and the possible modifications that may be required of those activities; (5) information regarding the benefits of excluding a particular area from critical habitat, including areas covered by an existing HCP; (6) current or planned activities in the areas proposed as critical habitat and costs of potential modifications to those activities due to critical habitat designation; (7) whether specific unoccupied areas (e.g., stream reaches above Condit Dam on the White Salmon River, Washington) not presently proposed for designation are or may be essential to the conservation of these DPSs; and (8) any foreseeable economic, national security, or other relevant impact resulting from the proposed designations.

You may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES**). Copies of the proposed rule and supporting documentation can be found on the NMFS Web site *http://www.nwr.noaa.gov.* We will consider all comments pertaining to these designations received during the

comment period in preparing the final rule. Accordingly, the final decision may differ from this proposed rule.

Public Hearings

Agency regulations at 50 CFR 424.16(c)(3) require the Secretary to promptly hold at least one public hearing if any person requests one within 45 days of publication of a proposed rule to designate critical habitat. Such hearings provide the opportunity for interested individuals and parties to give comments, exchange information and opinions, and engage in a constructive dialogue concerning this proposed rule. We encourage the public's involvement in such ESA matters. Requests for a public hearing(s) must be made in writing (see **ADDRESSES**) by February 28, 2013.

Information Quality Act and Peer Review

The data and analyses supporting this proposed action have undergone a pre-dissemination review and have been determined to be in compliance with applicable information quality guidelines implementing the Information Quality Act (IQA) (Section 515 of Pub. L. 106–554). In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review pursuant to the IQA. The Bulletin was published in the **Federal Register** on January 14, 2005 (70 FR 2664). The Bulletin established minimum peer review standards, a transparent process for public disclosure of peer review planning, and opportunities for public participation with regard to certain types of information disseminated by the Federal Government. The peer review requirements of the OMB Bulletin apply to influential or highly influential scientific information disseminated on or after June 16, 2005. Two documents supporting these critical habitat proposals are considered influential scientific information and subject to peer review. These documents are the draft Biological Report (NMFS, 2012a) and draft Economic Analysis (NMFS, 2012b). We will distribute these documents for independent peer review and will address any comments received in developing the final drafts of the two reports. Both documents are available on our Web site at *http://www.nwr.noaa.gov,* on the Federal eRulemaking Web site at *http://www.regulations.gov,* or upon request (see **ADDRESSES**). We will announce the availability of comments received from peer reviewers and the public and make them available via our Web site as soon as practicable during or after the comment period but in advance of a final rule.

Classification

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency publishes a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis describing the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). We have prepared an initial regulatory flexibility analysis, which is part of the draft economic analysis (NMFS 2012b). This document is available upon request (see **ADDRESSES**), via our Web site at *http://nwr.noaa.gov,* or via the Federal eRulemaking Web site at *http://www.regulations.gov.* The results of the initial regulatory flexibility analysis are summarized below.

The impacts to small businesses were assessed for the following broad categories of activities: hydropower, development, in-stream work, water supply, Federal lands management, transportation, utilities, mining, and other activities (including water, sewer, and oil/gas pipeline construction). We used the size standards for small entities established by the Small Business Administration for each activity type. Of all of the potentially affected entities, 89 percent are classified as likely to be ''small'' under the applicable SBA size standards. Total annualized impacts to small entities as a result of this rule are estimated to be $209,000 (approximately 58.4 percent of total incremental impacts) if all habitat areas assessed for lower Columbia River coho were designated as critical habitat. Total annualized impacts to small entities are estimated to be $298,000 (approximately 64.6 percent of total incremental impacts) if all habitat areas assessed for Puget Sound steelhead were designated as critical habitat.

We estimated the annualized costs associated with ESA section 7 consultations incurred per small business under two different scenarios. These scenarios are intended to provide a measure of uncertainty regarding the number of small entities that may be affected by the designations. Under Scenario 1, this analysis estimates the number of small entities located within areas assessed for proposed designation (approximately 5,381 for lower Columbia River coho, and 12,758 for Puget Sound steelhead), and assumes that incremental impacts are distributed evenly across all entities in each affected industry. Under this scenario, for lower Columbia River coho, a small entity may bear costs of between $2 and $3,430, representing between less than 0.01 and 0.11 percent of average annual revenues (depending on the industry). For Puget Sound steelhead, a small entity may bear costs of between less than $1 and $1,260, representing between less than 0.01 and 0.04 percent of average annual revenues (depending on the industry).

Under scenario 2, this analysis assumes costs of each anticipated future consultation will be borne by a distinct small business (approximately 55 entities for lower Columbia River coho, and 117 for Puget Sound steelhead). Under this scenario, in areas assessed for lower Columbia River coho critical habitat, each small entity may bear costs of between $1,150 and $31,000, representing between <0.01 and 0.46 percent of average annual revenues, depending on the industry. In areas assessed for Puget Sound steelhead critical habitat, each small entity may bear costs of between $510 and $5,930, representing between <0.01 and 0.16 percent of average annual revenues, depending on the industry.

In accordance with the requirements of the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act of 1996) this analysis considered various alternatives to the critical habitat designations for these DPSs. The alternative of not designating critical habitat for these DPSs was considered and rejected, because such an approach does not meet the legal requirements of the ESA. We also examined and rejected an alternative in which all the potential critical habitat for these two DPSs is proposed for designation (i.e., no areas are excluded) because some of the areas considered to have a low conservation value also had relatively high economic impacts that might be mitigated by excluding those areas from designation. A third alternative we examined and rejected would have excluded all habitat areas with a low or medium conservation value. While this alternative furthers the goal of reducing economic impacts, it is not sensitive to the fact that for both of these DPSs, eliminating all habitat areas with low and medium conservation value is likely to significantly impede conservation. Moreover, for some habitat areas the incremental economic benefit from excluding that area is relatively small or zero. Therefore, after

considering these alternatives in the context of the section 4(b)(2) process of weighing benefits of exclusion against benefits of designation, we determined that the current proposal for designating critical habitat (i.e., designating some but not all areas with low or medium conservation value) provides an appropriate balance of conservation and economic mitigation and that excluding the areas identified in this proposed rulemaking would not result in extinction of the DPSs, as required by the ESA.

Executive Order 12866

This proposed rule has been determined to be not significant under Executive Order 12866.

Executive Order 13211

On May 18, 2001, the President issued an executive order on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking any action that promulgates or is expected to lead to the promulgation of a final rule or regulation that (1) is a significant regulatory action under Executive Order 12866 and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy.

We have considered the potential impacts of this action on the supply, distribution, or use of energy and find the designation of critical habitat will not have impacts that exceed the thresholds identified above (NMFS, 2012b).

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act, NMFS makes the following findings:

(a) This proposed rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon state, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to state, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the state, local, or tribal governments ''lack authority'' to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.)

''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.'' The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the ESA, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities which receive Federal funding, assistance, permits or otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above to state governments.

(b) Due to the existing protection afforded to the proposed critical habitat from existing critical habitat for salmon and steelhead (70 FR 52630, September 2, 2005), Southern DPS of green sturgeon (74 FR 52300, October 9, 2009), bull trout (70 FR 56212, September 26, 2005), and the Southern DPS of Pacific eulachon (76 FR 65324, October 20, 2011), we do not anticipate that this proposed rule will significantly or uniquely affect small governments. As such, a Small Government Agency Plan is not required.

Takings

Under Executive Order 12630, Federal agencies must consider the effects of their actions on constitutionally protected private property rights and avoid unnecessary takings of property. A taking of property includes actions that result in physical invasion or occupancy of private property, and regulations imposed on private property that substantially affect its value or use. In accordance with Executive Order 12630, this proposed rule does not have significant takings implications, and a takings implication assessment is not required. The designation of critical habitat affects only Federal agency actions. We do not expect the proposed critical habitat designations will impose additional burdens on land use or affect property values. Additionally, the proposed critical habitat designations do not preclude the development of Habitat Conservation Plans and issuance of incidental take permits for non-Federal actions. Owners of areas included within the proposed critical habitat designations will continue to have the opportunity to use their property in ways consistent with the survival of listed salmon and steelhead.

Federalism

In accordance with Executive Order 13132, we determined that this proposed rule does not have significant Federalism effects and that a Federalism assessment is not required. In keeping with Department of Commerce policies, we request information from, and will coordinate development of these proposed critical habitat designations with, appropriate state resource agencies in Oregon and Washington. The proposed designations may have some benefit to state and local resource agencies in that the areas essential to the conservation of the species are more clearly defined, and the essential features of the habitat necessary for the survival of the subject DPSs are specifically identified. It may also assist local governments in long-range planning (rather than waiting for case-by-case ESA section 7 consultations to occur).

Government-to-Government Relationship With Tribes

Pursuant to Executive Order 13175 and Secretarial Order 3206, we contacted the affected Indian Tribes when considering the designation of critical habitat in an area that may impact tribal trust resources, tribally owned fee lands or the exercise of tribal rights. All of the responding tribes expressed concern about the intrusion

into tribal sovereignty that critical habitat designation represents. These concerns are consistent with previous responses from tribes when we developed critical habitat designations for salmon and steelhead in 2005 (70 FR 52630, September 2, 2005). The Secretarial Order defines Indian lands as ''any lands title to which is either: (1) Held in trust by the United States for the benefit of any Indian tribe or (2) held by an Indian Tribe or individual subject to restrictions by the United States against alienation.'' Our conversations with the tribes indicate that they view the designation of Indian lands as an unwanted intrusion into tribal self-governance, compromising the government-to-government relationship that is essential to achieving our mutual goal of conserving threatened and endangered salmonids.

For the general reasons described in the Other Relevant Impacts—Impacts to Tribal Sovereignty and Self-Governance section above, the draft ESA 4(b)(2) analysis has led us to propose the exclusion of all Indian lands in our proposed designations for lower Columbia River coho and Puget Sound steelhead. Consistent with other proposed exclusions, any exclusion in the final rule will be made only after consideration of all comments received.

Civil Justice Reform

The Department of Commerce has determined that this proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988. We are proposing to designate critical habitat in accordance with the provisions of the ESA. This proposed rule uses standard property descriptions and identifies the essential features within the designated areas to assist the public in understanding the habitat needs of lower Columbia River coho and Puget Sound steelhead.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain new or revised information collection requirements for which Office of Management and Budget (OMB) approval is required under the Paperwork Reduction Act (PRA). This proposed rule will not impose recordkeeping or reporting requirements on state or local governments, individuals, businesses, or organizations. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

National Environmental Policy Act of 1969 (NEPA)

We have determined that an environmental analysis as provided for under NEPA is not required for critical habitat designations made pursuant to the ESA. See *Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996).

Coastal Zone Management Act

Section 307(c)(1) of the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1456) requires that all Federal activities that affect the land or water use or natural resource of the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. We have determined that these proposed designations of critical habitat are consistent to the maximum extent practicable with the enforceable policies of approved Coastal Zone Management Programs of Oregon and Washington. The determination will be submitted for review by the responsible agencies in the aforementioned states.

References Cited

A complete list of all references cited in this rulemaking can be found on our Web site at *http://www.nwr.noaa.gov/* and is available upon request from the NMFS office in Portland, Oregon (see **ADDRESSES**).

List of Subjects in 50 CFR Part 226

Endangered and threatened species.

Dated: January 3, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, we propose to amend part 226, title 50 of the Code of Federal Regulations as set forth below:

PART 226—DESIGNATED CRITICAL HABITAT

■ 1. The authority citation of part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

■ 2. In § 226.212,

■ (a) Revise the section heading and introductory text;

■ (b) Revise paragraph (a) introductory text and add paragraphs (a)(14) and (a)(15);

■ (c) Revise paragraph (c) introductory text;

■ (d) Revise paragraphs (e)(9), (e)(23) and (e)(24) and add paragraph (e)(25);

■ (e) Revise paragraph (f) introductory text;

■ (f) Add paragraphs (f)(1), (f)(2), (f)(5) and (f)(6);

■ (g) Redesignate paragraphs (g) and (h) as paragraphs (f)(3) and (f)(4);

■ (h) Revise newly redesignated paragraphs (f)(3) and (f)(4) to read as follows;

■ (i) Redesignate paragraphs (i) through (u) as paragraphs (g) through (s); and

■ (j) Add paragraphs (t) and (u):

The revisions and additions read as follows:

§ 226.212 Critical habitat for 15 Distinct Population Segments (DPSs) of salmon and steelhead (Oncorhynchus spp.) in Washington, Oregon and Idaho.

Critical habitat is designated in the following states and counties for the following DPSs as described in paragraph (a) of this section, and as further described in paragraphs (b) through (g) of this section. The textual descriptions of critical habitat for each DPS are included in paragraphs (i) through (w) of this section, and these descriptions are the definitive source for determining the critical habitat boundaries. General location maps are provided at the end of each DPS description (paragraphs (i) through (w) of this section) and are provided for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries.

(a) Critical habitat is designated for the following DPSs in the following states and counties:

DPS	State—counties
* * * * * * *	
(14) Lower Columbia River coho salmon	(i) *OR*—Clackamas, Clatsop, Columbia, Hood River, Marion, and Multnomah. (ii) *WA*—Clark, Cowlitz, Klickitat, Lewis, Pacific, Skamania, and Wahkiakum.

DPS	State—counties
(15) Puget Sound steelhead	*WA*—Clallam, Jefferson, King, Kitsap, Mason, Pierce, Skagit, Snohomish, Thurston, and Whatcom.

* * * * *

(c) *Primary constituent elements.* Within these areas, the primary constituent elements essential for the conservation of these DPSs are those sites and habitat components that support one or more life stages, including:

* * * * *

(e) * * *

(9) Fort Lewis (Army and Air Force);

* * * * *

(23) Dabob Bay/Whitney Point naval restricted area;

(24) Port Townsend/Indian Island/Walan Point naval restricted area; and

(25) Naval Base Kitsap

* * * * *

(f) *Land covered by an approved Habitat Conservation Plan.* Critical habitat does not include any areas subject to an approved incidental take permit issued by NMFS under section 10(a)(1)(B) of the ESA. The specific sites addressed include those associated with the following Habitat Conservation Plans:

(1) Washington Department of Natural Resources—West of Cascades

(2) Washington State Forest Practices

(3) Green Diamond Company

(4) West Fork Timber Company

(5) City of Kent

(6) J.L. Storedahl and Sons

* * * * *

(t) Lower Columbia River Coho Salmon (*Oncorhynchus kisutch*). Critical habitat is designated to include the areas defined in the following subbasins:

(1) Middle Columbia-Hood Subbasin 17070105—*(i) East Fork Hood River Watershed 1707010506.* Outlet(s) = Hood River (Lat 45.605237, Long -121.633264); upstream to endpoint(s) in: Bear Creek (45.491952, -121.648262); Dog River (45.447412, -121.567406); East Fork Hood River (45.310783, -121.626954); East Fork Hood River (45.412671, -121.570369); Evans Creek (45.486998, -121.590438); Graham Creek (45.551655, -121.567021); Griswell Creek (45.522055, -121.577151); Pinnacle Creek (45.459186, -121.658854); Pocket Creek (45.302362, -121.597799); Tony Creek (45.540932, -121.644048); Yellowjacket Creek (45.502652, -121.561138).

(ii) West Fork Hood River Watershed 1707010507. Outlet(s) = West Fork Hood River (Lat 45.605237, Long -121.633264); upstream to endpoint(s) in: Elk Creek (45.439371, -121.79187); Green Point Creek (45.590219, -121.681893).

(iii) Hood River Watershed 1707010508. Outlet(s) = Hood River (Lat 45.712335, Long -121.508062); upstream to endpoint(s) in: Lenz Creek (45.627282, -121.527217); Unnamed (45.695827, -121.499524); Hood River (45.605237, -121.633264); Neal Creek (45.589032, -121.495443); West Fork Neal Creek (45.589791, -121.50157); Whiskey Creek (45.682589, -121.507362).

(iv) White Salmon River Watershed 1707010509. Outlet(s) = White Salmon River (Lat 45.722453, Long -121.522507); upstream to endpoint(s) in: White Salmon River (45.767475, -121.538582).

(v) Little White Salmon River Watershed 1707010510. Outlet(s) = Little White Salmon River (Lat 45.709771, -121.648828); upstream to endpoint(s) in: Little White Salmon River (45.721722, -121.640905).

(vi) Wind River Watershed 1707010511. Outlet(s) = Wind River (Lat 45.708031, Long -121.7937); upstream to endpoint(s) in: Unnamed (45.815611, -121.845378); Unnamed (45.8203, -121.812338); Unnamed (45.821678, -121.947378); Unnamed (45.842504, -121.919472); Unnamed (45.847958, -121.923983); Unnamed (45.863859, -121.977579); Unnamed (45.96647, -121.911828); Bear Creek (45.761807, -121.830558); Big Hollow Creek (45.939879, -122.003963); Cedar Creek (45.830782, -121.803419); Dry Creek (45.951945, -121.986573); Eightmile Creek (45.849795, -121.895036); Falls Creek (45.910426, -121.923791); Hollis Creek (45.844829, -121.93704); Little Wind River (45.764902, -121.743713); Martha Creek (45.789911, -121.936208); Mouse Creek (45.841299, -121.844253); Ninemile Creek (45.892264, -121.938276); Panther Creek (45.860314, -121.843418); Paradise Creek (45.960955, -121.9529); Tenmile Creek (45.857983, -121.85914); Trapper Creek (45.905546, -122.03664); Trout Creek (45.801934, -121.932513); Wind River (45.97452, -121.90201).

(vii) Middle Columbia/Grays Creek Watershed 1707010512. Outlet(s) = Columbia River (Lat 45.704232, Long -121.799197); upstream to endpoint(s) in: Unnamed (45.709771, -121.648828); Unnamed (45.71305, -121.765469); Unnamed (45.717006, -121.775974); Unnamed (45.724676, -121.733359); Dog Creek (45.711575, -121.670928); Gorton Creek (45.691091, -121.773139); Columbia River (45.712335, -121.508062); Lindsey Creek (45.686538, -121.716427); Viento Creek (45.697116, -121.668995).

(viii) Middle Columbia/Eagle Creek Watershed 1707010513. Outlet(s) = Unnamed (Lat 45.644489, Long -121.940679); upstream to endpoint(s) in: Unnamed (45.665271, -121.8177); Unnamed (45.667271, -121.849896); Unnamed (45.668788, -121.845446); Unnamed (45.681125, -121.861863); Unnamed (45.710132, -121.845697); Camp Creek (45.667436, -121.817935); Carson Creek (45.715784, -121.820829); Columbia River (45.704232, -121.799197); Eagle Creek (45.636481, -121.918349); East Fork Herman Creek (45.653835, -121.814038); Herman Creek (45.65053, -121.819282); Kanaka Creek (45.703936, -121.886202); Nelson Creek (45.70486, -121.863199); Ruckel Creek (45.646027, -121.920243).

(2) Lower Columbia-Sandy Subbasin 17080001—*(i) Salmon River Watershed 1708000101.* Outlet(s) = Salmon River (Lat 45.376252, Long -122.031058); upstream to endpoint(s) in: Unnamed (45.294351, -121.93992); Unnamed (45.327567, -121.964685); Unnamed (45.333577, -121.954887); Unnamed (45.343325, -121.993355); Bighorn Creek (45.261413, -121.920687); Boulder Creek (45.345892, -122.022829); Cheeney Creek (45.298138, -121.966984); Copper Creek (45.250573, -121.906523); Salmon River (45.250793, -121.903932); South Fork Salmon River (45.262376, -121.94569); Welches Creek (45.322357, -121.96209); Little Cheney Creek (45.315925, -121.957706).

(ii) Zigzag River Watershed 1708000102. Outlet(s) = Zigzag River (Lat 45.348502, Long -121.945268); upstream to endpoint(s) in: Unnamed (45.264488, -121.835176); Unnamed (45.309925, -121.867436); Little Zigzag Canyon (45.313577, -121.804646); Camp Creek (45.302508, -121.824858); Cool Creek (45.292765, -121.884534); Henry Creek (45.329747, -121.904756); Lady Creek (45.319762, -121.823709); Still Creek (45.266162, -121.82967); Wind Creek (45.298307, -121.856182); Zigzag River (45.31595, -121.804679).

(iii) Upper Sandy River Watershed 1708000103. Outlet(s) = Sandy River (Lat 45.348695, -121.945224); upstream to endpoint(s) in: Unnamed (45.375211, -121.831255); Unnamed (45.380971,

-121.827671); Unnamed (45.38147, -121.902185); Unnamed (45.394711, -121.794578); Unnamed (45.399767, -121.901436); Cast Creek (45.380693, -121.858892); Clear Creek (45.399405, -121.89475); Clear Fork (45.396485, -121.858012); Little Clear Creek (45.377979, -121.915785); Lost Creek (45.372028, -121.818608); Minikahda Creek (45.368674, -121.940028); Sandy River (45.388349, -121.842458); Short Creek (45.376861, -121.863405).

(iv) Middle Sandy River Watershed 1708000104. Outlet(s) = Sandy River (Lat 45.446429, Long -122.248369); upstream to endpoint(s) in: Unnamed (45.37949, -122.03096); Unnamed (45.386346, -122.036698); Alder Creek (45.376772, -122.100846); Bear Creek (45.336648, -121.927798); Cedar Creek (45.404272, -122.252578); Hackett Creek (45.352288, -121.951609); North Boulder Creek (45.382046, -122.017926); Whisky Creek (45.377566, -122.128088); Wildcat Creek (45.370157, -122.077485).

(v) Bull Run River Watershed 1708000105. Outlet(s) = Bull Run River (Lat 45.445672, -122.247943); upstream to endpoint(s) in: Bull Run River (45.431922, -122.19391); Little Sandy River (45.408124, -122.066052).

(vi) Washougal River Watershed 1708000106. Outlet(s) = Washougal River (Lat 45.581011, Long -122.408885); upstream to endpoint(s) in: Unnamed (45.58717, -122.413316); Unnamed (45.600016, -122.332175); Unnamed (45.611824, -122.242999); Unnamed (45.612809, -122.324998); Unnamed (45.620381, -122.345921); Unnamed (45.626874, -122.34346); Unnamed (45.627736, -122.256085); Unnamed (45.629474, -122.247482); Unnamed (45.638035, -122.292731); Unnamed (45.647483, -122.367738); Unnamed (45.648358, -122.334455); Unnamed (45.650547, -122.157413); Unnamed (45.653255, -122.275218); Unnamed (45.657929, -122.220622); Unnamed (45.659093, -122.207653); Unnamed (45.6692, -122.156539); Unnamed (45.670112, -122.34117); Unnamed (45.672008, -122.173594); Unnamed (45.674178, -122.299555); Unnamed (45.683465, -122.334825); Unnamed (45.696755, -122.315224); Unnamed (45.700417, -122.32238); Unnamed (45.708896, -122.266302); Unnamed (45.708947, -122.252235); Unnamed (45.720695, -122.249333); Unnamed (45.729294, -122.195616); Cougar Creek (45.651259, -122.268846); Dougan Creek (45.67684, -122.153333); East Fork Little Washougal River (45.672014, -122.283888); Jackson Creek (45.675271, -122.254193); Jones Creek (45.689112, -122.291063); Lacamas Creek (45.597039, -122.394477); Texas Creek (45.689165, -122.187421); Washougal River (45.67269, -122.153567); West Fork Washougal River (45.733609, -122.214819); Wildboy Creek (45.671, -122.218436); Winkler Creek (45.632735, -122.261321); Hagen Creek (45.706875, -122.25864); Little Washougal River (45.676574, -122.342287); Little Washougal River (45.653083, -122.347546); Winkler Creek (45.631081, -122.26165).

(vii) Columbia Gorge Tributaries Watershed 1708000107. Outlet(s) = Columbia River (Lat 45.573261, Long -122.397377); upstream to endpoint(s) in: Unnamed (45.548138, -122.351565); Unnamed (45.567076, -122.304405); Unnamed (45.588566, -122.294521); Unnamed (45.590912, -122.2823); Unnamed (45.593653, -122.144297); Unnamed (45.596322, -122.298126); Unnamed (45.602186, -122.045501); Unnamed (45.603278, -122.117957); Unnamed (45.60427, -122.114465); Unnamed (45.604686, -122.111908); Unnamed (45.608658, -122.034755); Unnamed (45.618526, -122.046564); Unnamed (45.627848, -122.059877); Unnamed (45.644489, -121.940679); Unnamed (45.648055, -121.973672); Unnamed (45.648286, -121.937896); Unnamed (45.651152, -121.948423); Unnamed (45.663009, -121.945288); Unnamed (45.668112, -121.944275); Unnamed (45.705738, -122.030562); Unnamed (45.706583, -122.030264); Unnamed (45.712761, -122.031391); Bridal Veil Creek (45.554125, -122.180231); Campen Creek (45.588421, -122.32304); Coopey Creek (45.56249, -122.165304); Duncan Creek (45.668084, -122.087311); Gibbons Creek (45.578553, -122.280402); Greenleaf Creek (45.680477, -121.961898); Hamilton Creek (45.724649, -122.025155); Hardy Creek (45.637053, -122.006906); Horsetail Creek (45.588381, -122.068121); Indian Mary Creek (45.626983, -122.08352); Latourell Creek (45.54047, -122.218884); Lawton Creek (45.57449, -122.251177); Little Creek (45.644317, -122.037293); McCord Creek (45.611378, -121.994145); Moffett Creek (45.618491, -121.967182); Multnomah Creek (45.575938, -122.115489); Oneonta Creek (45.582044, -122.072688); Tanner Creek (45.629297, -121.954011); Tumalt Creek (45.609963, -122.029615); Wahkeena Creek (45.573123, -122.126812); Walton Creek (45.575513, -122.26303); Woodward Creek (45.632266, -122.044788); Young Creek (45.546713, -122.198337); Hardy Creek (45.633735, -121.99603).

(viii) Lower Sandy River Watershed 1708000108. Outlet(s) = Sandy River (Lat 45.574301, Long -122.380188); upstream to endpoint(s) in: Unnamed (45.553991, -122.377876); Beaver Creek (45.495821, -122.365511); Big Creek (45.506685, -122.297833); Buck Creek (45.497012, -122.277464); Cat Creek (45.489237, -122.238503); Gordon Creek (45.502328, -122.181652); Kelly Creek (45.513162, -122.396503); Middle Fork Beaver Creek (45.488652, -122.352533); Sandy River (45.446429, -122.248369); Trout Creek (45.481334, -122.27692).

(ix) Salmon Creek Watershed 1708000109. Outlet(s) = Unnamed (Lat 45.608827, Long -122.628396); Unnamed (45.782133, -122.770935); Unnamed (45.79137, -122.779096); Lake River (45.842318, -122.780058); Unnamed (45.583634, -122.493678); Unnamed (45.725544, -122.762187); Unnamed (45.708956, -122.765945); upstream to endpoint(s) in: Unnamed (45.597056, -122.48085); Unnamed (45.618497, -122.625455); Unnamed (45.692522, -122.750865); Unnamed (45.705359, -122.654729); Unnamed (45.736541, -122.738658); Unnamed (45.740616, -122.457587); Unnamed (45.741057, -122.541219); Unnamed (45.745405, -122.701278); Unnamed (45.750243, -122.641509); Unnamed (45.751664, -122.635603); Unnamed (45.758152, -122.697981); Unnamed (45.759293, -122.753826); Unnamed (45.760094, -122.420422); Unnamed (45.760678, -122.510984); Unnamed (45.763086, -122.392563); Unnamed (45.766128, -122.402833); Unnamed (45.768661, -122.410137); Unnamed (45.768856, -122.458956); Unnamed (45.771241, -122.481058); Unnamed (45.77272, -122.42969); Unnamed (45.779683, -122.608053); Unnamed (45.783976, -122.432545); Unnamed (45.785031, -122.709594); Unnamed (45.788669, -122.739027); Unnamed (45.796251, -122.438508); Unnamed (45.801421, -122.517285); Unnamed (45.807105, -122.454757); Unnamed (45.807885, -122.425007); Unnamed (45.808519, -122.754502); Unnamed (45.813822, -122.449343); Unnamed (45.817459, -122.771105); Unnamed (45.827212, -122.764666); Burnt Bridge Creek (45.660818, -122.511162); Cold Canyon (45.663287, -122.66699); Cougar Canyon Creek (45.707212, -122.682567); Curtin Creek (45.684387, -122.586094); Flume Creek (45.779893, -122.71596); Lalonde Creek (45.707849, -122.642314); Little Salmon Creek (45.784979, -122.421225); Mill Creek (45.77898, -122.566195); Morgan Creek (45.751434, -122.446616); Mud Creek (45.731816, -122.478143); Packard Creek (45.757922, -122.699539); Rock Creek (45.815043, -122.456123); Salmon Creek (45.757766, -122.424507); Weaver Creek (45.793553, -122.495211); Whipple Creek (45.734817, -122.657695).

(3) Lewis Subbasin 17080002—*(i) Upper Lewis River Watershed 1708000201.* Outlet(s) = Lewis River (Lat 46.069463, Long -122.006838); upstream to endpoint(s) in: Big Creek (46.094659, -121.913097); Chickoon Creek (46.148528, -121.878749); Crab Creek (46.141771, -121.890849); Curly Creek (46.057396, -121.970510); Cussed Hollow (46.148088, -121.904757); Lewis River (46.154732, -121.880642); Little Creek (46.071497, -121.911930); Pepper Creek (46.078061, -121.983936); Rush Creek (46.050925, -121.905817); Spencer Creek (46.143417, -121.910603).

(ii) Muddy River Watershed 1708000202. Outlet(s) = Muddy River (Lat 46.069463, Long -122.006838); upstream to endpoint(s) in: Clear Creek (46.210439, -121.951602); Clearwater Creek (46.208811, -122.016938); Muddy River (46.180853, -122.070616); Smith Creek (46.229009, -122.091210).

(iii) Swift Reservoir Watershed 1708000203. Outlet(s) = Lewis River (46.061988, -122.192687); upstream to endpoint(s) in: Unnamed (46.067280, -122.031517); Unnamed (46.030884, -122.025805); Unnamed (46.021441, -122.094836); Unnamed (46.076975, -122.134548); Drift Creek (45.992711, -122.064320); Lewis River (46.069463, -122.006838); Marble Creek (46.075248, -122.138077); Pine Creek (46.091385, -122.040834); Range Creek (46.028641, -122.121759); Swift Creek (46.090717, -122.205248).

(iv) Yale Reservoir Watershed 1708000204. Outlet(s) = Lewis River (Lat 45.966180, -Long 122.334825); upstream to endpoint(s) in: Dog Creek (46.061456, -122.317143); Cougar Creek (46.071149, -122.269881); Lewis River (46.061988, -122.192687); Ole Creek (46.049968, -122.239259); Panamaker Creek (46.076309, -122.298414); Rain Creek (46.041972, -122.204391).

(v) East Fork Lewis River Watershed 1708000205. Outlet(s) = Gee Creek (Lat 45.846474, Long -122.784009); East Fork Lewis River (45.865974, -122.720015); upstream to endpoint(s) in: Unnamed (45.780025, -122.60805); Unnamed (45.794783, -122.698153); Unnamed (45.801134, -122.682844); Unnamed (45.804692, -122.580745); Unnamed (45.807413, -122.629756); Unnamed (45.814729, -122.56657); Unnamed (45.816914, -122.575875); Unnamed (45.822904, -122.708092); Unnamed (45.823983, -122.639331); Unnamed (45.828994, -122.605197); Unnamed (45.835126, -122.485374); Unnamed (45.836667, -122.650975); Unnamed (45.837829, -122.469846); Unnamed (45.846989, -122.749763); Unnamed (45.847364, -122.649785); Unnamed (45.848031, -122.441525); Unnamed (45.849976, -122.524001); Unnamed (45.853522, -122.598543); Unnamed (45.855146, -122.593372); Unnamed (45.859839, -122.612419); Unnamed (45.861417, -122.70149); Unnamed (45.866041, -122.5784); Unnamed (45.866516, -122.575586); Unnamed (45.867718, -122.647281); Unnamed (45.869512, -122.678967); Unnamed (45.872474, -122.647396); Unnamed (45.875583, -122.487609); Unnamed (45.881115, -122.478516); Unnamed (45.905677, -122.519797); Allen Creek (45.827926, -122.698134); Basket Creek (45.832585, -122.459163); Brezee Creek (45.880461, -122.655871); East Fork Lewis River (45.839345, -122.447538); Gee Creek (45.791622, -122.674464); Jenny Creek (45.870366, -122.700692); Lockwood Creek (45.8722, -122.612928); Mason Creek (45.865932, -122.544237); McCormick Creek (45.851953, -122.691964); Riley Creek (45.872133, -122.62657); Unnamed Creek (45.843693, -122.648975).

(vi) Lower Lewis River Watershed 1708000206. Outlet(s) = Lewis River (Lat 45.855546, Long -122.775762); upstream to endpoint(s) in: Unnamed (45.870633, -122.756138); Unnamed (45.88666, -122.723102); Unnamed (45.892632, -122.422093); Unnamed (45.893766, -122.438283); Unnamed (45.901311, -122.727541); Unnamed (45.919994, -122.535139); Unnamed (45.920149, -122.456867); Unnamed (45.920747, -122.693543); Unnamed (45.923838, -122.424899); Unnamed (45.924295, -122.37431); Unnamed (45.928026, -122.689314); Unnamed (45.929363, -122.504918); Unnamed (45.939172, -122.41088); Unnamed (45.941429, -122.704591); Unnamed (45.942762, -122.671288); Unnamed (45.943605, -122.620229); Unnamed (45.944513, -122.644954); Unnamed (45.947599, -122.643073); Bitter Creek (45.913105, -122.460482); Brush Creek (45.927783, -122.468661); Cedar Creek (45.906562, -122.381815); Chelatchie Creek (45.935564, -122.379567); Colvin Creek (45.939847, -122.609332); Houghton Creek (45.951179, -122.634346); John Creek (45.943278, -122.477146); Johnson Creek (45.953443, -122.61949); Lewis River (45.966180, -122.334825); North Fork Chelatchie Creek (45.945494, -122.393811); Pup Creek (45.948425, -122.525655); Robinson Creek (45.936812, -122.725723); Ross Creek (45.953911, -122.706047); Staples Creek (45.942126, -122.667681).

(4) Lower Columbia-Clatskanie Subbasin 17080003—*(i) Kalama River Watershed 1708000301.* Outlet(s) = Burris Creek (Lat 45.892513, Long -122.790279); Bybee Creek (45.966376, -122.816532); Kalama River (46.03393, -122.870595); Mill Creek (45.95816, -122.803634); Schoolhouse Creek (45.978378, -122.829247); Unnamed (45.999928, -122.848159); upstream to endpoint(s) in: Unnamed (45.903312, -122.780386); Unnamed (45.934119, -122.781977); Unnamed (45.977147, -122.825526); Unnamed (45.993614, -122.813527); Unnamed (46.043843, -122.856105); Burke Creek (45.94516, -122.775084); Burke Slough (45.924545, -122.797017); Burris Creek (45.932376, -122.743342); Bybee Creek (45.969366, -122.814717); Cedar Creek (46.03313, -122.812264); Hatchery Creek (46.049047, -122.801448); Indian Creek (46.049668, -122.752333); Indian Creek (46.0452, -122.752907); Kalama River (46.025868, -122.739474); Mill Creek (45.961948, -122.795944); Schoolhouse Creek (45.981238, -122.825927); Spencer Creek (46.025203, -122.829696).

(ii) Beaver Creek/Columbia River Watershed 1708000302. Outlet(s) = Beaver Slough (Lat 46.121253, Long -123.22089); Fox Creek (46.092512, -122.938467); Goble Creek (46.020615, -122.876532); Green Creek (46.166661, -123.099119); Tide Creek (45.994307, -122.866712); upstream to endpoint(s) in: Unnamed (45.914995, -122.870367); Unnamed (45.985132, -122.928842); Unnamed (46.0165, -122.963794); Unnamed (46.019529, -122.944997); Beaver Creek (46.104384, -123.124089); Fox Creek (46.069709, -122.937725); Goble Creek (46.006921, -122.989536); Green Creek (46.143721, -123.074477); Merrill Creek (45.908708, -122.887674); North Fork Stewart Creek (46.134963, -123.142788); South Fork Goble Creek (45.967146, -122.912205); Stewart Creek (46.121924, -123.134473); Tide Creek (45.998871, -123.005909).

(iii) Clatskanie River Watershed 1708000303. Outlet(s) = Beaver Slough (Lat 46.139926, Long -123.230807); upstream to endpoint(s) in: Unnamed (45.871279, -123.016852); Unnamed (46.057, -123.256303); Beaver Slough (46.121253, -123.22089); Carcus Creek (45.988589, -123.087952); Clatskanie River (45.878919, -122.9959); Conyers Creek (46.056042, -123.241614); Dribble Creek (45.904283, -123.028122); Fall Creek (46.10887, -123.212892); Keystone Creek (46.075658, -123.145555); Little Clatskanie River (45.914012, -122.995923); Merril Creek (46.081981, -123.187026); Miller Creek (46.043933, -123.146664); North Fork Clatskanie River (46.028796, -123.052308); Page Creek (46.04337, -123.126689); Perkins Creek (46.045692, -123.202675).

(iv) Germany/Abernathy Watershed 1708000304. Outlet(s) = Abernathy Creek (46.190946, -123.16764); Coal Creek Slough (46.189618, -123.116548);

Germany Creek (46.190472, -123.124221); Mill Creek (Lat 46.188644, Long -123.175717); upstream to endpoint(s) in: Unnamed (46.174387, -123.284405); Unnamed (46.177806, -123.244713); Unnamed (46.179048, -123.28534); Unnamed (46.179783, -123.014957); Unnamed (46.199235, -123.017367); Unnamed (46.209772, -123.250435); Unnamed (46.210569, -123.02174); Unnamed (46.2212, -123.233862); Unnamed (46.230005, -123.243579); Unnamed (46.23735, -123.217724); Unnamed (46.257704, -123.211771); Unnamed (46.260394, -123.156937); Unnamed (46.282123, -123.215419); Unnamed (46.28956, -123.229955); Unnamed (46.302937, -123.18012); Unnamed (46.30502, -123.175317); Unnamed (46.313744, -123.186815); Unnamed (46.315329, -123.111068); Unnamed (46.318441, -123.123571); Unnamed (46.329631, -123.132487); Abernathy Creek (46.298183, -123.20799); Cameron Creek (46.266183, -123.196747); Coal Creek (46.214039, -123.020114); Erick Creek (46.283486, -123.165659); Germany Creek (46.323938, -123.150029); Harmony Creek (46.191588, -123.045625); Hunter Creek (46.200371, -123.277768); Midway Creek (46.280132, -123.179387); North Fork Mill Creek (46.237142, -123.227829); Ordway Creek (46.312588, -123.1944); Slide Creek (46.251167, -123.180153); South Fork Mill Creek (46.184454, -123.282779); Spruce Creek (46.19379, -123.270758); Wiest Creek (46.27626, -123.159368).

(v) Skamokawa/Elochoman Watershed 1708000305. Outlet(s) = Birnie Creek (Lat 46.200249, Long -123.388149); Elochoman River (46.22667, -123.400822); Jim Crow Creek (46.266028, -123.552297); Skamokawa Creek (46.268566, -123.45637); upstream to endpoint(s) in: Unnamed (46.225162, -123.303945); Unnamed (46.242407, -123.369715); Unnamed (46.264248, -123.311602); Unnamed (46.268968, -123.328113); Unnamed (46.27795, -123.384622); Unnamed (46.281109, -123.369818); Unnamed (46.294907, -123.320218); Unnamed (46.299508, -123.553063); Unnamed (46.30403, -123.499255); Unnamed (46.30564, -123.54826); Unnamed (46.320411, -123.244937); Unnamed (46.320842, -123.35815); Unnamed (46.325433, -123.281587); Unnamed (46.328108, -123.296011); Unnamed (46.33764, -123.44219); Unnamed (46.337892, -123.462614); Unnamed (46.34415, -123.256674); Unnamed (46.347782, -123.392349); Unnamed (46.349787, -123.211987); Unnamed (46.351596, -123.313042); Unnamed (46.35173, -123.19359); Unnamed (46.360802, -123.261039); Unnamed (46.364365, -123.276383); Unnamed (46.368463, -123.242642); Unnamed (46.377205, -123.262108); Unnamed (46.382024, -123.242299); Unnamed (46.386679, -123.223722); Unnamed (46.303663, -123.365059); Unnamed (46.311328, -123.478976); Unnamed (46.306534, -123.546046); Beaver Creek (46.216566, -123.297152); Bell Canyon Creek (46.288173, -123.405772); Birnie Creek (46.204016, -123.384532); Cadman Creek (46.302299, -123.508597); Clear Creek (46.260761, -123.300874); Duck Creek (46.265653, -123.337856); East Fork Elochoman River (46.378345, -123.193512); Falk Creek (46.321532, -123.381397); Fink Creek (46.276734, -123.570228); Jim Crow Creek (46.312074, -123.539923); Kelly Creek (46.32257, -123.48111); Left Fork Skamokawa Creek (46.339453, -123.470344); Longtain Creek (46.25861, -123.369188); McDonald Creek (46.346651, -123.382328); Nelson Creek (46.257717, -123.35252); North Fork Elochoman River (46.375393, -123.284959); Otter Creek (46.388034, -123.217495); Pollard Creek (46.307613, -123.412558); Quarry Creek (46.337806, -123.42712); Risk Creek (46.25136, -123.399855); Rock Creek (46.277795, -123.275871); Standard Creek (46.333628, -123.357041); West Fork Elochoman River (46.351711, -123.329823); West Fork Skamokawa Creek (46.327805, -123.498954); West Valley Creek (46.291358, -123.51591); Wilson Creek (46.31583, -123.328008); Unnamed Creek (46.306534, -123.546046); Unnamed Creek (46.311328, -123.478976); Unnamed Creek (46.386679, -123.223722); Unnamed Creek (46.303663, -123.365059).

(vi) Plympton Creek Watershed 1708000306. Outlet(s) = Hunt Creek (Lat 46.202277, Long -123.445724); Westport Slough (46.143868, -123.383472); upstream to endpoint(s) in: Eilertsen Creek (46.099706, -123.328684); Graham Creek (46.09157, -123.277339); Hunt Creek (46.120882, -123.428478); Ok Creek (46.099703, -123.321777); Olsen Creek (46.101357, -123.360299); Plympton Creek (46.127423, -123.391111); Ross Creek (46.108505, -123.368667); Tandy Creek (46.085085, -123.29629); West Creek (46.121298, -123.373425); Westport Slough (46.124151, -123.245135).

(5) Upper Cowlitz Subbasin 17080004—*(i) Headwaters Cowlitz River Watershed 1708000401.* Outlet(s) = Cowlitz River (Lat 46.657731, Long -121.604374); upstream to endpoint(s) in: Unnamed (46.675388, -121.580086); Clear Fork Cowlitz River (46.684326, -121.568004); Muddy Fork Cowlitz River (46.697086, -121.618719); Ohanapecosh River (46.690309, -121.582129); Purcell Creek (46.671171, -121.587667).

(ii) Upper Cowlitz River Watershed 1708000402. Outlet(s) = Cowlitz River (46.576161, -121.706256); Johnson Creek (Lat 46.575836, Long -121.705564); upstream to endpoint(s) in: Unnamed (46.62375, -121.671832); Unnamed (46.641142, -121.654691); Unnamed (46.654671, -121.631508); Unnamed (46.692847, -121.803752); Butter Creek (46.646075, -121.675424); Coal Creek (46.643541, -121.611604); Cowlitz River (46.657731, -121.604374); Hall Creek (46.613874, -121.660242); Hinkle Tinkle Creek (46.653644, -121.641874); Johnson Creek (46.555366, -121.639734); Lake Creek (46.622383, -121.610363); Skate Creek (46.684892, -121.806283).

(iii) Cowlitz Valley Frontal Watershed 1708000403. Outlet(s) = Cowlitz River (Lat 46.476278, Long -122.096306); upstream to endpoint(s) in: Unnamed (46.489922, -122.083268); Unnamed (46.518735, -121.858756); Burton Creek (46.542568, -121.752074); Cowlitz River (46.576161, -121.706256); Cunningham Creek (46.512691, -121.844636); Davis Creek (46.540691, -121.809594); Dry Creek (46.560084, -121.705732); Garrett Creek (46.523043, -121.773614); Hampton Creek (46.537971, -121.939923); Hopkin Creek (46.537673, -121.840214); Johnson Creek (Lat 46.575836, Long -121.705564); Kilborn Creek (46.507622, -121.801739); Kiona Creek (46.564304, -122.049702); Miller Creek (46.539348, -121.960377); Oliver Creek (46.545728, -121.99579); Peters Creek (46.543267, -121.982782); Schooley Creek (46.500722, -121.964414); Sethe Creek (46.534578, -121.867518); Siler Creek (46.492992, -121.911187); Silver Creek (46.55632, -121.91673); Smith Creek (46.561932, -121.693911); Surrey Creek (46.543475, -121.888707); Willame Creek (46.580526, -121.733077).

(iv) Upper Cispus River Watershed 1708000404. Outlet(s) = Cispus River (Lat 46.443752, Long -121.798269); upstream to endpoint(s) in: Cispus River (46.344891, -121.68424); East Canyon Creek (46.347337, -121.703867); North Fork Cispus River (46.435538, -121.657768); Twin Creek (46.374048, -121.728185).

(v) Lower Cispus River Watershed 1708000405. Outlet(s) = Cispus River (Lat 46.476761, Long -122.095709); upstream to endpoint(s) in: Unnamed (46.430554, -121.825682); Unnamed (46.455387, -121.954511); Unnamed (46.465418, -121.958732); Ames Creek

(46.466423, -121.918257); Camp Creek (46.450675, -121.831242); Cispus River (Lat 46.443752, Long -121.798269); Copper Canyon Creek (46.467296, -122.082101); Covell Creek (46.431961, -121.851825); Crystal Creek (46.437145, -122.018844); Dry Creek (46.452466, -121.852225); Greenhorn Creek (46.421576, -121.905397); Iron Creek (46.38938, -121.971317); McCoy Creek (46.38901, -121.82019); Quartz Creek (46.434561, -122.05107); Woods Creek (46.475527, -121.949635); Yellowjacket Creek (46.386924, -121.834674).

(6) Cowlitz Subbasin 17080005—*(i) Tilton River Watershed 1708000501.* Outlet(s) = Tilton River (Lat 46.543356, Long -122.533164); upstream to endpoint(s) in: Unnamed (46.588777, -122.17989); Coal Creek (46.573383, -122.243464); Connelly Creek (46.603724, -122.311695); Coon Creek (46.61661, -122.284513); Eagle Creek (46.653164, -122.259058); East Fork Tilton River (46.594049, -122.170519); Jesse Creek (46.644446, -122.421704); Johnson Creek (46.531381, -122.237744); Little Creek (46.666231, -122.404381); Minnie Creek (46.539791, -122.234089); Nineteen Creek (46.599433, -122.22251); Otter Creek (46.62162, -122.401512); Rockies Creek (46.643019, -122.39823); Snow Creek (46.620326, -122.266924); South Fork Tilton Creek (46.563022, -122.1572); Tilton River (46.624549, -122.215133); Trout Creek (46.65834, -122.25936); Wallanding Creek (46.622603, -122.368924); West Fork Tilton River (46.658406, -122.308887); Winnie Creek (46.657038, -122.422335).

(ii) Riffe Reservoir Watershed 1708000502. Outlet(s) = Cowlitz River (Lat 46.5031, Long -122.588332); upstream to endpoint(s) in: Cowlitz River (46.476278, -122.096306); Winston Creek (46.459003, -122.370859).

(iii) Jackson Prairie Watershed 1708000503. Outlet(s) = Cowlitz River (Lat 46.367511, Long -122.934945); upstream to endpoint(s) in: Unnamed (46.383522, -122.679974); Unnamed (46.383941, -122.725937); Unnamed (46.385081, -122.705907); Unnamed (46.387856, -122.695831); Unnamed (46.39224, -122.75946); Unnamed (46.399666, -122.898638); Unnamed (46.400754, -122.733303); Unnamed (46.409488, -122.589866); Unnamed (46.410097, -122.680278); Unnamed (46.410422, -122.708726); Unnamed (46.411433, -122.756574); Unnamed (46.413363, -122.783988); Unnamed (46.417067, -122.637699); Unnamed (46.424466, -122.818117); Unnamed (46.427206, -122.613403); Unnamed (46.428381, -122.643499); Unnamed (46.429253, -122.83625); Unnamed (46.431112, -122.808741); Unnamed (46.440469, -122.519079); Unnamed (46.445258, -122.867273); Unnamed (46.449715, -122.529087); Unnamed (46.450991, -122.871663); Unnamed (46.472774, -122.686245); Unnamed (46.488493, -122.807753); Unnamed (46.517532, -122.654378); Unnamed (46.5309, -122.820885); Unnamed (46.533357, -122.758003); Unnamed (46.542935, -122.748007); Bear Creek (46.463967, -122.913037); Blue Creek (46.488339, -122.726491); Brights Creek (46.496407, -122.605179); Cedar Creek (46.420442, -122.725311); Coon Creek (46.445182, -122.895851); Cougar Creek (46.393389, -122.795962); Cowlitz River (46.5031, -122.588332); Foster Creek (46.40711, -122.890926); Hopkey Creek (46.459049, -122.554437); Jones Creek (46.518881, -122.675281); Lacamas Creek (46.556204, -122.688969); Little Salmon Creek (46.439872, -122.747395); Mill Creek (46.517371, -122.622126); Mill Creek (46.502438, -122.803167); Otter Creek (46.479854, -122.700841); Pin Creek (46.411782, -122.832479); Rapid Creek (46.432098, -122.547553); Skook Creek (46.474731, -122.757751); Unnamed Creek (46.515124, -122.681226).

(iv) North Fork Toutle River Watershed 1708000504. Outlet(s) = North Fork Toutle River (Lat 46.371819, Long -122.585848); upstream to endpoint(s) in: Unnamed (46.292893, -122.508359); Unnamed (46.294391, -122.526416); Unnamed (46.317597, -122.321791); Unnamed (46.321385, -122.488684); Unnamed (46.331761, -122.316562); Bear Creek (46.309744, -122.430749); Hoffstadt Creek (46.319718, -122.325454).

(v) Green River Watershed 1708000505. Outlet(s) = North Fork Toutle River (Lat 46.366681, Long -122.587092); upstream to endpoint(s) in: Unnamed (46.332935, -122.298073); Unnamed (46.33485, -122.279213); Unnamed (46.355641, -122.205783); Unnamed (46.359811, -122.326801); Unnamed (46.373265, -122.389499); Unnamed (46.38427, -122.434721); Unnamed (46.387374, -122.488301); Unnamed (46.402102, -122.555537); Unnamed (46.40583, -122.542922); Unnamed (46.408718, -122.507384); Unnamed (46.410468, -122.431267); Unnamed (46.412392, -122.451557); Unnamed (46.416538, -122.283286); Unnamed (46.42, -122.292272); Unnamed (46.422599, -122.304017); Unnamed (46.428205, -122.267496); Beaver Creek (46.405735, -122.568826); Cascade Creek (46.417916, -122.331675); Devils Creek (46.401481, -122.409722); Elk Creek (46.41719, -122.250256); Green River (46.394118, -122.205161); Jim Creek (46.388361, -122.526853); Miners Creek (46.349143, -122.194242); Shultz Creek (46.344058, -122.275039); Tradedollar Creek (46.376142, -122.23987).

(vi) South Fork Toutle River Watershed 1708000506. Outlet(s) = Toutle River (Lat 46.329223, Long -122.725131); upstream to endpoint(s) in: Unnamed (46.185704, -122.299471); Unnamed (46.186193, -122.40715); Unnamed (46.188524, -122.445753); Unnamed (46.199665, -122.471338); Unnamed (46.201636, -122.296552); Unnamed (46.206594, -122.331284); Unnamed (46.21036, -122.431482); Unnamed (46.21081, -122.427763); Unnamed (46.210915, -122.428229); Unnamed (46.211429, -122.279573); Unnamed (46.215533, -122.347972); Unnamed (46.223287, -122.327701); Unnamed (46.223773, -122.524201); Unnamed (46.226916, -122.337898); Unnamed (46.227233, -122.373391); Unnamed (46.238958, -122.490827); Unnamed (46.243346, -122.38038); Unnamed (46.245202, -122.629903); Unnamed (46.258398, -122.534433); Unnamed (46.260587, -122.550523); Unnamed (46.261618, -122.571707); Unnamed (46.268347, -122.577391); Unnamed (46.287125, -122.685581); Unnamed (46.292576, -122.659948); Unnamed (46.295532, -122.596926); Unnamed (46.296678, -122.585207); Unnamed (46.297388, -122.614534); Unnamed (46.310391, -122.606122); Unnamed (46.311754, -122.626346); Unnamed (46.312178, -122.704274); Unnamed (46.321553, -122.649148); Bear Creek (46.187484, -122.431406); Big Wolf Creek (46.225469, -122.567295); Brownell Creek (46.280407, -122.649708); Disappointment Creek (46.213614, -122.309153); Eighteen Creek (46.244881, -122.600184); Harrington Creek (46.247692, -122.419362); Johnson Creek (46.306181, -122.579585); Sheep Canyon (46.206343, -122.268258); South Fork Toutle River (46.209387, -122.263037); Studebaker Creek (46.28238, -122.681733); Thirteen Creek (46.237634, -122.624229); Trouble Creek (46.182362, -122.387761); Twenty Creek (46.232994, -122.5836); North Fork Toutle River (46.328728, -122.722386); Whitten Creek (46.203701, -122.502013).

(vii) East Willapa Watershed 1708000507. Outlet(s) = Cowlitz River (46.265795, -122.915793); upstream to endpoint(s) in: Unnamed (46.241179, -122.990022); Unnamed (46.247733, -123.018044); Unnamed (46.247998, -122.777916); Unnamed (46.260464, -122.956364); Unnamed (46.263008, -123.020122); Unnamed (46.263983, -122.930316); Unnamed (46.266093,

-122.981616); Unnamed (46.27194, -122.770063); Unnamed (46.281159, -122.760238); Unnamed (46.287658, -122.906283); Unnamed (46.289048, -122.963514); Unnamed (46.302765, -123.0657); Unnamed (46.307415, -122.93938); Unnamed (46.313054, -122.816361); Unnamed (46.314382, -122.943084); Unnamed (46.314535, -123.010247); Unnamed (46.315942, -122.865345); Unnamed (46.317235, -122.896545); Unnamed (46.319898, -122.814207); Unnamed (46.320644, -122.892218); Unnamed (46.322067, -122.814053); Unnamed (46.32332, -122.859461); Unnamed (46.323446, -122.886965); Unnamed (46.326968, -123.025803); Unnamed (46.328758, -122.817082); Unnamed (46.329235, -122.909613); Unnamed (46.334118, -122.817188); Unnamed (46.334241, -123.017807); Unnamed (46.336993, -122.893299); Unnamed (46.337756, -122.611236); Unnamed (46.337802, -122.940117); Unnamed (46.339026, -122.940678); Unnamed (46.343885, -122.762274); Unnamed (46.34681, -122.946071); Unnamed (46.348905, -122.769029); Unnamed (46.349667, -123.053432); Unnamed (46.350564, -122.799855); Unnamed (46.358221, -123.038147); Unnamed (46.358277, -122.791338); Unnamed (46.3604, -122.696281); Unnamed (46.360599, -122.736153); Unnamed (46.36403, -123.005163); Unnamed (46.36632, -122.634646); Unnamed (46.366869, -122.89658); Unnamed (46.368123, -122.894117); Unnamed (46.374172, -122.622494); Unnamed (46.375592, -123.099965); Unnamed (46.380427, -122.610242); Unnamed (46.38163, -122.883768); Unnamed (46.38939, -123.065756); Unnamed (46.394019, -122.98067); Unnamed (46.401297, -123.028366); Unnamed (46.41997, -123.040973); Unnamed (46.428911, -123.047482); Unnamed (46.43562, -123.045801); Unnamed (46.437797, -122.999776); Unnamed (46.460336, -123.01792); Unnamed (46.472152, -122.999706); Unnamed (46.508924, -122.885928); Unnamed (46.522845, -122.854611); Unnamed (46.534744, -122.980706); Unnamed (46.537092, -122.823206); Unnamed (46.543646, -122.855197); Arkansas Creek (46.334118, -123.054814); Baxter Creek (46.335963, -122.985106); Becker Creek (46.366541, -123.077711); Brim Creek (46.444408, -123.040408); Campbell Creek (46.345799, -123.069223); Cline Creek (46.339582, -122.856216); Cowlitz River (46.367511, -122.934945); Cowlitz River (46.280749, -122.908759); Cowlitz River (46.270301, -122.918872); Curtis Creek (46.479675, -122.978296); Delameter Creek (46.27323, -123.020718); Duffy Creek (46.436886, -122.972934); Ferrier Creek (46.469037, -122.92969); Hemlock Creek (46.258298, -122.728132); Hill Creek (46.385982, -122.887561); King Creek (46.528608, -123.017282); Monahan Creek (46.304091, -123.062738); North Fork Brim Creek (46.461931, -123.022977); North Fork Toutle River (46.366681, -122.587092); Olequa Creek (46.522827, -122.88994); Owens Creek (46.39917, -123.045965); Rock Creek (46.347737, -122.815672); Rock Creek (46.36466, -122.979025); Snow Creek (46.448627, -122.9822); Stankey Creek (46.325726, -122.827854); Stillwater Creek (46.376492, -123.114458); Sucker Creek (46.257038, -122.763973); Toutle River (46.329223, -122.725131); Tucker Creek (46.256345, -123.017401); Whittle Creek (46.313257, -122.951576); Unnamed Creek (46.365968, -123.078372); Unnamed Creek (46.366574, -122.6278); Unnamed Creek (46.322752, -122.727564); Unnamed Creek (46.358525, -122.749069); Wyant Creek (46.348562, -122.655808).

(viii) Coweeman Watershed 1708000508. Outlet(s) = Cowlitz River (Lat 46.09677, Long -122.917179); Owl Creek (46.076672, -122.869072); upstream to endpoint(s) in: Unnamed (46.07177, -122.861942); Unnamed (46.080968, -122.726324); Unnamed (46.082482, -122.722033); Unnamed (46.08384, -122.719656); Unnamed (46.103901, -122.735682); Unnamed (46.11823, -122.725869); Unnamed (46.128746, -122.897993); Unnamed (46.133211, -122.702488); Unnamed (46.134412, -122.877742); Unnamed (46.134559, -122.874501); Unnamed (46.137294, -122.570127); Unnamed (46.140549, -122.616015); Unnamed (46.142157, -122.858404); Unnamed (46.142862, -122.813885); Unnamed (46.143869, -122.609969); Unnamed (46.147673, -122.866141); Unnamed (46.151541, -122.875978); Unnamed (46.157716, -122.6488); Unnamed (46.162608, -122.527406); Unnamed (46.164373, -122.573871); Unnamed (46.16697, -122.62965); Unnamed (46.169603, -122.912787); Unnamed (46.173346, -122.82947); Unnamed (46.174933, -122.844098); Unnamed (46.175151, -122.934081); Unnamed (46.175276, -122.532665); Unnamed (46.175583, -122.668586); Unnamed (46.180534, -122.898644); Unnamed (46.181396, -122.766774); Unnamed (46.183838, -122.820311); Unnamed (46.188804, -122.78364); Unnamed (46.193597, -122.911471); Unnamed (46.196887, -122.713022); Unnamed (46.20058, -122.827779); Unnamed (46.201892, -122.695345); Unnamed (46.202726, -122.560647); Unnamed (46.213243, -122.666442); Unnamed (46.217243, -122.951394); Unnamed (46.219673, -122.838549); Unnamed (46.220679, -122.889953); Unnamed (46.223168, -122.968869); Unnamed (46.226103, -122.771549); Unnamed (46.226208, -122.803239); Unnamed (46.237678, -122.887353); Unnamed (46.242901, -122.885918); Baird Creek (46.194037, -122.549476); Brown Creek (46.138569, -122.581603); Butler Creek (46.148896, -122.518149); Coweeman River (46.150297, -122.51847); Cowlitz River (46.265795, -122.915793); Goble Creek (46.109525, -122.68388); Hill Creek (46.178271, -122.600223); Jim Watson Creek (46.177642, -122.74165); Leckler Creek (46.231526, -122.948175); Little Baird Creek (46.190281, -122.572141); Mulholland Creek (46.201136, -122.646167); Nineteen Creek (46.140604, -122.623774); North Fork Goble Creek (46.136853, -122.680068); Nye Creek (46.121737, -122.805205); Ostrander Creek (46.210956, -122.764306); Owl Creek (46.091102, -122.865692); Owl Creek (46.076526, -122.861672); Salmon Creek (46.254572, -122.885114); Sam Smith Creek (46.165941, -122.725633); Sandy Bend Creek (46.231734, -122.915112); Skipper Creek (46.169104, -122.577264); South Fork Ostrander Creek (46.184505, -122.826132); Turner Creek (46.116534, -122.816196).

(7) Lower Columbia Subbasin 17080006—*(i) Youngs River Watershed 1708000601.* Outlet(s) = Lewis and Clark River (Lat 46.157276, Long -123.8567); Adair Slough (46.164573, -123.890158); Youngs River (46.168659, -123.838128); Skipanon Waterway (46.183693, -123.907231); Alder Creek (46.183694, -123.923138); upstream to endpoint(s) in: Unnamed (45.961144, -123.760693); Unnamed (45.976251, -123.781793); Unnamed (45.987168, -123.864135); Unnamed (46.075646, -123.74625); Unnamed (46.077196, -123.72534); Unnamed (46.081494, -123.687949); Unnamed (46.098839, -123.782036); Unnamed (46.101257, -123.777885); Unnamed (46.101582, -123.791448); Unnamed (46.104561, -123.790689); Unnamed (46.105278, -123.778981); Unnamed (46.115179, -123.862193); Unnamed (46.11823, -123.798015); Unnamed (46.125146, -123.900778); Unnamed (46.133731, -123.821982); Unnamed (46.155148, -123.772037); Unnamed (46.163155, -123.798112); Abercrombie Creek (46.087084, -123.88937); Adair Slough (46.153356, -123.897783); Alder Creek (46.171207, -123.933132); Barrett Slough (46.12204, -123.85348); Binder Creek (46.142527, -123.821985); Binder Slough (46.121358, -123.819543); Brown

Creek (46.172014, -123.806343); Casey Slough (46.115066, -123.815982); Cullaby Slough (46.022576, -123.880488); Green Slough (46.124806, -123.869053); Heckard Creek (46.057636, -123.87837); Hortill Creek (46.053191, -123.82798); Jeffers Slough (46.14965, -123.85163); Johnson Slough (46.071237, -123.882259); Klickitat Creek (46.045225, -123.835081); Lewis and Clark River (45.953527, -123.731398); Little Wallooskee River (46.140199, -123.737638); Loowit Creek (46.027001, -123.844093); Middle Fork North Fork Klaskanine River (46.061237, -123.638614); Moosmoos Creek (46.074807, -123.777539); North Fork Klaskanine River (46.048838, -123.636273); North Fork North Fork Klaskanine River (46.097739, -123.674883); Peterson Slough (46.10793, -123.85242); Shweeash Creek (46.019839, -123.839507); South Fork Klaskanine River (46.065177, -123.731988); Speelyai Creek (46.032437, -123.83321); Stowebolt Creek (46.060439, -123.825132); Tucker Creek (46.075512, -123.824939); Wallooskee River (46.104416, -123.699695); Youngs River (46.065871, -123.791772).

(ii) Big Creek Watershed 1708000602. Outlet(s) = Hillcrest Creek (Lat 46.171377, Long -123.655493); Bear Creek (46.1716, -123.665605); Marys Creek (46.173116, -123.668452); Fertile Valley Creek (46.188744, -123.588332); Blind Slough (46.20114, -123.584906); Big Creek (46.184561, -123.596303); John Day River (46.181573, -123.7404); Mill Creek (46.19298, -123.759637); upstream to endpoint(s) in: Unnamed (46.067847, -123.49896); Unnamed (46.155656, -123.731589); Unnamed (46.176667, -123.477624); Unnamed (46.180584, -123.796858); Unnamed (46.199516, -123.501455); Unnamed (46.211835, -123.534242); Unnamed (46.213817, -123.557667); Unnamed (46.219749, -123.496059); Bear Creek (46.122269, -123.636516); Big Creek (46.068744, -123.477937); Big Noise Creek (46.160378, -123.50188); Blind Slough (46.230154, -123.5256); Coon Creek (46.072977, -123.551698); Davis Creek (46.193487, -123.48968); Elk Creek (46.057446, -123.531954); Fertile Valley Creek (46.180229, -123.574191); McNary Creek (46.131584, -123.45871); Grizzly Slough (46.209179, -123.551962); Hillcrest Creek (46.155615, -123.633555); John Day River (46.151824, -123.718295); Gnat Creek (46.134382, -123.492375); Little Bear Creek (46.11197, -123.661934); Little Creek (46.138483, -123.606302); Marys Creek (46.136519, -123.685932); Mill Creek (46.143237, -123.582679); Mud Creek (46.089977, -123.55188); Pigpen Creek (46.102416, -123.559042); Saspal Slough (46.213023, -123.5376); Supply Creek (46.163644, -123.538404).

(iii) Grays Bay Watershed 1708000603. Outlet(s) = Unnamed (Lat 46.242128, Long -123.884815); Unnamed (46.242369, -123.889547); Unnamed (46.246062, -123.909891); Unnamed (46.249228, -123.863946); Unnamed (46.259183, -123.852059); Unnamed (46.260409, -123.850081); Unnamed (46.261711, -123.842086); Unnamed (46.269817, -123.830183); Crooked Creek (46.296355, -123.677056); Sisson Creek (46.301761, -123.72555); Chinook River (46.303571, -123.968574); Grays River (46.306824, -123.685025); Deep River (46.310771, -123.714286); Wallacut River (46.315209, -124.020283); upstream to endpoint(s) in: Unnamed (46.252832, -123.906587); Unnamed (46.255601, -123.883337); Unnamed (46.257057, -123.892766); Unnamed (46.261834, -123.877718); Unnamed (46.26971, -123.872478); Unnamed (46.272099, -123.863261); Unnamed (46.272788, -123.855154); Unnamed (46.273099, -123.847441); Unnamed (46.273923, -123.833921); Unnamed (46.27462, -123.841297); Unnamed (46.282558, -123.76132); Unnamed (46.289926, -123.938085); Unnamed (46.296119, -123.751262); Unnamed (46.305607, -123.945919); Unnamed (46.320823, -123.638104); Unnamed (46.332306, -123.674913); Unnamed (46.349054, -123.563997); Unnamed (46.362133, -123.397387); Unnamed (46.367197, -123.661101); Unnamed (46.370018, -123.661652); Unnamed (46.383643, -123.54663); Unnamed (46.3861, -123.399009); Unnamed (46.389563, -123.443531); Unnamed (46.398896, -123.603127); Unnamed (46.409223, -123.563384); Unnamed (46.40988, -123.591182); Unnamed (46.414991, -123.598881); Unnamed (46.419132, -123.377411); Unnamed (46.4231, -123.465561); Unnamed (46.427724, -123.449351); Unnamed (46.428912, -123.389161); Unnamed (46.429717, -123.393596); Unnamed (46.429964, -123.55265); Unnamed (46.432969, -123.434984); Unnamed (46.435352, -123.530908); Unnamed (46.440181, -123.389495); Unnamed (46.440236, -123.539966); Unnamed (46.445599, -123.389398); Unnamed (46.453434, -123.501054); Unnamed (46.466604, -123.486435); Unnamed (46.472739, -123.394404); Unnamed (46.478038, -123.431439); Beaver Creek (46.401593, -123.550548); Blaney Creek (46.403572, -123.442837); Cabin Creek (46.44222, -123.485741); Campbell Creek (46.358257, -123.709343); Chinook River (46.274479, -123.902553); Crooked Creek (46.313288, -123.59644); Deep River (46.354054, -123.688621); East Fork Grays River (46.42414, -123.36983); Empi Creek (46.31383, -123.638514); Fossil Creek (46.354523, -123.484306); Grays River (46.491024, -123.4354); Hendrickson Canyon (46.373524, -123.664774); Hendrickson Creek (46.361368, -123.655366); Honey Creek (46.375646, -123.603913); Hull Creek (46.405494, -123.57846); Impie Creek (46.318309, -123.617177); Johnson Creek (46.463847, -123.502087); Kessel Creek (46.33321, -123.586047); King Creek (46.34008, -123.577604); Klints Creek (46.352885, -123.546067); Lassila Creek (46.330703, -123.717849); Malone Creek (46.362725, -123.638537); Mitchell Creek (46.457074, -123.405992); North Fork South Fork Crooked Creek (46.302415, -123.588653); Rangila Slough (46.379454, -123.663919); Salme Creek (46.345311, -123.727176); Seal Creek (46.330013, -123.666112); Shannon Creek (46.397758, -123.544779); Silver Creek (46.361718, -123.606566); Sisson Creek (46.326508, -123.744171); South Creek (46.298871, -123.634124); South Fork Crooked Creek (46.291379, -123.594068); South Fork Grays River (46.378555, -123.338976); Sweigiler Creek (46.421912, -123.519244); Thadbar Creek (46.338413, -123.617861); Wallacut River (46.320188, -124.009121); West Fork Grays River (46.45098, -123.56517); Unnamed Creek (46.30366, -123.59053).

(8) Clackamas Subbasin 17090011—*(i) Collawash River Watershed 1709001101.* Outlet(s) = Collowash River (Lat 45.032022, Long -122.061189); upstream to endpoint(s) in: Collawash River (44.950761, -122.036265); Fan Creek (44.990371, -122.070099); Farm Creek (44.964523, -122.056455); Hot Springs Fork (44.938225, -122.172924); Nohorn Creek (44.951768, -122.178914); Pansy Creek (44.961276, -122.142173); Thunder Creek (44.971026, -122.114357).

(ii) Upper Clackamas River Watershed 1709001102. Outlet(s) = Clackamas River (Lat 45.032073, Long -122.060326); upstream to endpoint(s) in: Unnamed (44.921586, -121.891779); Unnamed (44.946758, -121.870376); Unnamed (44.965941, -121.890584); Unnamed (44.984829, -121.88591); Unnamed (45.00955, -121.913461); Unnamed (45.009742, -121.911448); Berry Creek (44.842515, -121.913476); Clackamas River (44.872157, -121.84842); Cub Creek (44.840609, -121.886756); Fawn Creek (44.918888, -121.906568); Hunter Creek (44.892373, -121.929425); Kansas Creek (44.983299, -121.898876); Last Creek (44.971428,

-121.855763); Lowe Creek (44.950581, -121.911761); Pinhead Creek (44.941643, -121.837499); Pot Creek (45.018321, -121.903626); Rhododendron Creek (44.935961, -121.905497); Wall Creek (44.954634, -121.88565); Wolf Creek (45.009327, -121.896447); Unnamed Creek (44.939221, -121.896788).

(iii) Oak Grove Fork Clackamas River Watershed 1709001103. Outlet(s) = Oak Grove Fork Clackamas River (Lat 45.074631, Long -122.053402); upstream to endpoint(s) in: Oak Grove Fork Clackamas River (45.082079, -121.987346); Pint Creek (45.083562, -122.037835).

(iv) Middle Clackamas River Watershed 1709001104. Outlet(s) = Clackamas River (Lat 45.243027, Long -122.28019); upstream to endpoint(s) in: Big Creek (45.071509, -122.07317); Clackamas River (45.032073, -122.060326); Fish Creek (45.067042, -122.165433); North Fork Clackamas River (45.239994, -122.223929); Oak Grove Fork Clackamas River (45.074631, -122.053402); Mag Creek (45.058467, -122.049959); Roaring River (45.1771, -122.066074); Sandstone Creek (45.088154, -122.075766); South Fork Clackamas River (45.193817, -122.226266); Tag Creek (45.060352, -122.048674); Tar Creek (45.049246, -122.058186); Trout Creek (45.037826, -122.073273); Wash Creek (45.047152, -122.190238); Whale Creek (45.110262, -122.085444).

(v) Eagle Creek Watershed 1709001105. Outlet(s) = Eagle Creek (Lat 45.353023, Long -122.38235); upstream to endpoint(s) in: Unnamed (45.306541, -122.253481); Bear Creek (45.333888, -122.257969); Currin Creek (45.337212, -122.357579); Delph Creek (45.266726, -122.169986); Eagle Creek (45.276382, -122.200963); Little Eagle Creek (45.301454, -122.167019); North Fork Eagle Creek (45.315132, -122.116618); Trout Creek (45.330806, -122.124752).

(vi) Lower Clackamas River Watershed 1709001106. Outlet(s) = Clackamas River (Lat 45.372568, Long -122.607652); upstream to endpoint(s) in: Unnamed (45.258538, -122.299446); Unnamed (45.350086, -122.487187); Unnamed (45.367637, -122.306895); Unnamed (45.377873, -122.36847); Unnamed (45.405591, -122.323467); Unnamed (45.411148, -122.302642); Bargfeld Creek (45.319393, -122.440978); Clackamas River (45.243027, -122.28019); Clear Creek (45.204742, -122.332063); Deep Creek (45.341779, -122.281223); Foster Creek (45.377099, -122.440414); Goose Creek (45.361912, -122.356092); Little Clear Creek (45.194779, -122.32996); Little Clear Creek (45.279953, -122.406729); Mosier Creek (45.268224, -122.452581); North Fork Deep Creek (45.426893, -122.304417); Richardson Creek (45.409345, -122.450358); Rock Creek (45.41554, -122.502566); Tickle Creek (45.391446, -122.27456).

(9) Lower Willamette Subbasin 17090012—*(i) Johnson Creek Watershed 1709001201.* Outlet(s) = Johnson Creek (Lat 45.443607, Long -122.646568); upstream to endpoint(s) in: Unnamed (45.395793, -122.637786); Unnamed (45.479793, -122.637275); Crystal Springs Creek (45.481991, -122.636282); Johnson Creek (45.460935, -122.344466); Kellogg Creek (45.416585, -122.599025); Kelly Creek (45.467217, -122.484045); Mount Scott Creek (45.430427, -122.557033); Oswego Creek (45.410712, -122.662215); Tryon Creek (45.447026, -122.687232); Willamette River (45.372568, -122.607652)).

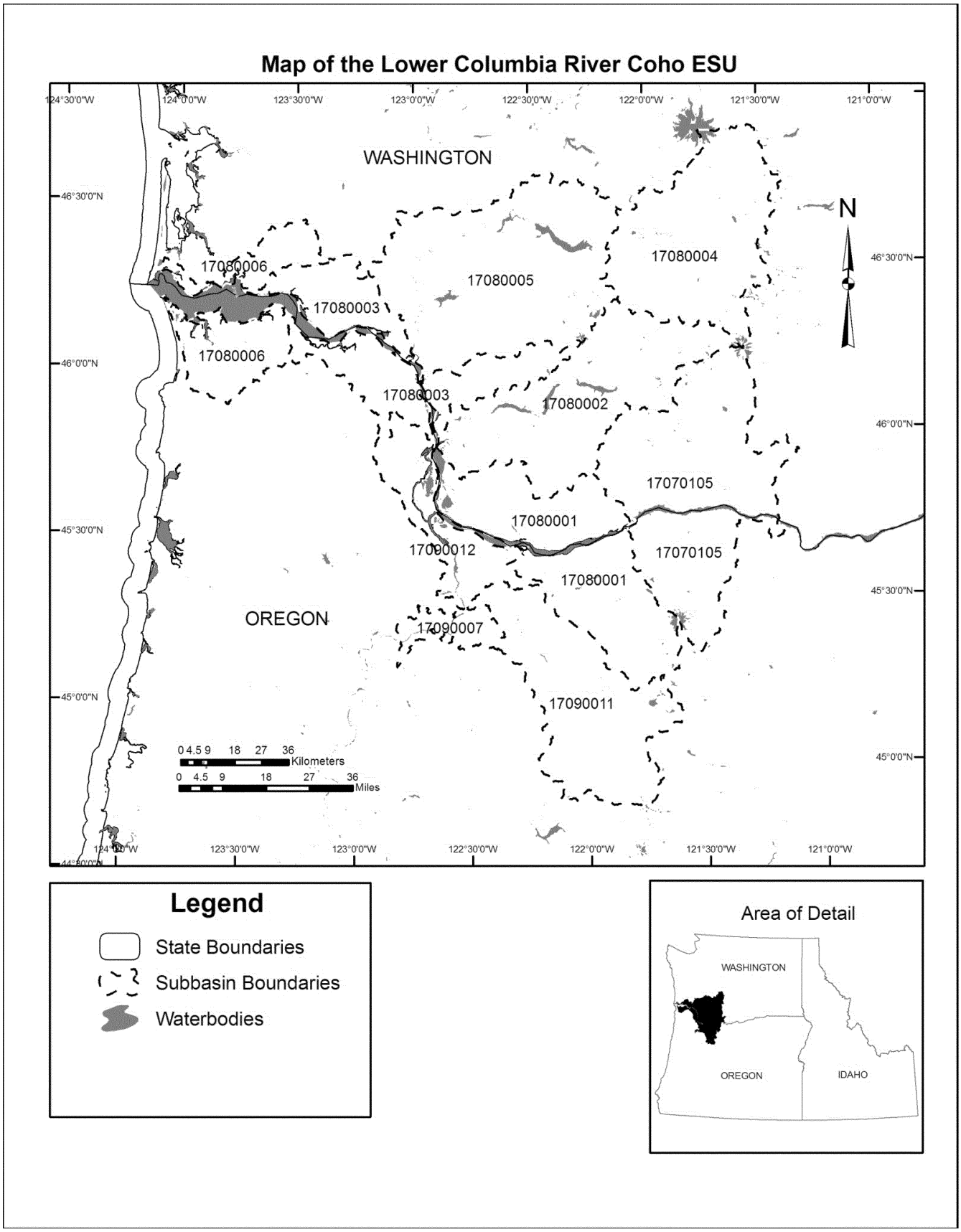
(ii) Scappoose Creek Watershed 1709001202. Outlet(s) = Multnomah Channel (Lat 45.618917, Long -122.796356); Multnomah Channel (45.856115, -122.795022); upstream to endpoint(s) in: Brush Creek (45.811623, -122.98903); Cox Creek (45.857229, -122.945231); Dart Creek (45.880546, -122.886563); Deep Creek (45.789148, -122.918002); Fall Creek (45.80123, -122.93963); Gourlay Creek (45.728432, -122.95866); Lazy Creek (45.745352, -122.992007); Lizzie Creek (45.824543, -122.994287); McCarthy Creek (45.641171, -122.859938); McNulty Creek (45.836482, -122.859642); Milton Creek (45.910301, -122.975949); North Scappoose Creek (45.826402, -123.0147); Raymond Creek (45.72705, -122.929237); Salmon Creek (45.867532, -122.901361); South Scappoose Creek (45.76167, -123.011604); Sturgeon Lake (45.72323, -122.79232); Sturgeon Lake (45.749815, -122.802752); Sturgeon Lake (45.725503, -122.830343).

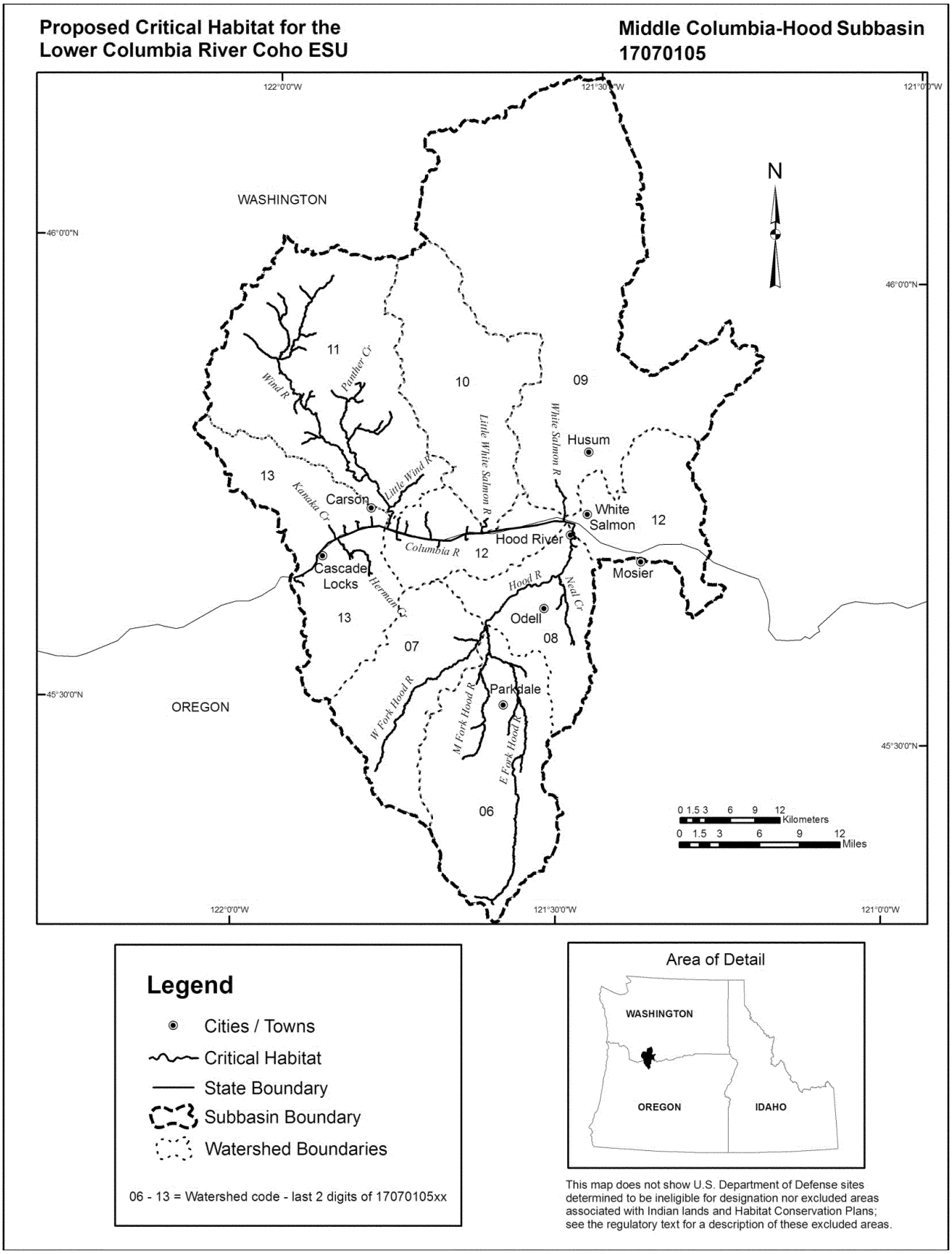
(iii) Columbia Slough/Willamette River Watershed 1709001203. Outlet(s) = Willamette River (Lat 45.653521, Long -122.764965); upstream to endpoint(s) in: Swan Island Basin (45.565019, -122.713073); Columbia Slough (45.607691, -122.745914); Unnamed (45.615235, -122.740691); Unnamed (45.627985, -122.754739); Willamette River (45.443607, -122.646568).

(10) Lower Columbia River Corridor—Lower Columbia River Corridor. Outlet(s) = Columbia River (Lat 46.2485, Long –124.0782) upstream to endpoint(s) in: Columbia River (Lat 45.605237, Long -121.633264).

(11) Maps of critical habitat for the lower Columbia River coho salmon DPS follow:

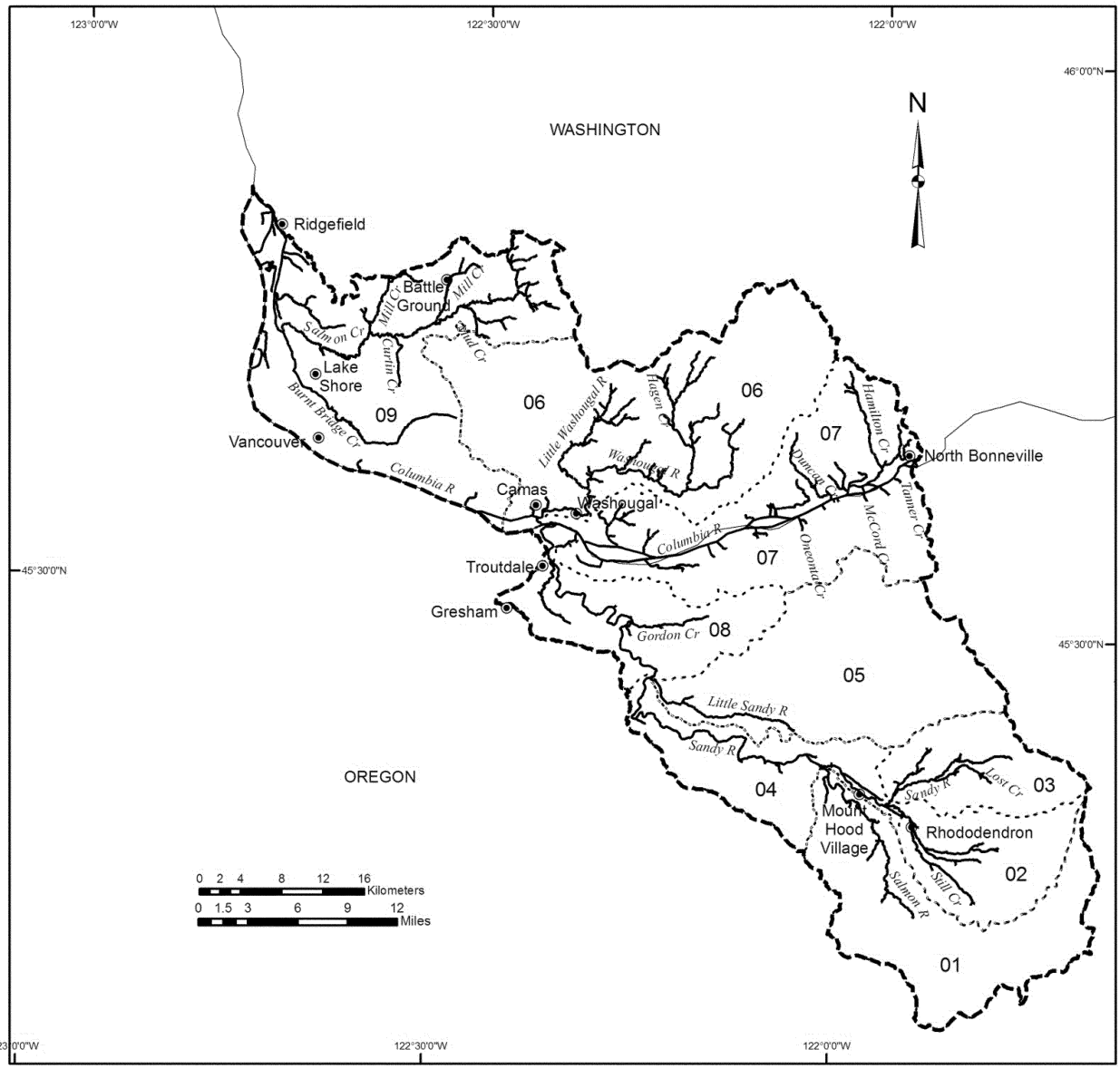
BILLING CODE 3510–22–P


Map of the Lower Columbia River Coho ESU
WASHINGTON
OREGON
N
17080006
17080005
17080004
17080003
17080006
17080003
17080002
17070105
17080001
17090012
17070105
17080001
17090007
17090011
0 4.5 9 18 27 36 Kilometers
0 4.5 9 18 27 36 Miles
124°30'0"W
124°0'0"W
123°30'0"W
123°0'0"W
122°30'0"W
122°0'0"W
121°30'0"W
121°0'0"W
46°30'0"N
46°0'0"N
45°30'0"N
45°0'0"N
Legend
State Boundaries
Subbasin Boundaries
Waterbodies
Area of Detail
WASHINGTON
OREGON
IDAHO


Proposed Critical Habitat for the
Lower Columbia River Coho ESU
Middle Columbia-Hood Subbasin
17070105
122°0'0"W
121°30'0"W
121°0'0"W
46°0'0"N
45°30'0"N
WASHINGTON
OREGON
N
11
10
09
13
12
13
07
08
06
Wind R
Panther Cr
Little Wind R
Little White Salmon R
White Salmon R
Kanaka Cr
Hermon Cr
Columbia R
Hood R
Neal Cr
W Fork Hood R
M Fork Hood R
E Fork Hood R
Husum
Carson
White Salmon
Hood River
Cascade Locks
Mosier
Odell
Parkdale
0 1.5 3 6 9 12 Kilometers
0 1.5 3 6 9 12 Miles
Legend
Cities / Towns
Critical Habitat
State Boundary
Subbasin Boundary
Watershed Boundaries
06 - 13 = Watershed code - last 2 digits of 17070105xx
Area of Detail
WASHINGTON
OREGON
IDAHO
This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.

Proposed Critical Habitat for the Lower Columbia River Coho ESU

Lower Columbia / Sandy Subbasin 17080001



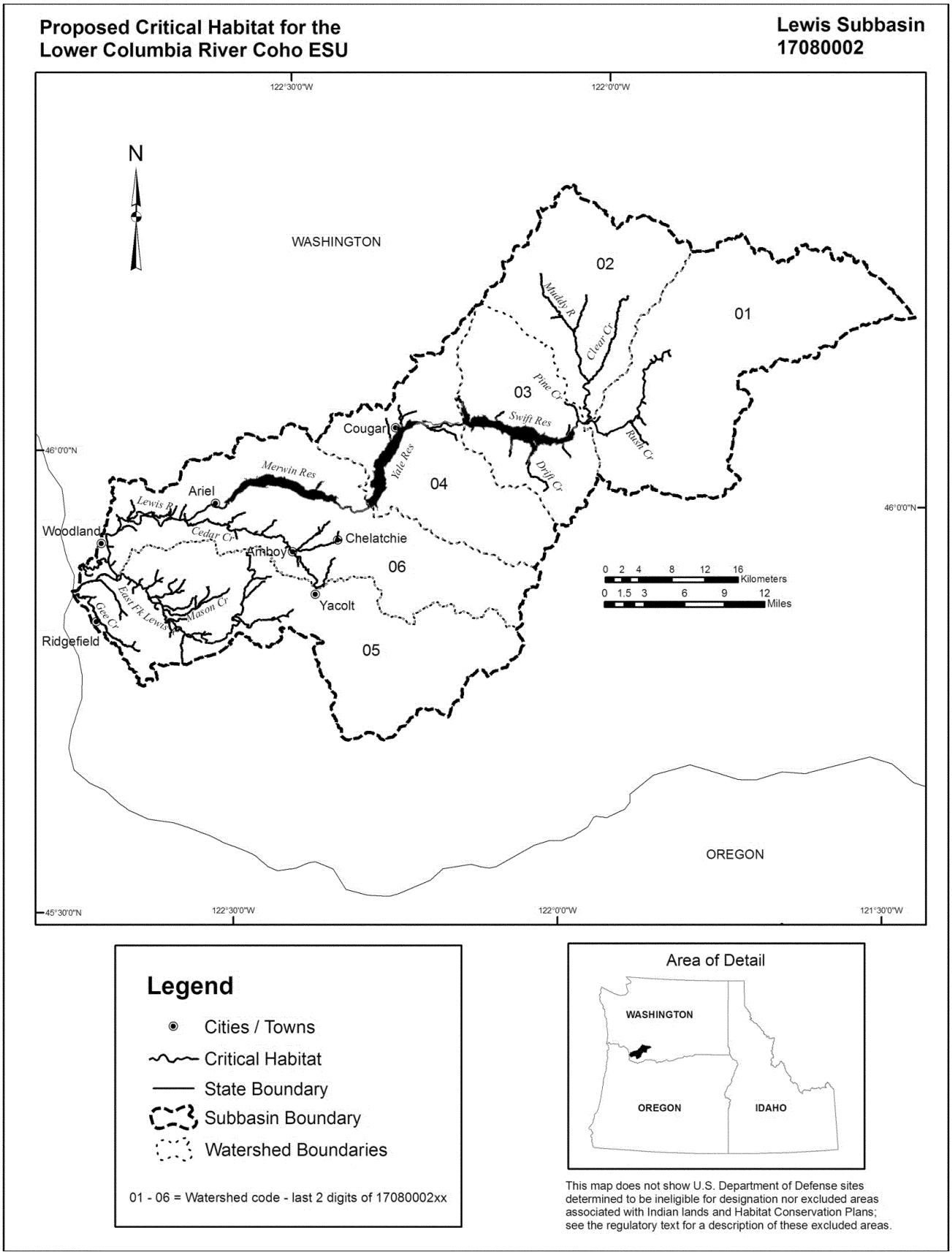
Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 09 = Watershed code - last 2 digits of 17080001xx

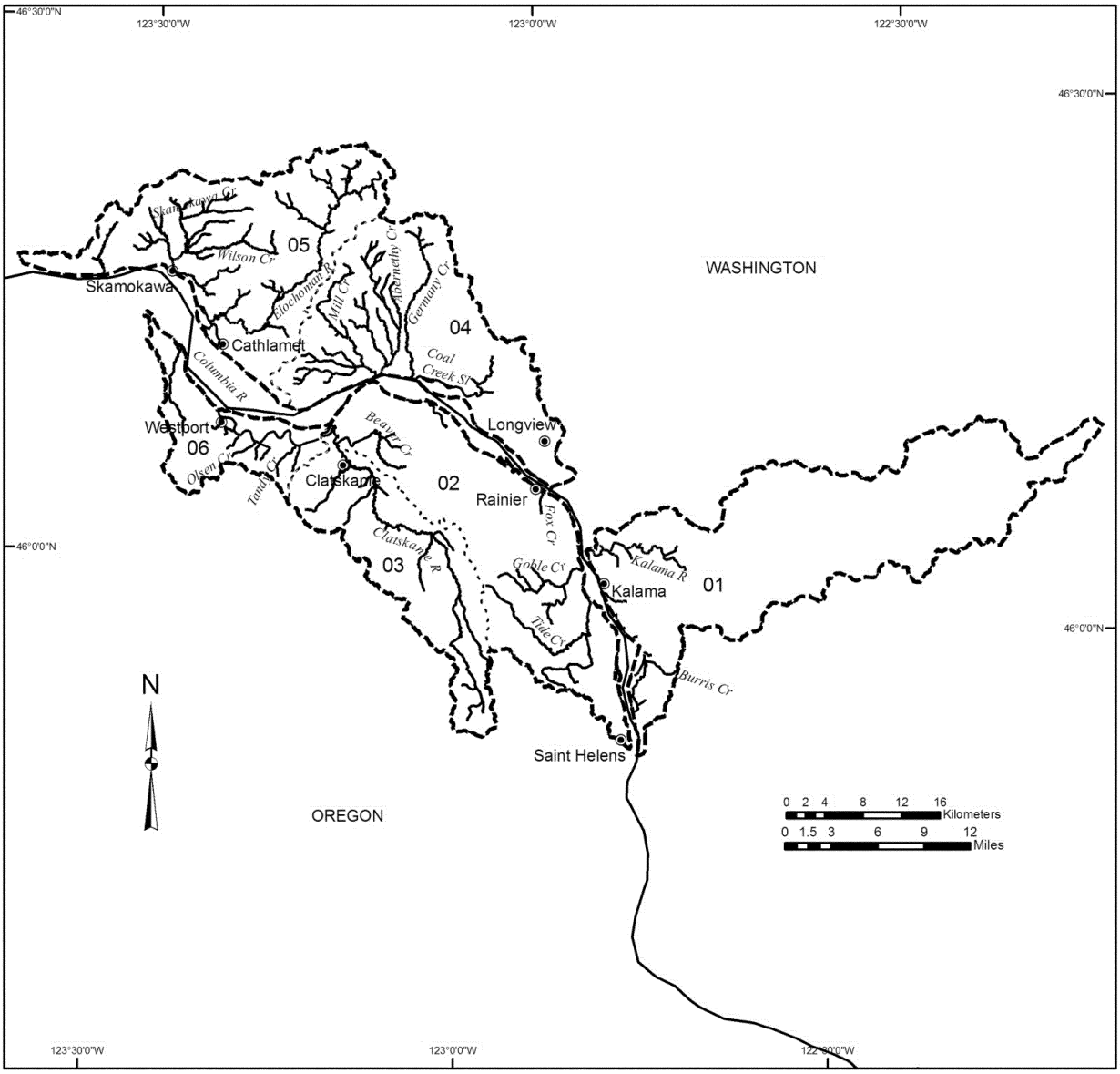
Area of Detail

This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.


Proposed Critical Habitat for the
Lower Columbia River Coho ESU
Lewis Subbasin
17080002
122°30'0"W
122°0'0"W
N
WASHINGTON
02
01
03
04
06
05
Muddy R
Clear Cr
Pine Cr
Swift Res
Rush Cr
Drift Cr
Cougar
Yale Res
Merwin Res
Ariel
Lewis R
Cedar Cr
Woodland
Chelatchie
Amboy
Yacolt
East Fk Lewis
Mason Cr
Gee Cr
Ridgefield
46°0'0"N
0 2 4 8 12 16 Kilometers
0 1.5 3 6 9 12 Miles
OREGON
45°30'0"N
121°30'0"W
Legend
Cities / Towns
Critical Habitat
State Boundary
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17080002xx
Area of Detail
WASHINGTON
OREGON
IDAHO
This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.

Proposed Critical Habitat for the Lower Columbia River Coho ESU

Lower Columbia / Clatskanie Subbasin 17080003



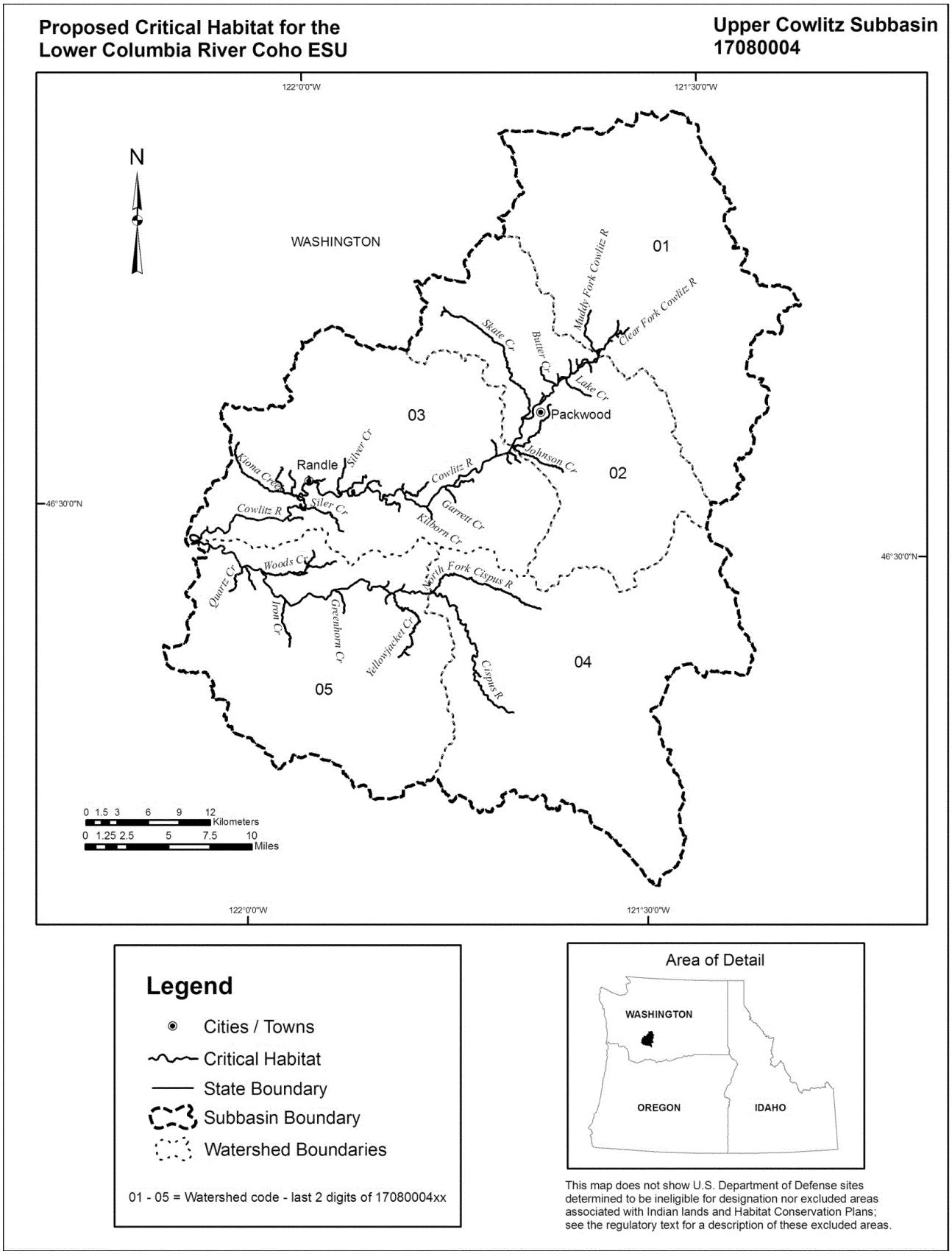
Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 06 = Watershed code - last 2 digits of 17080003xx

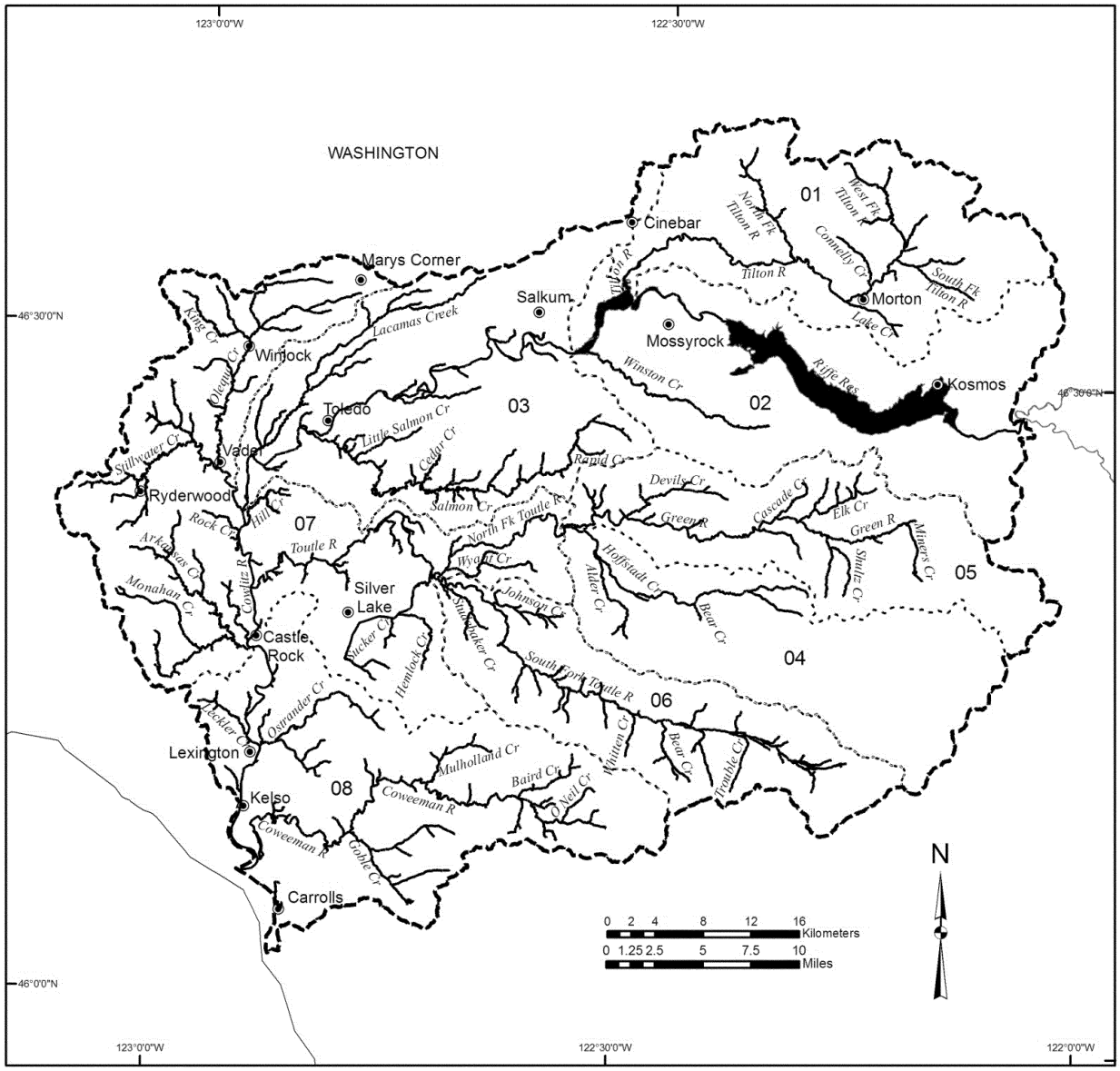
Area of Detail

This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.


Proposed Critical Habitat for the
Lower Columbia River Coho ESU
Upper Cowlitz Subbasin
17080004
122°0'0"W
121°30'0"W
46°30'0"N
N
WASHINGTON
01
02
03
04
05
Muddy Fork Cowlitz R
Clear Fork Cowlitz R
Skate Cr
Butter Cr
Lake Cr
Packwood
Johnson Cr
Cowlitz R
Silver Cr
Randle
Kiona Creek
Siler Cr
Garrett Cr
Kilborn Cr
Woods Cr
Quartz Cr
Iron Cr
Greenhorn Cr
Yellowjacket Cr
North Fork Cispus R
Cispus R
0 1.5 3 6 9 12 Kilometers
0 1.25 2.5 5 7.5 10 Miles
Legend
Cities / Towns
Critical Habitat
State Boundary
Subbasin Boundary
Watershed Boundaries
01 - 05 = Watershed code - last 2 digits of 17080004xx
Area of Detail
WASHINGTON
OREGON
IDAHO
This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.

Proposed Critical Habitat for the Lower Columbia River Coho ESU

Cowlitz Subbasin 17080005



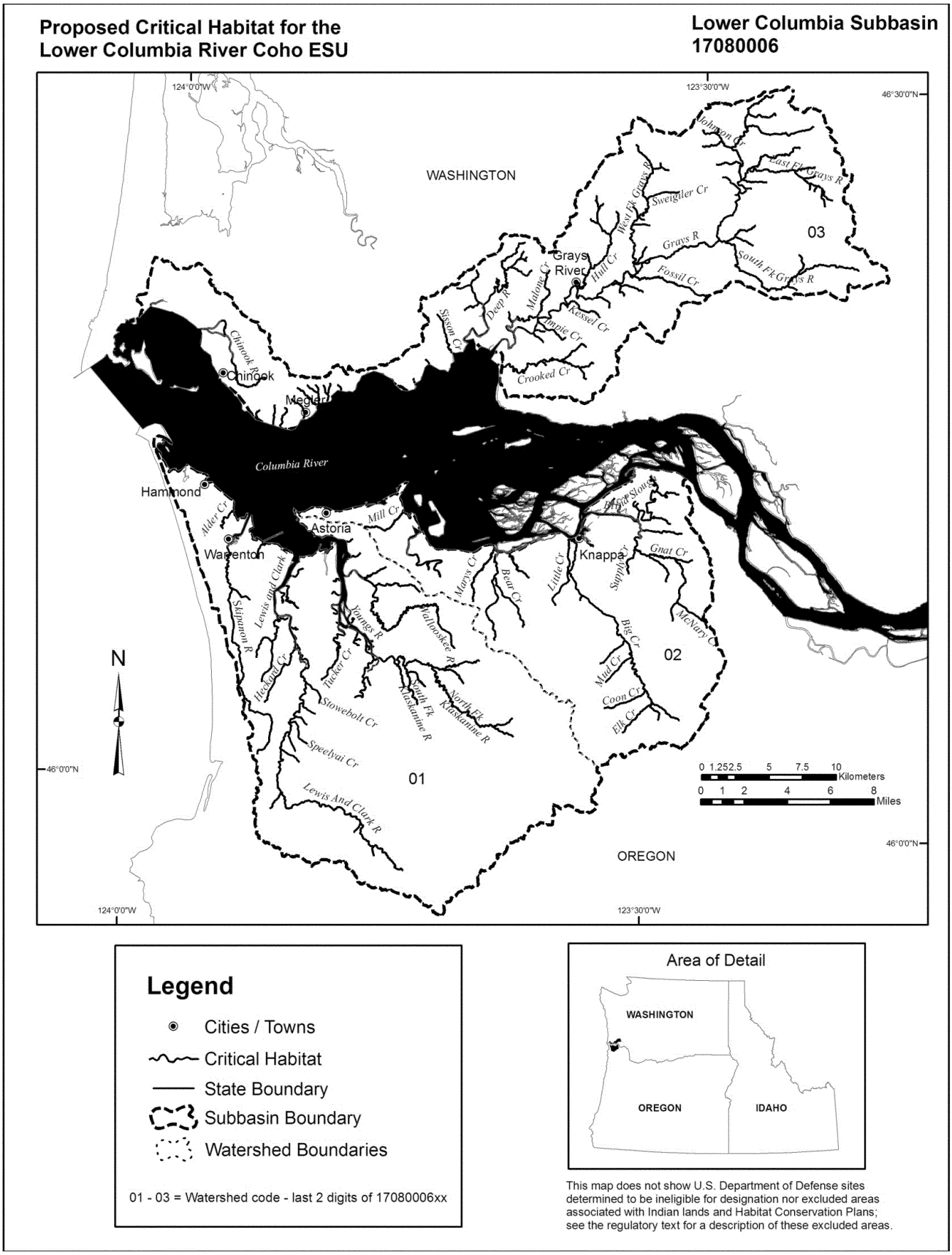
Legend

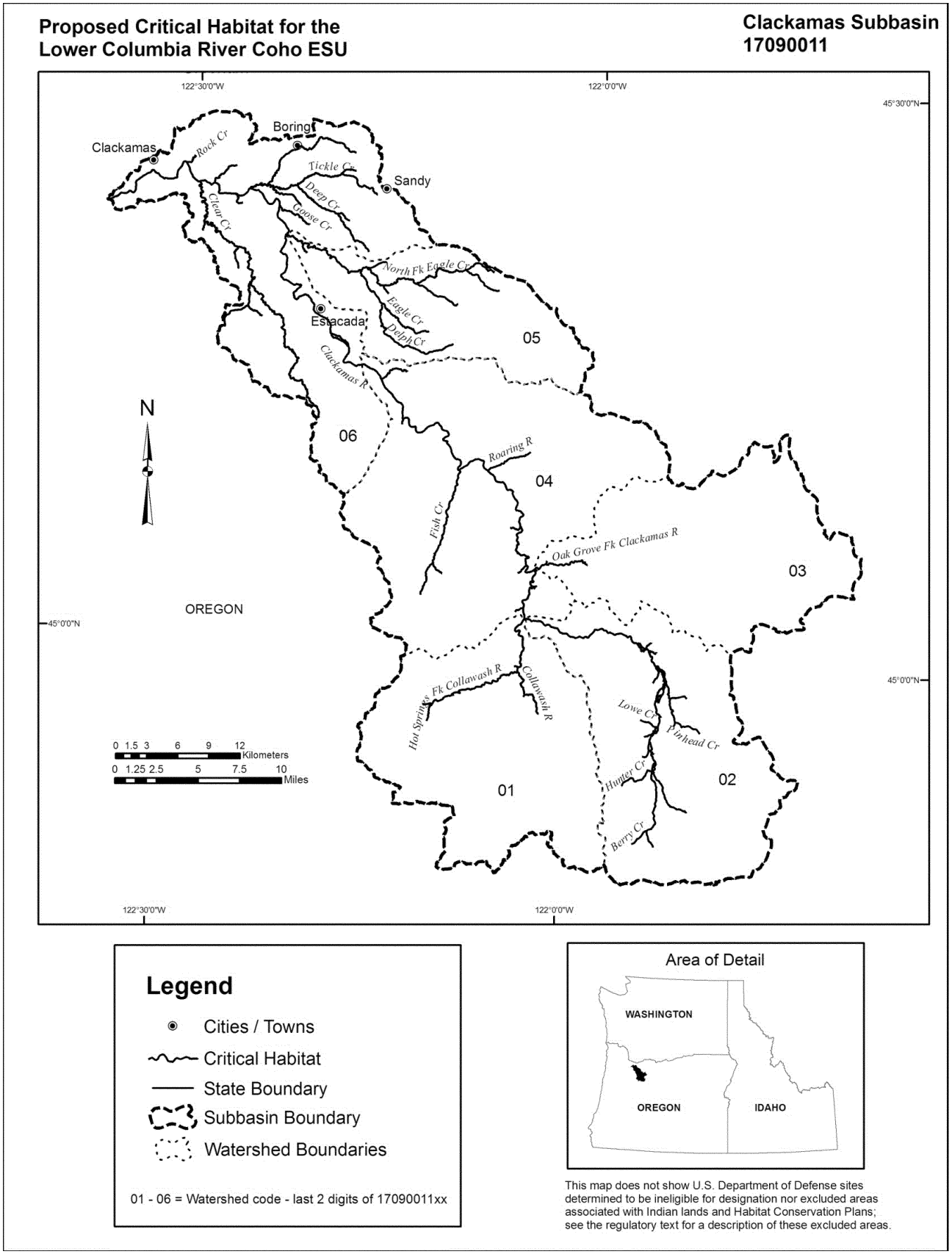
- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

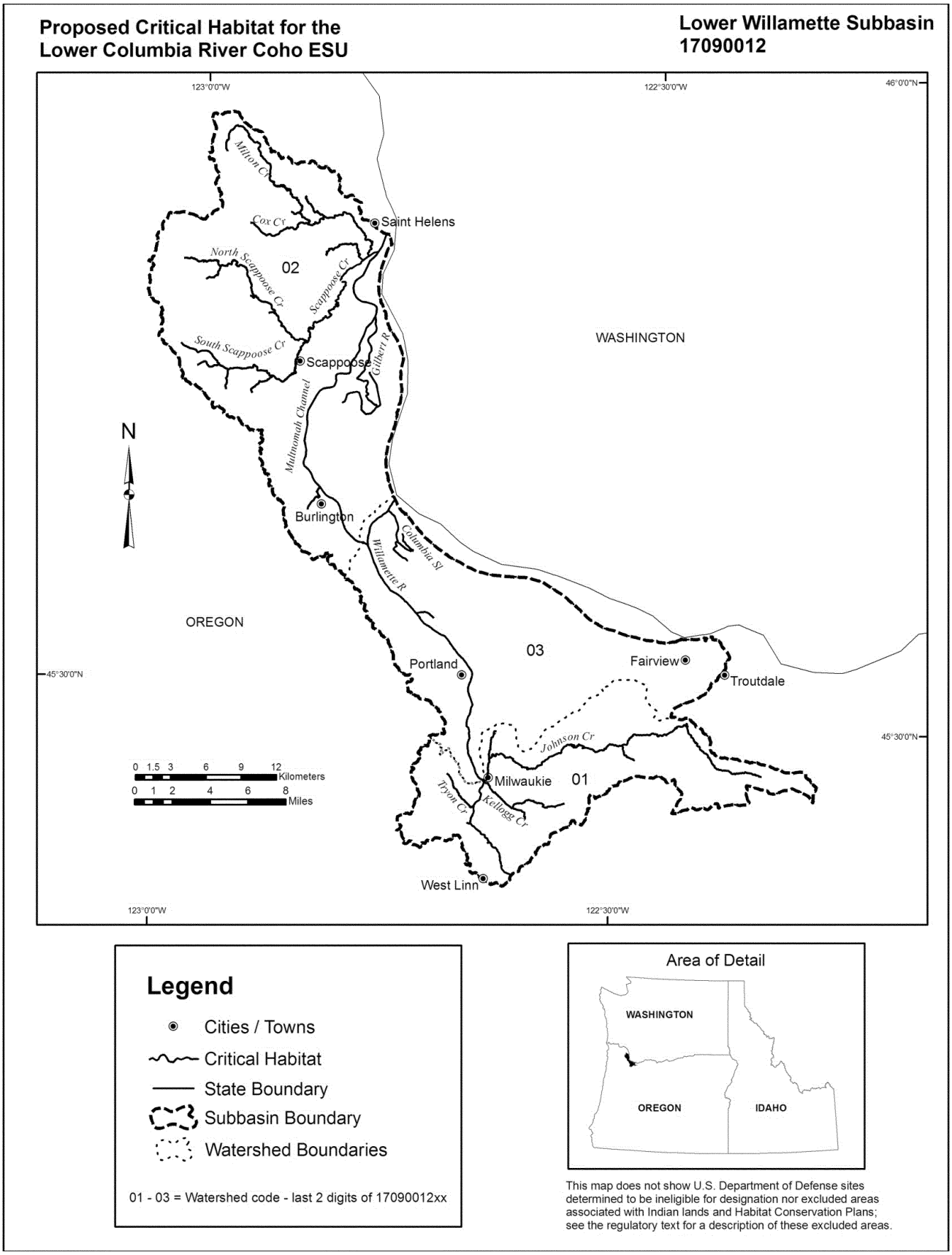
01 - 08 = Watershed code - last 2 digits of 17080005xx

Area of Detail

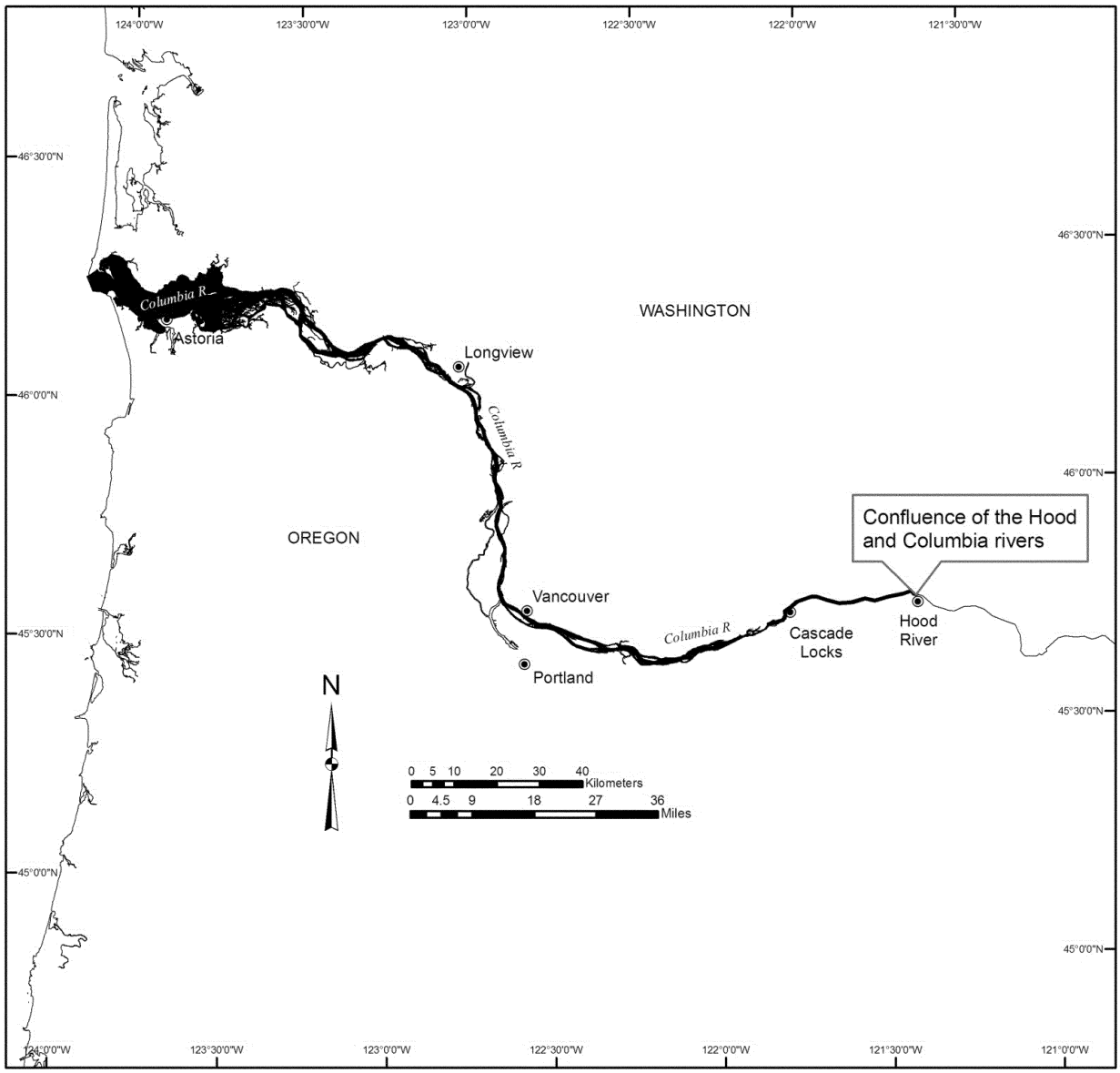
This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.


Proposed Critical Habitat for the
Lower Columbia River Coho ESU
Lower Columbia Subbasin
17080006
124°0'0"W
123°30'0"W
46°30'0"N
46°0'0"N
WASHINGTON
OREGON
Columbia River
Grays River
Chinook
Megler
Hammond
Astoria
Warrenton
Knappa
03
02
01
Johnson Cr
East Fk Grays R
Sweigler Cr
West Fk Grays R
Grays R
South Fk Grays R
Hull Cr
Fossil Cr
Deep R
Malone Cr
Kessel Cr
Impie Cr
Sisson Cr
Crooked Cr
Chinook R
Alder Cr
Mill Cr
Lewis and Clark
Skipanon R
Heckard Cr
Youngs R
Tucker Cr
Stowebolt Cr
Speelyai Cr
Lewis And Clark R
Wallooskee R
South Fk Klaskanine R
North Fk Klaskanine R
Merys Cr
Bear Cr
Little Cr
Big Cr
Mud Cr
Coon Cr
Elk Cr
Gnat Cr
McNary Cr
N
0 1.252.5 5 7.5 10 Kilometers
0 1 2 4 6 8 Miles
Legend
Cities / Towns
Critical Habitat
State Boundary
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17080006xx
Area of Detail
WASHINGTON
OREGON
IDAHO
This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.


Proposed Critical Habitat for the
Lower Columbia River Coho ESU
Clackamas Subbasin
17090011
122°30'0"W
122°0'0"W
45°30'0"N
45°0'0"N
Clackamas
Boring
Sandy
Estacada
Rock Cr
Tickle Cr
Deep Cr
Goose Cr
Clear Cr
North Fk Eagle Cr
Eagle Cr
Delph Cr
Clackamas R
Roaring R
Fish Cr
Oak Grove Fk Clackamas R
Hot Springs Fk Collawash R
Collawash R
Lowe Cr
Fishhead Cr
Hunter Cr
Berry Cr
05
06
04
03
01
02
N
OREGON
0 1.5 3 6 9 12 Kilometers
0 1.25 2.5 5 7.5 10 Miles
Legend
Cities / Towns
Critical Habitat
State Boundary
Subbasin Boundary
Watershed Boundaries
01 - 06 = Watershed code - last 2 digits of 17090011xx
Area of Detail
WASHINGTON
OREGON
IDAHO
This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.


Proposed Critical Habitat for the
Lower Columbia River Coho ESU
Lower Willamette Subbasin
17090012
123°0'0"W
122°30'0"W
46°0'0"N
45°30'0"N
Milton Cr
Cox Cr
Saint Helens
North Scappoose Cr
02
Scappoose Cr
South Scappoose Cr
Scappoose
Gilbert R
WASHINGTON
Multnomah Channel
N
Burlington
Columbia Sl
Willamette R
OREGON
03
Portland
Fairview
Troutdale
Johnson Cr
Milwaukie
01
Tryon Cr
Kellogg Cr
West Linn
0 1.5 3 6 9 12 Kilometers
0 1 2 4 6 8 Miles
Legend
Cities / Towns
Critical Habitat
State Boundary
Subbasin Boundary
Watershed Boundaries
01 - 03 = Watershed code - last 2 digits of 17090012xx
Area of Detail
WASHINGTON
OREGON
IDAHO
This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.

Columbia River Rearing / Migration Corridor for the Lower Columbia River Coho ESU



Legend

- Cities / Towns
- Critical Habitat
- State Boundary

Lower Columbia River Coho ESU

Lower Columbia River Corridor
The lower Columbia River corridor is that segment from the mouth of the Columbia River at the Pacific Ocean upstream to the confluence with the Hood River (Oregon).

BILLING CODE 3510–22–C

(u) Puget Sound Steelhead (*Oncorhynchus mykiss*). Critical habitat is designated to include the areas defined in the following subbasins:

(1) Strait Of Georgia Subbasin 17110002—*(i) Bellingham Bay 1711000201.* Outlet(s) = Chuckanut Creek (Lat 48.700204, Long -122.4949); Padden Creek (48.720212, -122.507267); Squalicum Creek (48.761135, -122.508464); Whatcom Creek (48.754617, -122.482672); upstream to endpoint(s) in: Chuckanut Creek (48.695855, -122.459009); Padden Creek (48.716119, -122.492112); Squalicum Creek (48.800413, -122.401884); Toad Creek (48.790221, -122.420404); Unnamed (48.694566, -122.460342); Unnamed (48.749891, -122.443697); Unnamed (48.776621, -122.485934); Unnamed (48.798187, -122.478488); Unnamed (48.804196, -122.480665); Unnamed (48.808622, -122.395832); Unnamed (48.81125, -122.390305); Unnamed (48.818485, -122.394634); Whatcom Creek (48.755728, -122.439609).

(ii) Samish River Watershed 1711000202. Outlet(s) = Samish River (Lat 48.554929, Long -122.456811); upstream to endpoint(s) in: Bear Creek (48.637599, -122.376587); Butler Creek (48.604896, -122.321047); Doolittle Creek (48.636011, -122.217771); Dry Creek (48.59728, -122.276992); Ennis Creek (48.656411, -122.192383); Friday Creek (48.648567, -122.371833); Parson Creek (48.601221, -122.282987); Silver Creek (48.64571, -122.329513); Swede Creek (48.558933, -122.226206); Thomas Creek (48.547551, -122.26923); Thunder Creek (48.597861, -122.214046); Unnamed (48.547031, -122.265845); Unnamed (48.601928, -122.266484); Unnamed (48.60898, -122.23177); Unnamed (48.624483, -122.220011); Unnamed (48.635349, -122.312454); Unnamed (48.684736, -122.198027); Vernon Creek (48.592764, -122.243096).

(iii) Birch Bay 1711000204. Outlet(s) = California Creek (Lat 48.96192, Long -122.732814); Dakota Creek (48.971842, -122.723798); Terrell Creek (48.921475, -122.745208); Unnamed (48.937195, -122.752893); upstream to endpoint(s) in: California Creek (48.894356, -122.608319); Haynie Creek (48.991982, -122.649909); North Fork Dakota Creek (48.984477, -122.568636); South Fork Dakota Creek (48.946745, -122.620945); Terrell Creek (48.873999, -122.688964); Unnamed (48.89583, -122.753422); Unnamed (48.937989, -122.750521); Unnamed (48.973734, -122.66835); Unnamed (48.978003, -122.695909); Unnamed (48.980675, -122.707693).

(2) Nooksack Subbasin 17110004—*(i) Upper North Fork Nooksack River Watershed 1711000401.* Outlet(s) = Canyon Creek (Lat 48.90661, Long -121.989864); North Fork Nooksack River (48.90561, -121.987814); upstream to endpoint(s) in: Canyon Creek (48.965226, -121.876396); Cascade Creek (48.898964, -121.863499); Cornell Creek (48.87524, -121.956735); Deadhorse Creek (48.902507, -121.837147); Gallop Creek (48.864748, -121.950975); Glacier Creek (48.841264, -121.903083); Hedrick Creek (48.89601, -121.971728); North Fork Nooksack River (48.905296, -121.8089); Thompson Creek (48.890132, -121.878197); West Cornell Creek (48.856057, -121.988578).

(ii) Middle Fork Nooksack River Watershed 1711000402. Outlet(s) = Canyon Creek (Lat 48.835008, Long -122.153051); Middle Fork Nooksack River (48.833037, -122.153128); upstream to endpoint(s) in: Canyon Creek (48.841923, -122.103727); Heislers Creek (48.778707, -122.092743); Middle Fork Nooksack River (48.771145, -122.072977); Porter Creek (48.794092, -122.103694); Unnamed (48.779218, -122.121048); Unnamed (48.780767, -122.116975); Unnamed (48.787472, -122.12477); Unnamed (48.820768, -122.122144).

(iii) South Fork Nooksack River Watershed 1711000403. Outlet(s) = South Fork Nooksack River (Lat 48.807821, Long -122.20252); upstream to endpoint(s) in: Bell Creek (48.69622, -121.87518); Cavanaugh Creek (48.638874, -122.057619); Deer Creek (48.603978, -122.092479); Hard Scrabble Falls Creek (48.759936, -122.22864); Howard Creek (48.612814, -121.966548); Hutchinson Creek (48.722661, -122.098154); Jones Creek (48.715065, -122.215748); Loomis Creek (48.665079, -121.815934); Mccarty Creek (48.727377, -122.219879); Mcginnis Creek (48.61109, -121.958839); Plumbago Creek (48.6042, -122.106088); Skookum Creek (48.68695, -122.104163); Standard Creek (48.74615, -122.224446); Sygitowicz Creek (48.772017, -122.228041); Unnamed (48.600525, -122.039331); Unnamed (48.600658, -122.022203); Unnamed (48.60222, -122.059486); Unnamed (48.602513, -122.016247); Unnamed (48.602549, -122.004019); Unnamed (48.604219, -121.992247); Unnamed (48.604523, -121.915611); Unnamed (48.60642, -121.930219); Unnamed (48.607985, -121.918823); Unnamed (48.608266, -121.911587); Unnamed (48.609571, -121.982189); Unnamed (48.61019, -121.954851); Unnamed (48.630045, -122.118545); Unnamed (48.661705, -122.11915); Unnamed (48.679949, -121.933538); Unnamed (48.681, -122.176044); Unnamed (48.687907, -122.159547); Unnamed (48.69125, -121.932816); Unnamed (48.698785, -121.912135); Unnamed (48.700841, -121.880954); Unnamed (48.70222, -122.109268); Unnamed (48.725471, -122.168225); Unnamed (48.738227, -122.105899); Unnamed (48.745076, -122.11099); Unnamed (48.776775, -122.221381); Unnamed (48.78219, -122.218602); Unnamed (48.799589, -122.186071); Wanlick Creek (48.66309, -121.801322).

(iv) Lower North Fork Nooksack River Watershed 1711000404. Outlet(s) = Anderson Creek (Lat 48.866658, Long -122.324286); Nooksack River (48.869803, -122.319417); upstream to endpoint(s) in: Anderson Creek (48.797051, -122.32598); Bell Creek (48.849394, -122.163142); Boulder Creek (48.936973, -122.02081); Canyon Creek (48.90661, -121.989864); Coal Creek (48.890899, -122.15529); Kendall Creek (48.941107, -122.133842); Kenney Creek (48.851169, -122.11389); Maple Creek (48.926054, -122.07647); Mitchell Creek (48.831119, -122.218653); North Fork Nooksack River (48.90561, -121.987814); Racehorse Creek (48.881706, -122.128437); Smith Creek (48.843717, -122.255666); South Fork Nooksack River (48.807821, -122.20252); Unnamed (48.809155, -122.328886); Unnamed (48.816885, -122.229843); Unnamed (48.830856, -122.173308); Unnamed (48.834543, -122.153069); Unnamed (48.843097, -122.158088); Unnamed (48.850754, -122.120796); Unnamed (48.899154, -122.092519); Unnamed (48.901819, -122.078973); Unnamed (48.902047, -122.083185); Unnamed (48.911444, -122.01855); Unnamed (48.912051, -122.063062); Unnamed (48.913227, -122.036411); Unnamed (48.916696, -122.103739); Wildcat Creek (48.896003, -122.005239).

(v) Nooksack River Watershed 1711000405. Outlet(s) = Nooksack River (Lat 48.773567, Long -122.599888); Silver Creek (48.780374, -122.56738); upstream to endpoint(s) in: Anderson Creek (48.866658, -122.324286); Bertrand Creek (49.000000, -122.524755); Fishtrap Creek (49.000000, -122.406584); Fourmile Creek (48.888842, -122.422525); Mormon Ditch (48.943782, -122.382402); Nooksack River (48.869803, -122.319417); Pepin Creek (49.000000, -122.473673); Stickney Slough (48.971492, -122.390969); Tenmile Creek (48.841838, -122.377054); Unnamed (48.840108, -122.411055); Unnamed (48.849253, -122.431795); Unnamed (48.854029, -122.477112); Unnamed (48.854666, -122.439035); Unnamed (48.870978, -122.599973); Unnamed (48.896998, -122.339775); Unnamed (48.913285, -122.364233); Unnamed (48.926314, -122.591314); Unnamed (48.967318, -122.524502); Unnamed (48.998264, -122.501263); Unnamed (49.000000, -122.474268).

(3) Upper Skagit Subbasin 17110005—*(i) Skagit River/Gorge Lake Watershed 1711000504.* Outlet(s) = Goodell Creek (Lat 48.674399, Long -121.26504); Skagit River (48.672375, -121.262508); upstream to endpoint(s) in: Goodell Creek (48.729929, -121.314); Newhalem Creek (48.664832, -121.255072); Skagit River (48.676125, -121.241661).

(ii) Skagit River/Diobsud Creek Watershed 1711000505. Outlet(s) = Skagit River (48.522186, -121.431634); upstream to endpoint(s) in: Alma Creek (48.599105, -121.36141); Bacon Creek (48.675306, -121.453097); Copper Creek (48.588469, -121.370907); Damnation Creek (48.627647, -121.339559); Diobsud Creek (48.583981, -121.441197); East Fork Bacon Creek (48.669034, -121.430334); Falls Creek (48.633251, -121.427043); Oakes Creek (48.619075, -121.412357); Skagit River (48.672375, -121.262508); Thorton Creek (48.649594, -121.307697); Unnamed (48.550953, -121.419261); Unnamed (48.627482, -121.324941); Unnamed (48.630803, -121.424055); Unnamed (48.652391, -121.297267); Unnamed (48.65642, -121.293119); Unnamed (48.657949, -121.279141); Unnamed (48.659526, -121.281845); Unnamed (48.659652, -121.284867).

(iii) Cascade River Watershed 1711000506. Outlet(s) = Cascade River (Lat 48.52147, Long -121.431469); upstream to endpoint(s) in: Boulder Creek (48.511828, -121.363515); Cascade River (48.422406, -121.124592); Clark Creek (48.519616, -121.404247); Found Creek (48.481464, -121.244895); Jordan Creek (48.479149, -121.396302); Kindy Creek (48.40346, -121.19997); North Fork Cascade River (48.46574, -121.165301); Sibley Creek (48.511764, -121.255306); Unnamed (48.516916, -121.369934); Unnamed (48.519853, -121.355352); Unnamed (48.522841, -121.416253); Unnamed (48.540716, -121.187277).

(iv) Skagit River/illabot Creek Watershed 1711000507. Outlet(s) = Skagit River (Lat 48.533888, Long -121.736697); upstream to endpoint(s) in: Aldon Creek (48.490787, -121.655981); Barr Creek (48.494766, -121.553562); Cascade River (48.52147, -121.431469); Corkindale Creek (48.523793, -121.481226); Illabot Creek (48.420072, -121.375128); Jackman Creek (48.52921, -121.696976); Mcleod Slough (48.478113, -121.628016); Miller Creek (48.483633, -121.657553); Olson Creek (48.554876, -121.448159); Rocky Creek (48.507094, -121.497771); Sauk River (48.48173, -121.607129); Skagit River (48.522186, -121.431634); Sutter Creek (48.495127, -121.549745); Unnamed (48.471463, -121.542227); Unnamed (48.485698, -121.594461); Unnamed (48.487325, -121.545692); Unnamed (48.487425, -121.533453); Unnamed (48.501107, -121.661145).

(v) Baker River Watershed 1711000508. Outlet(s) = Baker River (Lat 48.533879, Long -121.736713); upstream to endpoint(s) in: Baker River (48.820068, -121.428469); Bald Eagle Creek (48.786682, -121.426929); Blum Creek (48.753095, -121.54535); Little Sandy Creek (48.704049, -121.698077); Morovitz Creek (48.745746, -121.677314); Park Creek (48.74079, -121.681977); Pass Creek (48.814934, -121.463275); Rocky Creek (48.645389, -121.707383); Skagit River (48.533888, -121.736697); Swift Creek (48.753261, -121.65719); Unnamed (48.734467, -121.636766).

(4) Sauk Subbasin 17110006—*(i) Upper Sauk River Watershed 1711000601.* Outlet(s) = Sauk River (Lat 48.173216, Long -121.472863); upstream to endpoint(s) in: Bedal Creek (48.079796, -121.392862); Black Oak Creek (48.178866, -121.45057); Camp Creek (48.150358, -121.280495); Chocwich Creek (48.072804, -121.399295); Crystal Creek (48.182984, -121.360841); Dead Duck Creek (48.179803, -121.373501); Elliott Creek (48.055379, -121.415773); Falls Creek (48.136819, -121.432256); Martin Creek (48.091595, -121.402576); North Fork Sauk River (48.096, -121.372171); Owl Creek (48.162177, -121.295991); Peek-A-Boo Creek (48.149748, -121.441535); South Fork Sauk River (47.986322, -121.393336); Stujack Creek (48.176825, -121.392682); Swift Creek (48.099536, -121.40116); Unnamed (48.117404, -121.416221); Unnamed (48.164324, -121.447051); Unnamed (48.165143, -121.33003); Weden Creek (47.986316, -121.44378); White Chuck River (48.09948, -121.182565).

(ii) Upper Suiattle River Watershed 1711000602. Outlet(s) = Suiattle River (48.258351, -121.224572); upstream to endpoint(s) in: Downey Creek (48.28262, -121.209548); Suiattle River (48.210571, -121.088734); Sulphur Creek (48.256889, -121.174591).

(iii) Lower Suiattle River Watershed 1711000603. Outlet(s) = Suiattle River (Lat 48.335583, Long -121.547106); upstream to endpoint(s) in: All Creek (48.288401, -121.429156); Big Creek (48.343084, -121.441273); Black Creek (48.258382, -121.402801); Buck Creek (48.275388, -121.327822); Captain Creek (48.258384, -121.276479); Circle Creek (48.257783, -121.339964); Conrad Creek (48.276814, -121.414421); Harriet Creek (48.24803, -121.30351); Lime Creek (48.244288, -121.294507); Suiattle River (48.258351, -121.224572); Tenas Creek (48.336889, -121.431586); Unnamed (48.268285, -121.347595); Unnamed (48.2897, -121.432205); Unnamed (48.295835, -121.432122); Unnamed (48.303544, -121.423863).

(iv) Lower Sauk River Watershed 1711000604. Outlet(s) = Mcleod Slough (Lat 48.478113, Long -121.628016); Sauk River (48.48173, -121.607129); upstream to endpoint(s) in: Clear Creek (48.202408, -121.569295); Dan Creek (48.265631, -121.540646); Dutch Creek (48.179125, -121.486809); Everett Creek (48.283836, -121.526243); Goodman Creek (48.185225, -121.499311); Hilt Creek (48.440932, -121.573433); Murphy Creek (48.183863, -121.523654); Rinker Creek (48.395207, -121.583449); Sauk River (48.173216, -121.472863); Suiattle River (48.335583, -121.547106); Unnamed (48.235207, -121.590179); Unnamed (48.282638, -121.530751); Unnamed (48.286653, -121.524888); Unnamed (48.305253, -121.545097); Unnamed (48.439232, -121.616077); White Creek (48.403202, -121.537828).

(5) Lower Skagit Subbasin 17110007—*(i) Middle Skagit River/ Finney Creek Watershed 1711000701.* Outlet(s) = Skagit River (Lat 48.488951, Long -122.217614); upstream to endpoint(s) in: Alder Creek (48.552575, -121.932183); Boyd Creek (48.504855, -121.892273); Childs Creek (48.536412, -122.080267); Coal Creek (48.533942, -122.153196); Cumberland Creek (48.510468, -121.993332); Day Creek (48.406901, -121.97766); Finney Creek (48.465302, -121.687051); Gilligan Creek (48.48009, -122.130644); Grandy Creek (48.561171, -121.818094); Hansen Creek (48.559859, -122.208046); Jones Creek (48.558032, -122.046527); Loretta Creek (48.492814, -122.018527); Marietta Creek (48.511246, -121.930245); Mill Creek (48.500192, -121.873597); Muddy Creek (48.545767, -121.985109); O Toole Creek (48.508466, -121.919329); Pressentin Creek (48.509721, -121.846156); Quartz Creek (48.50301, -121.788233); Red Cabin Creek (48.552388, -122.016014); Skagit River (48.533385, -121.737928); Sorenson Creek (48.488763, -122.104541); Unnamed (48.480893, -122.141637); Unnamed (48.489945, -122.098925); Unnamed (48.495815, -121.753486); Unnamed (48.506371, -122.061784); Unnamed (48.509168, -122.104561); Unnamed (48.514861, -122.118166); Unnamed (48.528239, -122.166675); Unnamed (48.528601, -122.102507); Unnamed (48.535185, -122.087068); Unnamed (48.536394, -122.085423); Unnamed (48.537986, -122.186437); Unnamed (48.542105, -122.059915); Unnamed (48.547274, -122.185153); Unnamed (48.547956, -122.187094); Unnamed (48.548129, -121.954555);

Unnamed (48.550762, -122.195456); Unnamed (48.552902, -121.959069); Unnamed (48.558115, -122.198368); Unnamed (48.558227, -121.99464); Unnamed (48.561171, -121.818094); Unnamed (48.562984, -121.811731); Unnamed (48.55177, -122.204332); Wiseman Creek (48.532064, -122.135004).

(ii) Lower Skagit River/Nookachamps Creek Watershed 1711000702. Outlet(s) = Freshwater Slough (Lat 48.310713, Long -122.389592); North Fork Skagit River (48.362362, -122.470128); South Fork Skagit River (48.291833, -122.368233); upstream to endpoint(s) in: Britt Slough (48.393312, -122.358366); Carpenter Creek (48.394245, -122.277339); East Fork Nookachamps Creek (48.404247, -122.180275); Fisher Creek (48.30521, -122.296248); Lake Creek (48.324016, -122.224344); Skagit River (48.488951, -122.217614); Turner Creek (48.447398, -122.195845); Unnamed (48.358837, -122.422683); Unnamed (48.366754, -122.41293); Unnamed (48.43207, -122.314617); Unnamed (48.380192, -122.17967); Walker Creek (48.375354, -122.176074).

(6) Stillaguamish Subbasin 17110008—*(i) North Fork Stillaguamish River Watershed 1711000801.* Outlet(s) = North Fork Stillaguamish River (Lat 48.203615, Long -122.126717); upstream to endpoint(s) in: Boulder River (48.245122, -121.828242); Brooks Creek (48.289564, -121.906883); Deer Creek (48.364935, -121.794539); Deforest Creek (48.393279, -121.853014); Dicks Creek (48.300579, -121.836549); French Creek (48.239427, -121.774131); Fry Creek (48.256369, -121.897103); Furland Creek (48.25189, -121.699139); Grant Creek (48.295612, -122.031716); Hell Creek (48.252119, -121.964447); Higgins Creek (48.329407, -121.791932); Little Deer Creek (48.431748, -121.938181); Montague Creek (48.250887, -121.867164); Moose Creek (48.253373, -121.710713); North Fork Stillaguamish River (48.296662, -121.636091); Rick Creek (48.349662, -121.899994); Rock Creek (48.272543, -122.09922); Rollins Creek (48.292951, -121.851904); Segelsen Creek (48.301774, -121.705063); Snow Gulch (48.241837, -121.688972); Squire Creek (48.201836, -121.630783); Unnamed (48.225817, -122.090659); Unnamed (48.23139, -122.079834); Unnamed (48.236267, -121.625132); Unnamed (48.236753, -122.051497); Unnamed (48.243945, -121.64302); Unnamed (48.24766, -122.036676); Unnamed (48.252573, -122.029955); Unnamed (48.255611, -121.714995); Unnamed (48.256057, -122.095346); Unnamed (48.256367, -121.939918); Unnamed (48.256695, -122.025848); Unnamed (48.257104, -121.90825); Unnamed (48.258393, -122.05691); Unnamed (48.258869, -121.764439); Unnamed (48.259213, -121.70866); Unnamed (48.263641, -121.763092); Unnamed (48.264861, -121.758039); Unnamed (48.265601, -122.004059); Unnamed (48.267786, -122.043722); Unnamed (48.268038, -121.715334); Unnamed (48.272044, -121.726641); Unnamed (48.27601, -121.935088); Unnamed (48.277489, -122.036087); Unnamed (48.27989, -121.990779); Unnamed (48.281081, -121.995266); Unnamed (48.281713, -121.649707); Unnamed (48.283383, -121.683334); Unnamed (48.28395, -121.646562); Unnamed (48.284296, -121.658284); Unnamed (48.28446, -121.920135); Unnamed (48.285216, -121.62783); Unnamed (48.2891, -121.769358); Unnamed (48.289217, -121.680426); Unnamed (48.289395, -121.755674); Unnamed (48.289507, -121.702145); Unnamed (48.290513, -121.743771); Unnamed (48.290671, -121.721475); Unnamed (48.290801, -121.746827); Unnamed (48.291004, -121.691566); Unnamed (48.291597, -121.693818); Unnamed (48.294273, -121.732756); Unnamed (48.294703, -121.826142); Unnamed (48.294855, -121.94067); Unnamed (48.295803, -121.789706); Unnamed (48.296128, -121.825352); Unnamed (48.297676, -121.802133); Unnamed (48.319239, -121.964661); Unnamed (48.359397, -121.920923); Unnamed (48.361324, -121.93455); Unnamed (48.365655, -121.915496); Unnamed (48.366918, -121.941311); Unnamed (48.367183, -121.958052); Unnamed (48.367255, -121.956483); Unnamed (48.367469, -121.95337); Unnamed (48.370765, -121.89953); Unnamed (48.371334, -121.834956); Unnamed (48.372057, -121.893537); Unnamed (48.37667, -121.887195); Unnamed (48.384027, -121.879147); Unnamed (48.410307, -121.91761); Unnamed (48.297464, -121.81382); Unnamed (48.321184, -121.95493).

(ii) South Fork Stillaguamish River Watershed 1711000802. Outlet(s) = North Fork Stillaguamish River (Lat 48.203615, Long -122.126716); South Fork Stillaguamish River (48.203615, -122.126717); upstream to endpoint(s) in: Bear Creek (48.064612, -121.729061); Bear Creek (48.184588, -122.027434); Beaver Creek (48.088637, -121.513947); Bender Creek (48.066866, -121.589809); Benson Creek (48.10167, -121.738611); Blackjack Creek (48.051331, -121.624223); Boardman Creek (48.04009, -121.674988); Buck Creek (48.051042, -121.469806); Coal Creek (48.093827, -121.535554); Cranberry Creek (48.121886, -121.803277); Cub Creek (48.211009, -121.940174); Deer Creek (48.094863, -121.554797); Eldredge Creek (48.074512, -121.637347); Gordon Creek (48.086169, -121.660042); Hawthorn Creek (48.078912, -121.8082); Heather Creek (48.086826, -121.782066); Hempel Creek (48.075711, -121.743146); Jim Creek (48.209443, -121.929313); Mallardy Creek (48.067197, -121.657137); Marten Creek (48.079769, -121.613497); North Fork Canyon Creek (48.17598, -121.82868); Palmer Creek (48.0427, -121.474893); Perry Creek (48.077976, -121.482351); Rotary Creek (48.092322, -121.828833); Schweitzer Creek (48.06862, -121.69012); Siberia Creek (48.174184, -122.039681); South Fork Canyon Creek (48.153787, -121.785021); South Fork Stillaguamish River (48.028261, -121.483458); Triple Creek (48.077106, -121.798123); Turlo Creek (48.108542, -121.764124); Twentytwo Creek (48.075825, -121.758819); Unnamed (48.047402, -121.505486); Unnamed (48.05552, -121.520966); Unnamed (48.075811, -121.563225); Unnamed (48.077807, -121.591337); Unnamed (48.080052, -121.580689); Unnamed (48.082802, -121.695828); Unnamed (48.084671, -121.683128); Unnamed (48.090013, -121.877766); Unnamed (48.091037, -121.815954); Unnamed (48.094741, -121.861679); Unnamed (48.100032, -121.796066); Unnamed (48.102487, -121.760967); Unnamed (48.106381, -121.783693); Unnamed (48.107979, -121.790154); Unnamed (48.110592, -121.795323); Unnamed (48.11262, -121.80435); Unnamed (48.117007, -121.82596); Unnamed (48.118957, -121.83034); Unnamed (48.125862, -122.006135); Unnamed (48.131466, -121.905515); Unnamed (48.131881, -121.883717); Unnamed (48.134683, -121.938153); Unnamed (48.139202, -122.040321); Unnamed (48.140702, -121.932885); Unnamed (48.141896, -121.932379); Unnamed (48.143639, -121.932372); Unnamed (48.14431, -121.924623); Unnamed (48.14619, -122.017379); Unnamed (48.151471, -122.062372); Unnamed (48.19464, -122.074897); Unnamed (48.199265, -122.091343); Unnamed (48.212118, -121.923782); Unnamed (48.21329, -122.028497); Unnamed (48.216753, -122.005396); Unnamed (48.219125, -121.989143); Unnamed (48.219724, -121.994297); Unnamed (48.224672, -121.975855); Unnamed (48.227563, -121.937492); Unnamed (48.233562, -121.953975); Wiley Creek (48.092015, -121.720605); Wisconsin Creek (48.068182, -121.719162).

(iii) Lower Stillaguamish River Watershed 1711000803. Outlet(s) = Hat Slough (Lat 48.198102, Long -122.359125); Stillaguamish River (48.238335, -122.376115); upstream to endpoint(s) in: Church Creek (48.26413, -122.283181); Freedom Creek (48.271454, -122.314228); Harvey Creek (48.233538, -122.128366); Jackson Gulch (48.210323, -122.241546); North Fork Stillaguamish River (48.203615, -122.126716); Pilchuck Creek (48.317396, -122.149205); Portage Creek (48.178785, -122.182919); Stillaguamish River (48.203562, -122.126899); Unnamed (48.171029, -122.260136); Unnamed (48.186672, -122.277088); Unnamed (48.195788, -122.283335); Unnamed (48.195835, -122.168612); Unnamed (48.196884, -122.166822); Unnamed (48.20183, -122.295689); Unnamed (48.203545, -122.315975); Unnamed (48.203747, -122.19962); Unnamed (48.214373, -122.151954); Unnamed (48.224202, -122.14526); Unnamed (48.227416, -122.199181); Unnamed (48.232175, -122.226793); Unnamed (48.23644, -122.226298); Unnamed (48.240242, -122.207791); Unnamed (48.241888, -122.201199); Unnamed (48.251066, -122.202687); Unnamed (48.256206, -122.197528); Unnamed (48.262756, -122.185006); Unnamed (48.271258, -122.316101); Unnamed (48.281636, -122.206013); Unnamed (48.300059, -122.213286); Unnamed (48.303378, -122.161323).

(7) Skykomish Subbasin 17110009—*(i) Tye and Beckler Rivers Watershed 1711000901.* Outlet(s) = Beckler River (Lat 47.715467, Long -121.341085); South Fork Skykomish River (47.71526, -121.339458); upstream to endpoint(s) in: Alpine Creek (47.70063, -121.253227); Beckler River (47.86115, -121.306314); East Fork Foss River (47.648892, -121.276727); Rapid River (47.819406, -121.237866); Tye River (47.717046, -121.226571); West Fork Foss River (47.627377, -121.310419).

(ii) Skykomish River Forks Watershed 1711000902. Outlet(s) = North Fork Skykomish River (Lat 47.813603, Long -121.577995); South Fork Skykomish River (47.812617, -121.577943); upstream to endpoint(s) in: Barclay Creek (47.791478, -121.48993); Bear Creek (47.889803, -121.382157); Beckler River (47.715467, -121.341085); Bitter Creek (47.841172, -121.50341); Bridal Veil Creek (47.798538, -121.56095); East Fork Miller River (47.648482, -121.373599); Excelsior Creek (47.869782, -121.486781); Goblin Creek (47.925037, -121.311518); Index Creek (47.759736, -121.496132); Kimball Creek (47.701302, -121.431138); Lewis Creek (47.81892, -121.505851); Maloney Creek (47.704343, -121.354423); Money Creek (47.707177, -121.442116); North Fork Skykomish River (47.920573, -121.303744); Salmon Creek (47.904002, -121.467022); Silver Creek (47.940366, -121.437503); Snowslide Gulch (47.857696, -121.508333); South Fork Skykomish River (47.71526, -121.339458); Troublesome Creek (47.899315, -121.400435); Trout Creek (47.832847, -121.433624); West Cady Creek (47.897548, -121.305775); West Fork Miller River (47.665692, -121.400066).

(iii) Skykomish River/wallace River Watershed 1711000903. Outlet(s) = Mccoy Creek (Lat 47.847628, Long -121.824315); Skykomish River (47.860377, -121.819105); Unnamed (47.855571, -121.819268); upstream to endpoint(s) in: Anderson Creek (47.8044, -121.596583); Deer Creek (47.818891, -121.581685); Duffey Creek (47.833436, -121.689636); Hogarty Creek (47.842003, -121.612106); May Creek (47.856805, -121.632414); Mccoy Creek (47.831308, -121.826994); North Fork Skykomish River (47.813603, -121.577995); North Fork Wallace River (47.879351, -121.659897); Olney Creek (47.879416, -121.717566); Proctor Creek (47.816171, -121.652091); South Fork Skykomish River (47.812617, -121.577943); Unnamed (47.823821, -121.641583); Unnamed (47.854927, -121.788254); Unnamed (47.857101, -121.75812); Unnamed (47.858007, -121.797344); Unnamed (47.860413, -121.635072); Unnamed (47.84923, -121.784034); Unnamed (47.855893, -121.752873); Wagleys Creek (47.873165, -121.773098); Wallace River (47.877046, -121.645838).

(iv) Sultan River Watershed 1711000904. Outlet(s) = Sultan River (Lat 47.861005, Long -121.820933); upstream to endpoint(s) in: Sultan River (47.959618, -121.796288); Unnamed (47.887034, -121.829974).

(v) Skykomish River/Woods Creek Watershed 1711000905. Outlet(s) = Skykomish River (Lat 47.829872, Long -122.045091); upstream to endpoint(s) in: Barr Creek (Lat 47.829715, -121.905589); Carpenter Creek (48.015168, -121.930236); Elwell Creek (47.803646, -121.853672); Foye Creek (47.822602, -121.970674); High Rock Creek (47.837811, -121.959755); Mccoy Creek (47.847628, -121.824315); Richardson Creek (47.886315, -121.943935); Riley Slough (47.844202, -121.936904); Skykomish River (47.847403, -121.886481); Skykomish River (47.852292, -121.878907); Skykomish River (47.854738, -121.82681); Sorgenfrei Creek (47.961588, -121.934368); Sultan River (47.861005, -121.820933); Unnamed (47.818865, -122.005592); Unnamed (47.81969, -122.00526); Unnamed (47.829214, -121.844279); Unnamed (47.855571, -121.819268); Unnamed (47.88559, -121.921368); Unnamed (47.828244, -122.013516); Unnamed (47.834405, -122.016728); Unnamed (47.834695, -122.021191); Unnamed (47.836191, -121.980947); Unnamed (47.839322, -121.952037); Unnamed (47.839419, -121.843256); Unnamed (47.842963, -121.90049); Unnamed (47.844848, -121.889155); Unnamed (47.851422, -121.852499); Unnamed (47.853708, -121.907276); Unnamed (47.853713, -121.91338); Unnamed (47.857546, -121.830245); West Fork Woods Creek (47.983648, -121.957293); Woods Creek (47.895095, -121.875437); Youngs Creek (47.807915, -121.83447).

(8) Snoqualmie Subbasin 17110010—*(i) Middle Fork Snoqualmie River Watershed 1711001003.* Outlet(s) = Langlois Creek (Lat 47.635728, Long -121.90751); Snoqualmie River (47.640786, -121.927225); upstream to endpoint(s) in: Canyon Creek (47.568828, -121.981984); East Fork Griffin Creek (47.667678, -121.79524); Griffin Creek (47.679643, -121.802134); Lake Creek (47.506498, -121.871475); Langlois Creek (47.632423, -121.900585); Langlois Creek (47.63436, -121.910479); Patterson Creek (47.643294, -122.008601); Raging River (47.443286, -121.841753); Snoqualmie River (47.54132, -121.837391); Tokul Creek (47.556115, -121.829753); Unnamed (47.435758, -121.840802); Unnamed (47.469131, -121.887371); Unnamed (47.552211, -121.892074); Unnamed (47.55902, -121.959053); Unnamed (47.594862, -121.869153); Unnamed (47.602188, -121.86105); Unnamed (47.611929, -121.844129); Unnamed (47.617761, -121.987517); Unnamed (47.620823, -121.818809); Unnamed (47.67586, -121.821881); Unnamed (47.550625, -121.860269); Unnamed (47.573184, -121.882046); Unnamed (47.574562, -121.935597); Unnamed (47.574643, -121.923532); Unnamed (47.575296, -121.934856); Unnamed (47.575302, -121.928863); Unnamed (47.577661, -121.922239); Unnamed (47.580744, -121.89107); Unnamed (47.604032, -121.909863); Unnamed (47.60579, -121.908524); Unnamed (47.611586, -121.940718); Unnamed (47.61275, -121.923865); Unnamed (47.619886, -121.913184); Unnamed (47.624753, -121.913661).

(ii) Lower Snoqualmie River Watershed 1711001004. Outlet(s) = Snohomish River (47.832905, -122.05029); Unnamed (47.818865, -122.005592); upstream to endpoint(s) in: Adair Creek (47.713532, -122.00603); Cherry Creek (47.763031, -121.881467); Langlois Creek (47.635728, -121.90751);

Margaret Creek (47.754562, -121.894491); North Fork Cherry Creek (47.747274, -121.922417); North Fork Creek (47.709704, -121.813858); Pearson Eddy Creek (47.7629, -121.993362); Peoples Creek (47.797003, -121.969785); Snoqualmie River (47.640786, -121.927225); South Fork Tolt River (47.692382, -121.690691); Stossel Creek (47.760057, -121.854479); Tolt River (47.639682, -121.925064); Tuck Creek (47.760138, -122.029513); Unnamed (47.66549, -121.969734); Unnamed (47.688103, -121.841747); Unnamed (47.697681, -121.877351); Unnamed (47.699359, -121.72867); Unnamed (47.711538, -121.835344); Unnamed (47.718309, -121.778212); Unnamed (47.719516, -121.683676); Unnamed (47.721128, -121.842676); Unnamed (47.721491, -121.711688); Unnamed (47.72187, -121.872933); Unnamed (47.639628, -121.916512); Unnamed (47.644835, -121.876373); Unnamed (47.652724, -121.927754); Unnamed (47.653832, -121.900784); Unnamed (47.663562, -121.912794); Unnamed (47.666377, -121.921884); Unnamed (47.66645, -121.968042); Unnamed (47.671854, -121.944823); Unnamed (47.6722, -121.934103); Unnamed (47.672893, -121.963119); Unnamed (47.673234, -121.906003); Unnamed (47.68202, -121.984816); Unnamed (47.683549, -121.985897); Unnamed (47.685397, -121.98674); Unnamed (47.688482, -121.942011); Unnamed (47.691215, -121.959693); Unnamed (47.691787, -121.975697); Unnamed (47.694662, -121.994754); Unnamed (47.701955, -121.998995); Unnamed (47.704253, -122.001792); Unnamed (47.709025, -122.004767); Unnamed (47.709854, -121.98468); Unnamed (47.716945, -122.001237); Unnamed (47.721749, -121.989604); Unnamed (47.722623, -121.987303); Unnamed (47.723963, -121.996696); Unnamed (47.726844, -121.989954); Unnamed (47.733263, -122.010612); Unnamed (47.733962, -121.989698); Unnamed (47.734647, -122.013111); Unnamed (47.736303, -122.013677); Unnamed (47.736874, -121.98844); Unnamed (47.741838, -122.009593); Unnamed (47.744396, -121.949708); Unnamed (47.745593, -121.952919); Unnamed (47.745918, -121.954099); Unnamed (47.747444, -122.005028); Unnamed (47.747524, -121.957434); Unnamed (47.747678, -121.996583); Unnamed (47.74965, -121.977289); Unnamed (47.750208, -121.96435); Unnamed (47.750524, -121.965961); Unnamed (47.75188, -121.927084); Unnamed (47.752108, -121.969501); Unnamed (47.752268, -122.004156); Unnamed (47.75256, -121.964546); Unnamed (47.752757, -121.969499); Unnamed (47.752947, -121.957481); Unnamed (47.753339, -121.969357); Unnamed (47.754942, -121.97775); Unnamed (47.756436, -122.004367); Unnamed (47.758452, -122.002775); Unnamed (47.761886, -122.000354); Unnamed (47.762689, -121.991876); Unnamed (47.762853, -121.977877); Unnamed (47.767489, -122.000623); Unnamed (47.775507, -121.995614); Unnamed (47.775755, -121.99995); Unnamed (47.776255, -121.999798); Unnamed (47.779073, -121.991757); Unnamed (47.782249, -121.966177); Unnamed (47.788539, -122.000183); Unnamed (47.797789, -121.978354); Unnamed (47.801619, -121.981418); Unnamed (47.815259, -121.976869); Unnamed (47.815443, -121.99813); Unnamed (47.818865, -122.005592).

(9) Snohomish Subbasin 17110011—

(i) Pilchuck River Watershed 1711001101. Outlet(s) = French Creek (Lat 47.888547, Long -122.087439); Pilchuck River (47.900972, -122.092133); upstream to endpoint(s) in: Boulder Creek (48.024989, -121.811255); Catherine Creek (48.033209, -122.077074); Dubuque Creek (47.996688, -122.010406); French Creek (47.898794, -122.057083); Kelly Creek (48.035392, -121.830635); Little Pilchuck Creek (48.112494, -122.060843); Miller Creek (47.996242, -121.781617); Pilchuck River (47.991273, -121.736285); Purdy Creek (48.008866, -121.892703); Unnamed (47.946107, -122.078197); Unnamed (47.981529, -122.022251); Unnamed (48.014987, -122.065111); Unnamed (48.050521, -121.960436); Unnamed (48.052319, -121.873027); Unnamed (48.056823, -121.920701); Unnamed (47.893981, -122.064909); Unnamed (47.90029, -122.055264); Unnamed (47.900781, -122.071709); Unnamed (47.902216, -122.060278); Unnamed (47.909758, -122.055179); Unnamed (47.91308, -122.079588); Unnamed (47.91411, -122.073471); Wilson Creek (48.007178, -121.772124).

(ii) Snohomish River Watershed 1711001102. Outlet(s) = Quilceda Creek (48.045077, -122.207633); Snohomish River (48.020024, -122.199952); Steamboat Slough (48.035252, -122.187716); Union Slough (48.033026, -122.187941); Unnamed (48.042687, -122.203304); upstream to endpoint(s) in: Allen Creek (48.060189, -122.155845); Anderson Creek (47.823494, -122.063169); Batt Slough (47.893752, -122.101932); Burri Creek (47.996254, -122.12825); Ebey Slough (47.942077, -122.172019); Elliott Creek (47.832096, -122.058076); Evans Creek (47.837998, -122.084366); French Creek (47.905702, -122.006538); Lake Beecher (47.853003, -122.08659); Larimer Creek (47.889935, -122.141659); Quilceda Creek (48.126701, -122.136538); Snohomish River (47.845642, -122.066164); Swan Trail Slough (47.924299, -122.144247); Thomas Creek (47.885779, -122.133759); Unnamed (47.89605, -122.024132); Unnamed (47.874632, -122.06789); Unnamed (47.878911, -122.062819); Unnamed (47.883214, -122.075259); Unnamed (47.883685, -122.064291); Unnamed (47.977505, -122.164439); Unnamed (47.989661, -122.153303); Unnamed (47.989986, -122.157628); Unnamed (47.992902, -122.153788); Unnamed (47.994226, -122.155257); Unnamed (47.999821, -122.157617); Unnamed (47.999833, -122.154307); Unnamed (48.000441, -122.160006); Unnamed (48.131795, -122.131717); Unnamed (47.826251, -122.063007); Unnamed (47.839617, -122.088583); Unnamed (47.842605, -122.060737); Unnamed (47.842773, -122.09302); Unnamed (47.845642, -122.066164); Unnamed (47.845758, -122.092344); Unnamed (47.846844, -122.064563); Unnamed (47.851113, -122.010167); Unnamed (47.852079, -122.018572); Unnamed (47.861172, -122.029372); Unnamed (47.864352, -122.091793); Unnamed (47.868184, -122.033887); Unnamed (47.868667, -122.071745); Unnamed (47.871627, -122.007148); Unnamed (47.872067, -122.012574); Unnamed (47.872807, -122.007458); Unnamed (47.872892, -122.020313); Unnamed (47.873683, -122.02625); Unnamed (47.873838, -122.023394); Unnamed (47.873972, -122.020824); Unnamed (47.873974, -122.018382); Unnamed (47.874621, -122.033932); Unnamed (47.87602, -122.018838); Unnamed (47.876587, -122.038858); Unnamed (47.877086, -122.10383); Unnamed (47.878155, -122.093306); Unnamed (47.878365, -122.047458); Unnamed (47.879616, -122.121293); Unnamed (47.880169, -122.120704); Unnamed (47.880744, -122.124328); Unnamed (47.880801, -122.115079); Unnamed (47.881683, -122.018106); Unnamed (47.882464, -122.049811); Unnamed (47.88295, -122.036805); Unnamed (47.883214, -122.128361); Unnamed (47.887449, -122.136266); Unnamed (47.887628, -122.115244); Unnamed (47.889292, -122.138508); Unnamed (47.889733, -122.139749); Unnamed (47.889949, -122.045002); Unnamed (47.891627, -122.052284); Unnamed (47.893918, -122.1473); Unnamed (47.893921, -122.15179); Unnamed (47.900751, -122.162699); Unnamed (47.901957, -122.165281); Unnamed (47.903224, -122.152517); Unnamed (47.905749, -122.171392); Unnamed

(47.906952, -122.1713); Unnamed (47.909784, -122.174177); Unnamed (47.917745, -122.179549); Unnamed (47.91785, -122.170724); Unnamed (47.917965, -122.176424); Unnamed (47.918881, -122.166131); Unnamed (47.919953, -122.159256); Unnamed (47.920163, -122.112239); Unnamed (47.922557, -122.152328); Unnamed (47.926219, -122.164369); Unnamed (47.927044, -122.187844); Unnamed (47.927115, -122.181581); Unnamed (47.928771, -122.182785); Unnamed (47.929155, -122.1575); Unnamed (47.9292, -122.16225); Unnamed (47.931447, -122.155867); Unnamed (47.935459, -122.190942); Unnamed (47.935975, -122.19135); Unnamed (47.936814, -122.170221); Unnamed (47.939084, -122.174422); Unnamed (47.939185, -122.192305); Unnamed (47.939694, -122.150153); Unnamed (47.940939, -122.155435); Unnamed (47.940947, -122.157858); Unnamed (47.94244, -122.157373); Unnamed (47.942726, -122.17536); Unnamed (47.945442, -122.192582); Unnamed (47.94649, -122.146106); Unnamed (47.946592, -122.146917); Unnamed (47.947975, -122.179796); Unnamed (47.949211, -122.139884); Unnamed (47.949321, -122.159191); Unnamed (47.949477, -122.132724); Unnamed (47.949525, -122.141519); Unnamed (47.954551, -122.127872); Unnamed (47.954673, -122.126737); Unnamed (47.954755, -122.131233); Unnamed (47.955528, -122.131243); Unnamed (47.956927, -122.19563); Unnamed (47.959917, -122.126245); Unnamed (47.960424, -122.126126); Unnamed (47.960595, -122.12673); Unnamed (47.961773, -122.130148); Unnamed (47.99053, -122.133921); Unnamed (48.001732, -122.129584); Unnamed (48.035728, -122.158051); Unnamed (48.038525, -122.160828); Unnamed (48.039738, -122.153565); Unnamed (48.041372, -122.151583); Unnamed (48.042963, -122.150051); Unnamed (48.044102, -122.147735); Unnamed (48.047591, -122.150945); Unnamed (48.048094, -122.159389); Weiser Creek (48.004603, -122.127993); West Fork Quilceda Creek (48.114329, -122.192036); Wood Creek (47.925014, -122.184669); Wood Creek (47.946568, -122.177043).

(10) Lake Washington 17110012—*(i) Cedar River 1711001201.* Outlet(s) = Cedar River (Lat 47.500458, Long -122.215889); upstream to endpoint(s) in: Cedar River (47.419017, -121.781807); Madsen Creek (47.454959, -122.139271); Peterson Creek (47.421385, -122.071428); Rock Creek (47.360983, -122.007166); Unnamed (47.412034, -122.005441); Unnamed (47.397644, -122.015869); Walsh Lake Diversion Ditch (47.388412, -121.983268).

(11) Duwamish Subbasin 17110013—*(i) Upper Green River Watershed 1711001301.* Outlet(s) = Green River (Lat 47.222773, Long -121.608297); Smay Creek (47.22558, -121.608029); upstream to endpoint(s) in: Friday Creek (47.220272, -121.457068); Intake Creek (47.205593, -121.406127); Mccain Creek (47.209121, -121.530424); Sawmill Creek (47.208384, -121.468737); Smay Creek (47.250466, -121.589199); Snow Creek (47.26089, -121.406133); Sunday Creek (47.258566, -121.367101); Tacoma Creek (47.187342, -121.364175).

(ii) Middle Green River Watershed 1711001302. Outlet(s) = Green River (Lat 47.288124, Long -121.97032); upstream to endpoint(s) in: Bear Creek (47.277192, -121.800206); Charley Creek (47.259074, -121.779776); Cougar Creek (47.243692, -121.645414); Eagle Creek (47.304949, -121.723086); Gale Creek (47.264201, -121.709713); Green River (47.222773, -121.608297); Piling Creek (47.281819, -121.756524); Smay Creek (47.22558, -121.608029); Sylvester Creek (47.245565, -121.654863).

(iii) Lower Green River Watershed 1711001303. Outlet(s) = Duwamish Waterway (Lat 47.583483, Long -122.359684); Unnamed (47.588989, -122.34426); upstream to endpoint(s) in: Big Soos Creek (47.372078, -122.144432); Burns Creek (47.284679, -122.098961); Crisp Creek (47.289456, -122.059482); Cristy Creek (47.27092, -122.017489); Green River (47.288124, -121.97032); Jenkins Creek (47.37728, -122.080576); Little Soos Creek (47.378342, -122.106081); Mill Creek (47.303262, -122.272491); Newaukum Creek (47.229023, -121.954805); Rock Creek (47.310539, -122.024859); Unnamed (47.220884, -122.023242); Unnamed (47.220892, -122.016139); Unnamed (47.234075, -121.931801); Unnamed (47.325011, -122.200079); Unnamed (47.335135, -122.154992); Unnamed (47.353478, -122.258274); Unnamed (47.360321, -122.225589); Unnamed (47.374183, -122.103011); Unnamed (47.389595, -122.225993).

(12) Puyallup Subbasin 17110014—*(i) Upper White River Watershed 1711001401.* Outlet(s) = Greenwater River (Lat 47.158517, Long -121.659041); White River (47.158251, -121.659559); upstream to endpoint(s) in: George Creek (47.099306, -121.472868); Greenwater River (47.091025, -121.456044); Huckleberry Creek (47.053496, -121.616046); Pyramid Creek (47.113047, -121.455762); Twentyeight Mile Creek (47.060856, -121.511537); Unnamed (47.051445, -121.71716); Unnamed (47.12065, -121.554216); Unnamed (47.134311, -121.583518); West Fork White River (47.047717, -121.692719); Whistle Creek (47.118448, -121.489277); White River (47.01416, -121.529457); Wrong Creek (47.043096, -121.699618).

(ii) Lower White River Watershed 1711001402. Outlet(s) = White River (Lat 47.200025, Long -122.255912); upstream to endpoint(s) in: Boise Creek (47.195608, -121.947967); Camp Creek (47.147051, -121.703951); Canyon Creek (47.13331, -121.862029); Clearwater River (47.084983, -121.783524); Greenwater River (47.158517, -121.659041); Scatter Creek (47.162429, -121.87438); Unnamed (47.222955, -122.097188); Unnamed (47.229087, -122.07162); Unnamed (47.233808, -122.109926); Unnamed (47.245631, -122.058795); Unnamed (47.247135, -122.22738); Unnamed (47.25371, -122.264826); Unnamed (47.261283, -122.13136); Unnamed (47.268104, -122.25123); Unnamed (47.238173, -122.223415); White River (47.158251, -121.659559).

(iii) Carbon River Watershed 1711001403. Outlet(s) = Carbon River (Lat 47.123651, Long -122.229222); upstream to endpoint(s) in: Carbon River (46.993075, -121.926834); Coplar Creek (47.072996, -122.167682); Gale Creek (47.086262, -122.015047); Page Creek (47.12503, -122.009401); South Fork South Prairie Creek (47.099283, -121.954505); Unnamed (47.096464, -122.141219); Unnamed (47.097218, -122.145432); Unnamed (47.141246, -122.058699); Voight Creek (47.077134, -122.131266); Wilkeson Creek (47.089113, -122.011371).

(iv) Upper Puyallup River Watershed 1711001404. Outlet(s) = Carbon River (Lat 47.130578, Long -122.232672); Puyallup River (47.130572, -122.232719); upstream to endpoint(s) in: Carbon River (47.123651, -122.229222); Fox Creek (47.012694, -122.183844); Kellog Creek (46.913785, -122.083644); Le Dout Creek (46.935374, -122.054579); Niesson Creek (46.88451, -122.032222); Ohop Creek (46.941896, -122.222784); Puyallup River (46.904305, -122.03511); Unnamed (46.901022, -122.053271); Unnamed (46.915301, -122.08532); Unnamed (47.033738, -122.183585); Unnamed (47.072524, -122.217752); Unnamed (47.077709, -122.21324).

(v) Lower Puyallup River Watershed 1711001405. Outlet(s) = Hylebos Creek (Lat 47.260936, Long -122.360296); Puyallup River (47.262018, -122.419738); Wapato Creek (47.254142, -122.376043); upstream to endpoint(s) in: Canyonfalls Creek (47.141497, -122.220946); Carbon River (47.130578, -122.232672); Clarks Creek (47.175558,

-122.318004); Clarks Creek (47.214046, -122.341441); Fennel Creek (47.149294, -122.186141); Hylebos Creek (47.268092, -122.304897); Puyallup River (47.130572, -122.232719); Simons Creek (47.223614, -122.306576); Swam Creek (47.198605, -122.392952); Unnamed (47.192643, -122.338319); Unnamed (47.212642, -122.362772); Unnamed (47.284933, -122.328406); West Hylebos Creek (47.28045, -122.319677); White River (47.200025, -122.255912).

(13) Nisqually Subbasin 17110015—*(i) Mashel/Ohop Watershed 1711001502.* Outlet(s) = Lackamas Creek (Lat 46.8589, Long -122.488209); Nisqually River (46.864078, -122.478318); Tobolton Creek (46.863143, -122.480177); upstream to endpoint(s) in: Beaver Creek (46.858889, -122.187968); Busy Wild Creek (46.797885, -122.041534); Little Mashel River (46.850176, -122.27362); Lynch Creek (46.879792, -122.275113); Mashel River (46.84805, -122.104803); Nisqually River (46.823001, -122.30402); Ohop Valley Creek (46.924846, -122.260991); Powell Creek (46.84388, -122.436634); Tanwax Creek (46.941782, -122.280108); Tobolton Creek (46.823649, -122.48512); Twentyfive Mile Creek (46.924778, -122.259359); Unnamed (46.832309, -122.528978); Unnamed (46.907314, -122.261798).

(ii) Lowland Watershed 1711001503. Outlet(s) = Mcallister Creek (Lat 47.086256, Long -122.72842); Nisqually River (47.098476, -122.698813); Red Salmon Creek (47.096419, -122.687018); upstream to endpoint(s) in: Horn Creek (46.917907, -122.464722); Lacamas Creek (46.974424, -122.477971); Lacamas Creek (47.008577, -122.53729); Lackamas Creek (46.8589, -122.488209); Mcallister Creek (47.029715, -122.724885); Muck Creek (47.024063, -122.333195); Murray Creek (46.978923, -122.494325); Nisqually River (46.864078, -122.478318); Red Salmon Creek (47.083089, -122.678869); South Creek (46.985228, -122.287693); Thompson Creek (46.953803, -122.63521); Tobolton Creek (46.863143, -122.480177); Unnamed (46.88276, -122.481929); Unnamed (46.92337, -122.522371); Unnamed (46.999957, -122.652251); Unnamed (47.034211, -122.674166); Unnamed (47.03749, -122.735619); Unnamed (47.083824, -122.682663); Yelm Creek (46.947774, -122.606162).

(14) Deschutes 17110016—*(i) Deschutes River-Lake Lawrence 1711001601.* Outlet(s) = Deschutes River (Lat 46.858414, -122.703615); upstream to endpoint(s) in: Deschutes River (46.803719, -122.41723); Fall Creek (46.801851, -122.508518); Hull Creek (46.815628, -122.551688); Johnson Creek (46.771083, -122.424056); Mitchell Creek (46.764822, -122.520257); Pipeline Creek (46.815019, -122.557139); Thurston Creek (46.787177, -122.426181); Unnamed (46.776798, -122.456757); Unnamed (46.821012, -122.552051); Unnamed (46.825293, -122.597406).

(ii) Deschutes River—Capitol Lake 1711001602. Outlet(s) = Deschutes River (Lat 47.043613, Long -122.909102); upstream to endpoint(s) in: Deschutes River (46.858414, -122.703615); Unnamed (46.883422, -122.791346); Unnamed (46.885585, -122.765692); Unnamed (46.900133, -122.761883); Unnamed (46.920776, -122.814054).

(15) Skokomish Subbasin 17110017—*(i) Skokomish River Watershed 1711001701.* Outlet(s) = Skokomish River (Lat 47.354102, Long -123.113454); Unnamed (47.346915, -123.1288); upstream to endpoint(s) in: Aristine Creek (47.339036, -123.330797); Brown Creek (47.426884, -123.273846); Cedar Creek (47.438747, -123.412558); Church Creek (47.460295, -123.455165); Fir Creek (47.336146, -123.302908); Frigid Creek (47.378231, -123.241695); Gibbons Creek (47.401886, -123.237898); Harp Creek (47.403646, -123.307961); Kirkland Creek (47.31996, -123.290062); Le Bar Creek (47.42431, -123.321985); Mctaggert Creek (47.415308, -123.249773); Mussel Shell Creek (47.299392, -123.154163); North Fork Skokomish River (47.398124, -123.201673); Pine Creek (47.443201, -123.429394); Purdy Canyon (47.30192, -123.181551); Purdy Creek (47.304446, -123.188829); South Fork Skokomish River (47.490355, -123.460444); Unnamed (47.307518, -123.202431); Unnamed (47.309215, -123.151179); Unnamed (47.312777, -123.250097); Unnamed (47.314724, -123.179082); Unnamed (47.315244, -123.177395); Unnamed (47.317283, -123.233949); Unnamed (47.318056, -123.168869); Unnamed (47.319036, -123.198978); Unnamed (47.320262, -123.233188); Unnamed (47.321111, -123.168254); Unnamed (47.32192, -123.307559); Unnamed (47.32264, -123.166947); Unnamed (47.324298, -123.166032); Unnamed (47.32618, -123.165265); Unnamed (47.327954, -123.1645); Unnamed (47.340589, -123.229732); Vance Creek (47.363339, -123.37747); Weaver Creek (47.309516, -123.23971).

(16) Hood Canal Subbasin 17110018—*(i) Lower West Hood Canal Frontal Watershed 1711001802.* Outlet(s) = Eagle Creek (Lat 47.484737, Long -123.077896); Finch Creek (47.406474, -123.13894); Fulton Creek (47.618077, -122.974895); Jorsted Creek (47.526147, -123.050128); Lilliwaup Creek (47.468701, -123.114852); Unnamed (47.457462, -123.112951); Unnamed (47.570832, -123.01278); upstream to endpoint(s) in: Eagle Creek (47.499033, -123.100927); Finch Creek (47.406575, -123.145463); Fulton Creek (47.628033, -122.985435); Jorsted Creek (47.52439, -123.066123); Lilliwaup Creek (47.470625, -123.116282); Unnamed (47.459167, -123.133047); Unnamed (47.57275, -123.020786).

(ii) Hamma Hamma River Watershed 1711001803. Outlet(s) = Hamma Hamma River (Lat 47.546939, Long -123.045218); upstream to endpoint(s) in: Hamma Hamma River (47.560258, -123.066043); North Fork John Creek (47.545766, -123.072377); South Fork John Creek (47.541154, -123.07576).

(iii) Duckabush River Watershed 1711001804. Outlet(s) = Duckabush River (Lat 47.650063, Long -122.936017); Unnamed (47.651985, -122.935914); upstream to endpoint(s) in: Duckabush River (47.683876, -123.069991); Unnamed (47.656559, -122.939617); Unnamed (47.658797, -122.946881); Unnamed (47.664171, -122.958939); Unnamed (47.665164, -122.971688).

(iv) Dosewallips River Watershed 1711001805. Outlet(s) = Dosewallips River (Lat 47.687868, Long -122.895799); upstream to endpoint(s) in: Dosewallips River (47.728734, -123.112328); Gamm Creek (47.740548, -123.064117); Rocky Brook (47.720965, -122.941729); Unnamed (47.703663, -122.942585); Unnamed (47.718461, -123.001437).

(v) Big Quilcene River Watershed 1711001806. Outlet(s) = Big Quilcene River (Lat 47.818629, Long -122.861797); upstream to endpoint(s) in: Big Quilcene River (47.776171, -122.936666).

(vi) Upper West Hood Canal Frontal Watershed 1711001807. Outlet(s) = Donovan Creek (Lat 47.827622, Long -122.858429); Indian George Creek (47.807881, -122.869227); Little Quilcene River (47.826459, -122.862109); Spencer Creek (47.745578, -122.875483); Tarboo Creek (47.860282, -122.813536); Thorndyke Creek (47.816713, -122.739675); Unnamed (47.69516, -122.807343); Unnamed (47.742597, -122.767326); Unnamed (47.780439, -122.865654); Unnamed (47.803054, -122.748043); Unnamed (47.809788, -122.791892); Unnamed (47.827807, -122.696476); Unnamed (47.870429, -122.693831); upstream to endpoint(s) in: Donovan Creek (47.852344, -122.859015); Indian George Creek (47.806041, -122.872191); Leland Creek (47.87993, -122.878552);

Little Quilcene River (47.87162, -122.920887); Spencer Creek (47.757649, -122.895277); Tarboo Creek (47.917525, -122.825126); Unnamed (47.700468, -122.804836); Unnamed (47.745248, -122.772127); Unnamed (47.780486, -122.870015); Unnamed (47.817369, -122.763825); Unnamed (47.826301, -122.786512); Unnamed (47.845809, -122.709645); Unnamed (47.847797, -122.878694); Unnamed (47.857542, -122.837721); Unnamed (47.86785, -122.773687); Unnamed (47.871141, -122.795142); Unnamed (47.886493, -122.830585); Unnamed (47.888336, -122.801101); Unnamed (47.889882, -122.698239).

(vii) West Kitsap Watershed 1711001808. Outlet(s) = Anderson Creek (Lat 47.566784, Long -122.967625); Anderson Creek (47.665387, -122.757767); Big Beef Creek (47.651916, -122.783607); Boyce Creek (47.609223, -122.915305); Dewatto River (47.45363, -123.048642); Mission Creek (47.430736, -122.872828); Seabeck Creek (47.63558, -122.834296); Stavis Creek (47.625046, -122.872893); Tahuya River (47.376565, -123.038419); Union River (47.44818, -122.838076); Unnamed (47.453546, -123.048616); Unnamed (47.585137, -122.945064); Unnamed (47.826269, -122.56367); upstream to endpoint(s) in: Anderson Creek (47.660179, -122.756351); Bear Creek (47.498732, -122.811755); Big Beef Creek (47.589887, -122.846319); Boyce Creek (47.609187, -122.914277); Mission Creek (47.499061, -122.850487); Seabeck Creek (47.623835, -122.838375); Stavis Creek (47.605496, -122.872936); Tin Mine Creek (47.577069, -122.829158); Union River (47.527109, -122.785967); Unnamed (47.416887, -122.999502); Unnamed (47.43499, -123.053793); Unnamed (47.438227, -123.043285); Unnamed (47.451055, -123.016346); Unnamed (47.451077, -122.914789); Unnamed (47.454548, -122.986648); Unnamed (47.457926, -122.82675); Unnamed (47.459434, -122.841199); Unnamed (47.461807, -122.986012); Unnamed (47.464136, -122.996728); Unnamed (47.471436, -123.026462); Unnamed (47.472953, -122.853144); Unnamed (47.473856, -122.98827); Unnamed (47.496903, -122.832756); Unnamed (47.499811, -122.959843); Unnamed (47.513538, -122.976821); Unnamed (47.518086, -122.944624); Unnamed (47.533867, -122.966128); Unnamed (47.556351, -122.93869); Unnamed (47.578134, -122.831814); Unnamed (47.578146, -122.944137); Unnamed (47.617962, -122.881294); Unnamed (47.823731, -122.557569).

(17) Puget Sound Subbasin 17110019—*(i) Kennedy/Goldsborough Watershed 1711001900.* Outlet(s) = Campbell Creek (Lat 47.222039, Long -123.025109); Cranberry Creek (47.262433, -123.015892); Deer Creek (47.259411, -123.009378); Goldsborough Creek (47.209541, -123.09519); Kennedy Creek (47.096767, -123.085708); Johns Creek (47.246105, -123.042959); Lynch Creek (47.152742, -123.052635); Malaney Creek (47.25142, -123.0197); Mill Creek (47.195478, -122.996269); Perry Creek (47.04923, -123.005168); Schneider Creek (47.091599, -123.075637); Shelton Creek (47.213868, -123.095177); Sherwood Creek (47.375171, -122.835464); Skookum Creek (47.127879, -123.088396); Uncle John Creek (47.223441, -123.028998); Unnamed (47.138813, -123.076426); Unnamed (47.348035, -123.073581); Unnamed (47.406636, -122.887438); Unnamed (47.43145, -122.848454); Unnamed (47.378832, -122.974308); Unnamed (47.382516, -122.948722); upstream to endpoint(s) in: Campbell Creek (47.226397, -122.997893); Cranberry Creek (47.283615, -123.111755); Deer Creek (47.327279, -122.911546); Gosnell Creek (47.132634, -123.208108); Johns Creek (47.252177, -123.129051); Kamilche Creek (47.109481, -123.120016); Kennedy Creek (47.079184, -123.126612); Lynch Creek (47.16124, -123.063246); Malaney Creek (47.248952, -123.011342); North Fork Goldsborough Creek (47.226417, -123.221454); Perry Creek (47.053893, -123.021482); Rock Creek (47.173241, -123.200765); Schneider Creek (47.071686, -123.056453); Shelton Creek (47.22776, -123.11259); Shumocher Creek (47.31782, -122.992107); South Fork Goldsborough Creek (47.186447, -123.252006); Uncle John Creek (47.230245, -123.028211); Unnamed (47.081522, -123.102753); Unnamed (47.097705, -123.216015); Unnamed (47.100105, -123.216045); Unnamed (47.1455, -123.081178); Unnamed (47.149979, -123.116498); Unnamed (47.154715, -123.122654); Unnamed (47.182813, -123.154821); Unnamed (47.183317, -122.993257); Unnamed (47.187858, -123.166457); Unnamed (47.209485, -123.249564); Unnamed (47.223587, -122.981336); Unnamed (47.225845, -123.243846); Unnamed (47.226397, -122.997893); Unnamed (47.25604, -123.060758); Unnamed (47.293868, -123.03765); Unnamed (47.322265, -122.993083); Unnamed (47.345989, -123.087997); Unnamed (47.361619, -122.901294); Unnamed (47.36676, -122.866433); Unnamed (47.37043, -122.975612); Unnamed (47.378331, -122.84611); Unnamed (47.378994, -122.950338); Unnamed (47.385117, -122.898154); Unnamed (47.41665, -122.847985).

(ii) Puget Sound 1711001901. Outlet(s) = Anderson Creek (Lat 47.527851, Long -122.683072); Barker Creek (47.637847, -122.670114); Blackjack Creek (47.542244, -122.627229); Burley Creek (47.412304, -122.631424); Chico Creek (47.602679, -122.705419); Clear Creek (47.652349, -122.68632); Coulter Creek (47.406361, -122.819291); Crescent Valley (47.345209, -122.583101); Crouch Creek (47.652147, -122.62956); Curley Creek (47.523499, -122.546087); Gorst Creek (47.527855, -122.697881); Mccormick Creek (47.371692, -122.624236); Minter Creek (47.371035, -122.702469); North Creek (47.337484, -122.592533); Olalla Creek (47.425398, -122.551857); Purdy Creek (47.387232, -122.626582); Rocky Creek (47.371062, -122.78137); Unnamed (47.538696, -122.65636); Unnamed (47.645936, -122.69393); Unnamed (47.712429, -122.613727); Unnamed (47.717886, -122.656445); Unnamed (47.750936, -122.649151); Unnamed (47.770208, -122.559178); upstream to endpoint(s) in: Anderson Creek (47.505029, -122.69725); Barker Creek (47.647598, -122.658222); Blackjack Creek (47.477097, -122.648962); Burley Creek (47.477671, -122.616862); Clear Creek (47.685465, -122.684758); Coulter Creek (47.44497, -122.768147); Crescent Valley (47.387661, -122.573475); Crouch Creek (47.652949, -122.636766); Curley Creek (47.470853, -122.591807); Dickerson Creek (47.574216, -122.730548); Gorst Creek (47.517739, -122.743902); Heins Creek (47.532474, -122.719281); Huge Creek (47.416967, -122.697785); Kitsap Creek (47.565562, -122.705833); Lost Creek (47.580058, -122.772143); Mccormick Creek (47.360692, -122.616179); Minter Creek (47.417427, -122.68133); North Creek (47.345176, -122.602062); Olalla Creek (47.458804, -122.575015); Parish Creek (47.525007, -122.715043); Purdy Creek (47.424097, -122.601949); Rocky Creek (47.406815, -122.784426); Salmonberry Creek (47.521201, -122.583691); Unnamed (47.375417, -122.764465); Unnamed (47.407431, -122.816273); Unnamed (47.458461, -122.654176); Unnamed (47.461146, -122.658942); Unnamed (47.508334, -122.678469); Unnamed (47.647488, -122.631401); Unnamed (47.652615, -122.705727); Unnamed (47.655222, -122.70488); Unnamed (47.656966, -122.63518); Unnamed (47.669431, -122.688117); Unnamed (47.717933, -122.672648); Unnamed (47.718897, -122.613062); Unnamed (47.760942, -122.618495); Unnamed (47.763767, -122.637787); Unnamed

(47.809222, -122.537334); Unnamed (47.80967, -122.532478); Wildcat Creek (47.599753, -122.761086).

(iii) Woodland Creek-McLane Creek Frontal 1711001902. Outlet(s) = McLane Creek (Lat 47.03475, Long -122.990395); Unnamed (47.095699, -122.94549); Woodard Creek (47.120914, -122.861775); Woodland Creek (47.092725, -122.823614); upstream to endpoint(s) in: McLane Creek (47.001481, -123.009329); Swift Creek (47.031622, -123.008267); Unnamed (47.028842, -122.985445); Unnamed (47.060468, -122.964496); Unnamed (47.071776, -122.827649); Woodard Creek (47.040784, -122.853709); Woodland Creek (47.034018, -122.781534);

(iv) Puget Sound-East Passage 1711001904. Outlet(s) = Christensen Creek (Lat 47.403038, Long -122.51902); Judd Creek (47.402315, -122.467989); Lunds Gulch (47.859951, -122.334873); Shingle Mill Creek (47.480286, -122.482557); Unnamed (47.646085, -122.567546); upstream to endpoint(s) in: Judd Creek (47.416852, -122.47661); Lunds Gulch (47.859132, -122.327183); Shingle Mill Creek (47.467927, -122.474433); Unnamed (47.40206, -122.512865); Unnamed (47.641478, -122.566998).

(v) Chambers Creek 1711001906. Outlet(s) = Chambers Creek (Lat 47.186966, Long -122.583739); upstream to endpoint(s) in: Chambers Creek (47.155756, -122.527739); Clover Creek (47.136455, -122.433679); Clover Creek (47.155756, -122.527739); Flett Creek (47.179364, -122.497762); Leach Creek (47.209364, -122.512372); Ponce De Leon Creek (47.162148, -122.52888).

(vi) Port Ludlow Creek-Chimacum Creek 1711001908. Outlet(s) = Chimacum Creek (Lat 48.050532, Long -122.784429); Unnamed (47.917613, -122.703872); upstream to endpoint(s) in: Unnamed (47.918337, -122.709325); Unnamed (47.927687, -122.805588); Unnamed (47.947673, -122.850871); Unnamed (47.954906, -122.7614); Unnamed (47.986329, -122.80519).

(18) Dungeness-Elwha Subbasin 17110020—*(i) Discovery Bay Watershed 1711002001.* Outlet(s) = Contractors Creek (Lat 48.04559, Long -122.874989); Salmon Creek (47.989306, -122.889155); Snow Creek (47.989848, -122.88472); upstream to endpoint(s) in: Andrews Creek (47.916408, -122.900812); Contractors Creek (48.041198, -122.879974); Salmon Creek (47.968169, -122.963869); Snow Creek (47.935356, -122.943211).

(ii) Sequim Bay Watershed 1711002002. Outlet(s) = Bell Creek (Lat 48.083191, Long -123.052803); Jimmycomelately Creek (48.023348, -123.005179); Johnson Creek (48.062731, -123.040899); Unnamed (48.028495, -122.996498); upstream to endpoint(s) in: Bell Creek (48.062921, -123.103118); Jimmycomelately Creek (47.991106, -123.012853); Johnson Creek (48.054282, -123.060541); Unnamed (47.98473, -123.004078); Unnamed (48.028602, -122.994476); Unnamed (48.077698, -123.085489).

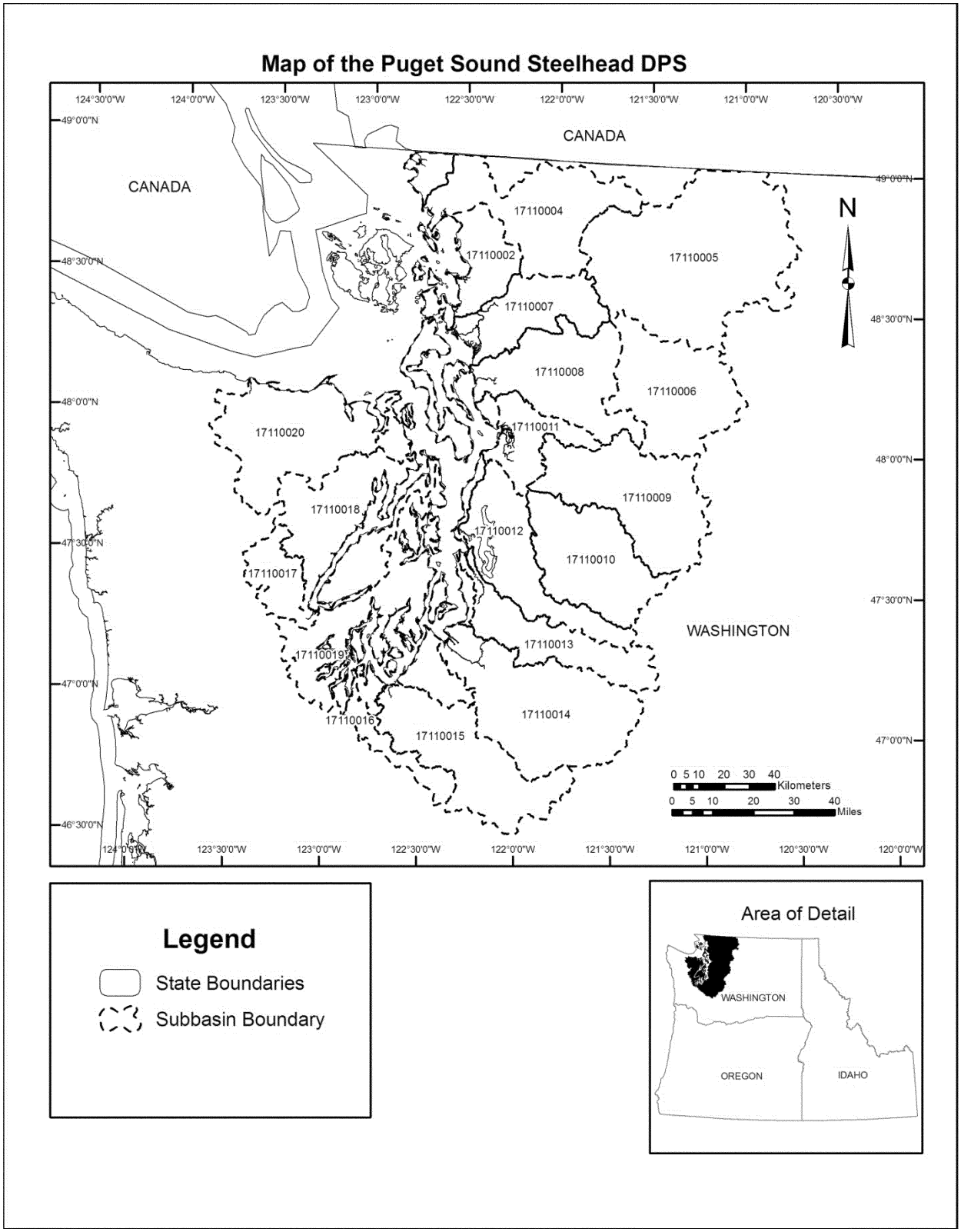
(iii) Dungeness River Watershed 1711002003. Outlet(s) = Cassalery Creek (Lat 48.134645, Long -123.096671); Dungeness River (48.150413, -123.132404); Gierin Creek (48.115086, -123.060063); Unnamed (48.137866, -123.101098); Unnamed (48.153473, -123.12799); upstream to endpoint(s) in: Bear Creek (48.05479, -123.159906); Canyon Creek (48.022505, -123.141514); Cassalery Creek (48.105307, -123.121002); Dungeness River (47.938446, -123.089756); Gierin Creek (48.091597, -123.095521); Gold Creek (47.941297, -123.086086); Gray Wolf River (47.916035, -123.242895); Matriotti Creek (48.068168, -123.193047); Unnamed (48.065991, -123.17376); Unnamed (48.06625, -123.169857); Unnamed (48.068168, -123.193047); Unnamed (48.068308, -123.193024); Unnamed (48.090644, -123.191398); Unnamed (48.106277, -123.076132); Unnamed (48.107219, -123.187879); Unnamed (48.112875, -123.160292); Unnamed (48.116253, -123.157937); Unnamed (48.116481, -123.141572); Unnamed (48.118304, -123.078321); Unnamed (48.124002, -123.143503); Unnamed (48.127704, -123.111613); Unnamed (48.12912, -123.148566); Unnamed (48.130335, -123.127456).

(iv) Port Angeles Harbor Watershed 1711002004. Outlet(s) = Bagley Creek (Lat 48.114035, Long -123.340599); Dry Creek (48.134316, -123.520821); Ennis Creek (48.117472, -123.405373); Lees Creek (48.114686, -123.388339); McDonald Creek (48.125382, -123.220649); Morse Creek (48.117713, -123.351674); Siebert Creek (48.120481, -123.289579); Tumwater Creek (48.124386, -123.445396); Valley Creek (48.122912, -123.437893); upstream to endpoint(s) in: Bagley Creek (48.057013, -123.319844); Dry Creek (48.123255, -123.520058); East Fork Lees Creek (48.075209, -123.37549); East Fork Siebert Creek (48.02011, -123.287767); Ennis Creek (48.052991, -123.411534); Lees Creek (48.078066, -123.394993); McDonald Creek (48.017887, -123.232576); Morse Creek (48.061048, -123.349345); Pederson Creek (48.026991, -123.253803); Tumwater Creek (48.092665, -123.4702); Unnamed (48.0143, -123.260326); Unnamed (48.030295, -123.301668); Valley Creek (48.106808, -123.451781); West Fork Siebert Creek (48.000634, -123.304205).

(v) Elwha River Watershed 1711002007. Outlet(s) = Elwha River (Lat 48.146456, Long -123.568438); upstream to endpoint(s) in: Elwha River (47.739706, -123.494829); Unnamed (48.13353, -123.557816); Unnamed (48.143336, -123.555008); Indian Creek (48.07806, -123.725186); Little River (48.05994, -123.520805).

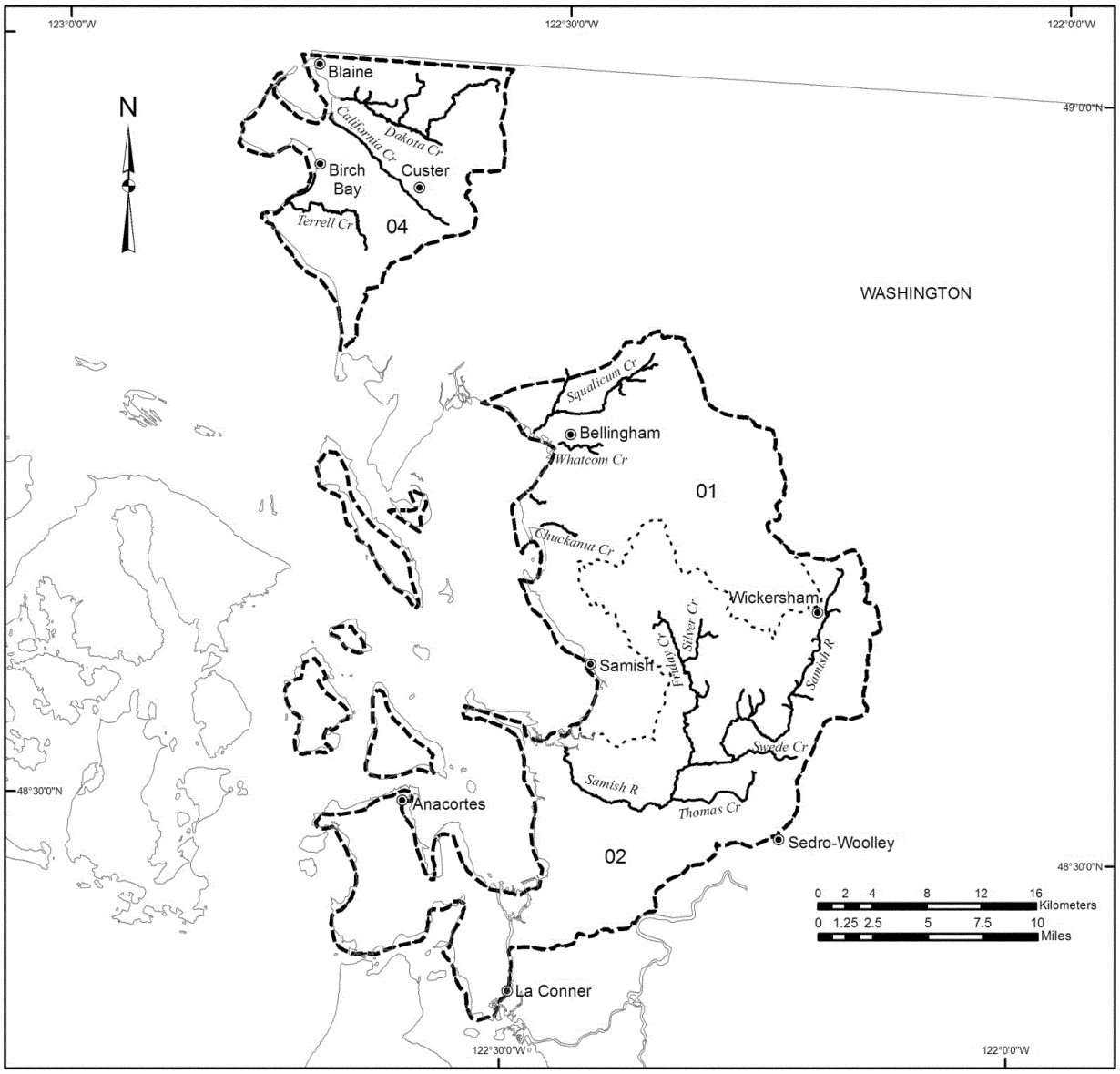
(19) Maps of critical habitat for the Puget Sound steelhead DPS follow:

BILLING CODE 3510–22–P


Map of the Puget Sound Steelhead DPS
CANADA
CANADA
WASHINGTON
N
17110004
17110002
17110005
17110007
17110008
17110006
17110011
17110020
17110009
17110018
17110012
17110010
17110017
17110013
17110019
17110014
17110016
17110015
0 5 10 20 30 40 Kilometers
0 5 10 20 30 40 Miles
Legend
State Boundaries
Subbasin Boundary
Area of Detail
WASHINGTON
OREGON
IDAHO

Proposed Critical Habitat for the Puget Sound Steelhead DPS

Strait Of Georgia Subbasin 17110002

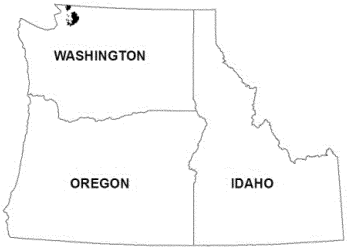


Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 04 = Watershed code - last 2 digits of 17110002xx

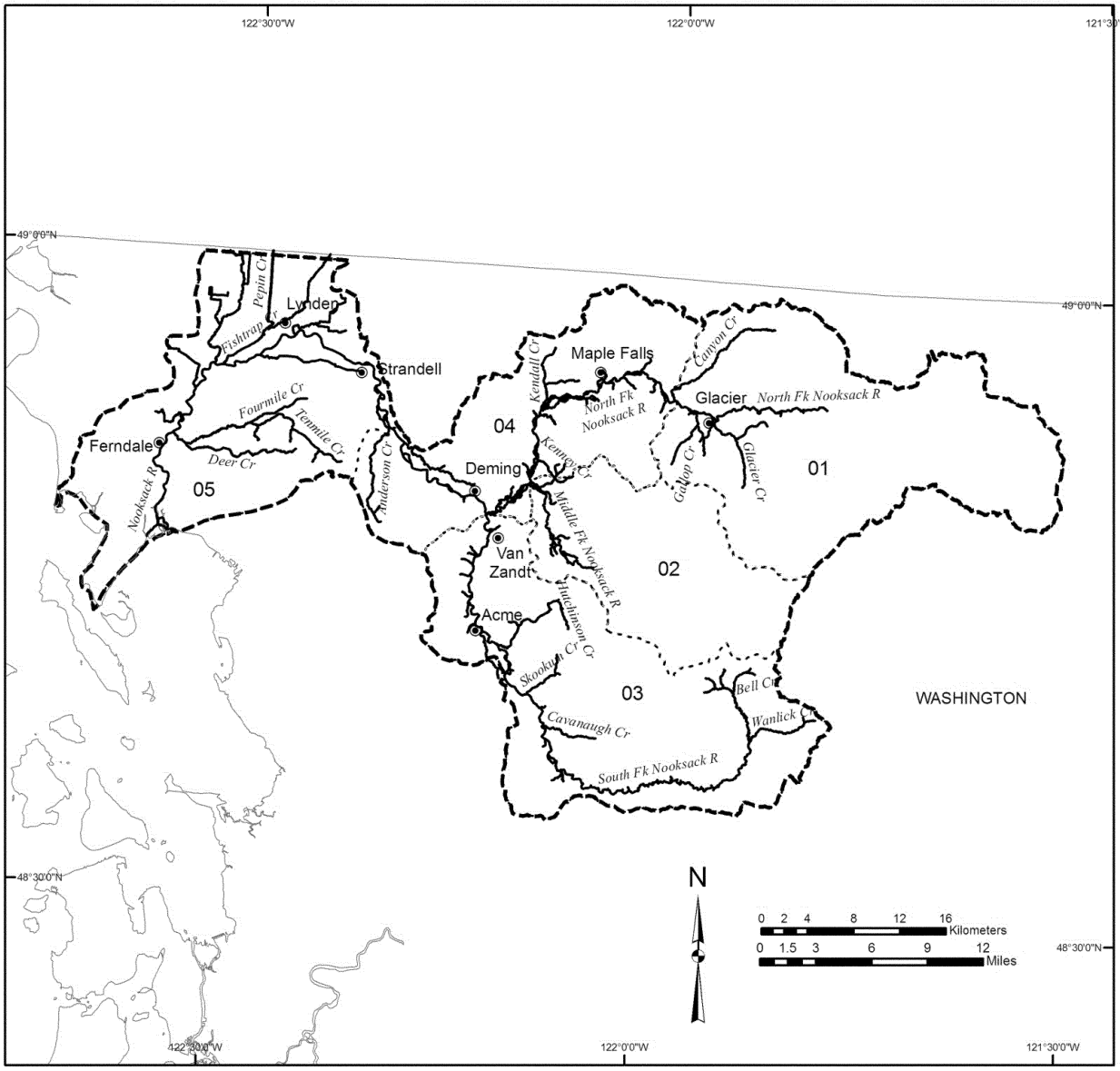
Area of Detail



This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.

Proposed Critical Habitat for the Puget Sound Steelhead DPS

Nooksack Subbasin 17110004

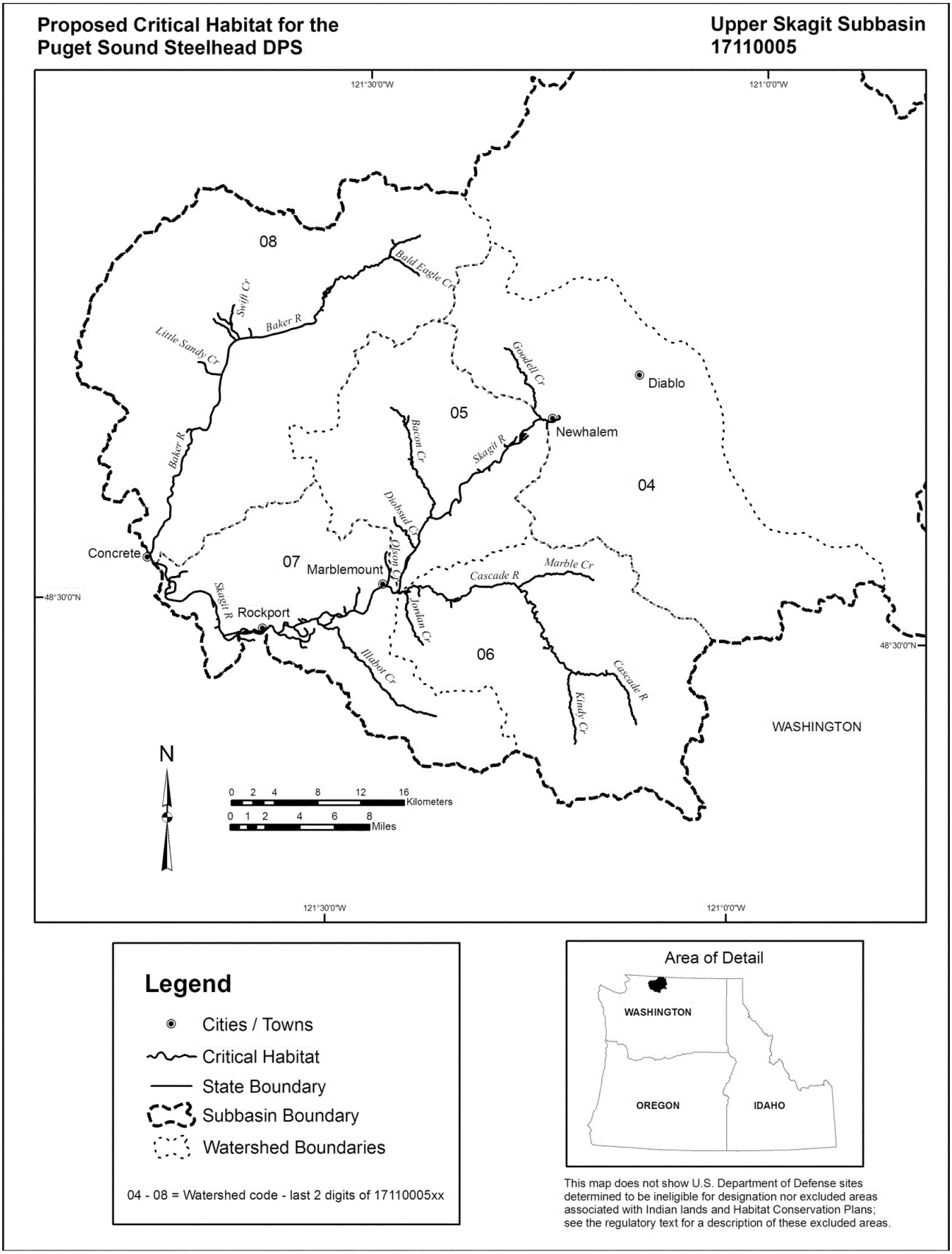


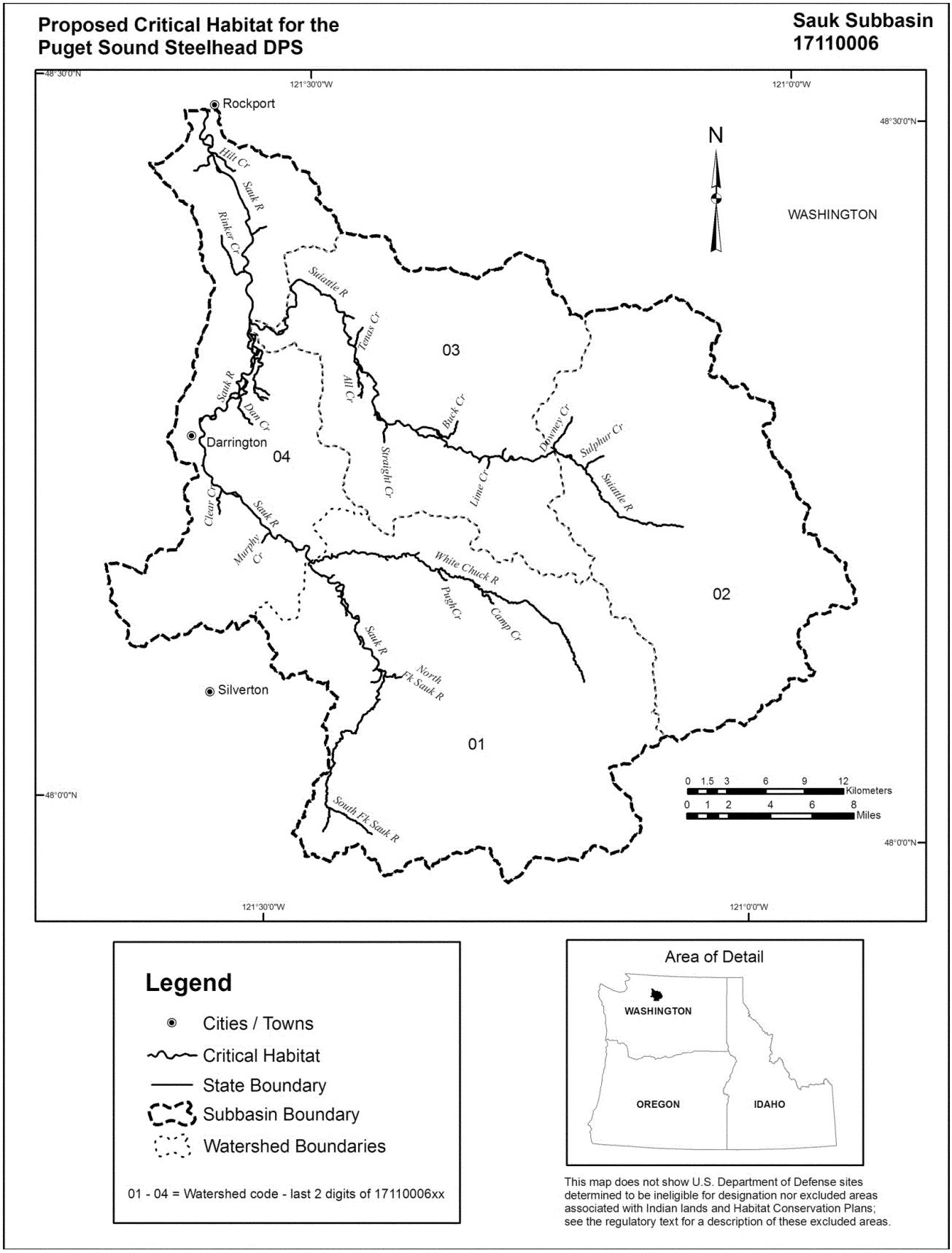
Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 05 = Watershed code - last 2 digits of 17110004xx

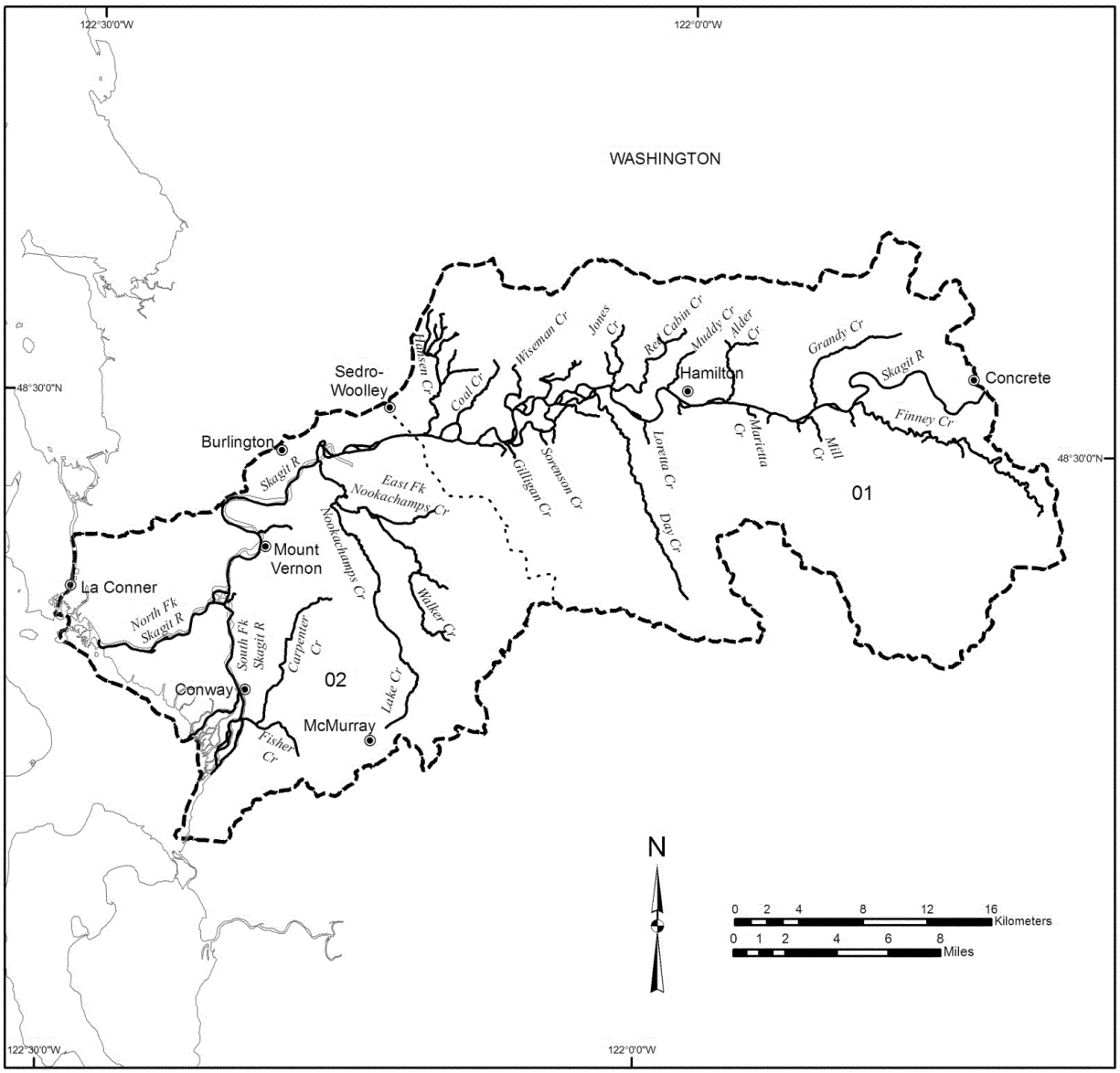
This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.


Proposed Critical Habitat for the
Puget Sound Steelhead DPS
Upper Skagit Subbasin
17110005
121°30'0"W
121°0'0"W
48°30'0"N
08
05
04
07
06
Bald Eagle Cr
Swift Cr
Baker R
Little Sandy Cr
Baker R
Goodell Cr
Diablo
Newhalem
Bacon Cr
Skagit R
Diobsud Cr
Olson Cr
Concrete
Marblemount
Cascade R
Marble Cr
Skagit R
Rockport
Jordan Cr
Illabot Cr
Cascade R
Kindy Cr
WASHINGTON
N
0 2 4 8 12 16 Kilometers
0 1 2 4 6 8 Miles
Legend
Cities / Towns
Critical Habitat
State Boundary
Subbasin Boundary
Watershed Boundaries
04 - 08 = Watershed code - last 2 digits of 17110005xx
Area of Detail
WASHINGTON
OREGON
IDAHO
This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.


Proposed Critical Habitat for the
Puget Sound Steelhead DPS
Sauk Subbasin
17110006
48°30'0"N
121°30'0"W
121°0'0"W
Rockport
Hill Cr
Sauk R
Rinker Cr
Suiattle R
Fenix Cr
03
Sauk R
Dan Cr
Alt Cr
Buck Cr
Downey Cr
Sulphur Cr
Darrington
04
Straight Cr
Lime Cr
Suiattle R
Clear Cr
Sauk R
Murphy Cr
White Chuck R
Pugh Cr
Camp Cr
02
Sauk R
North Fk Sauk R
Silverton
01
South Fk Sauk R
48°0'0"N
N
WASHINGTON
0 1.5 3 6 9 12 Kilometers
0 1 2 4 6 8 Miles
Legend
Cities / Towns
Critical Habitat
State Boundary
Subbasin Boundary
Watershed Boundaries
01 - 04 = Watershed code - last 2 digits of 17110006xx
Area of Detail
WASHINGTON
OREGON
IDAHO
This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.

Proposed Critical Habitat for the Puget Sound Steelhead DPS

Lower Skagit Subbasin 17110007

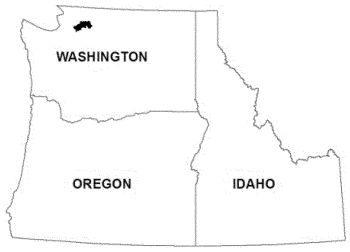


Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 02 = Watershed code - last 2 digits of 17110007xx

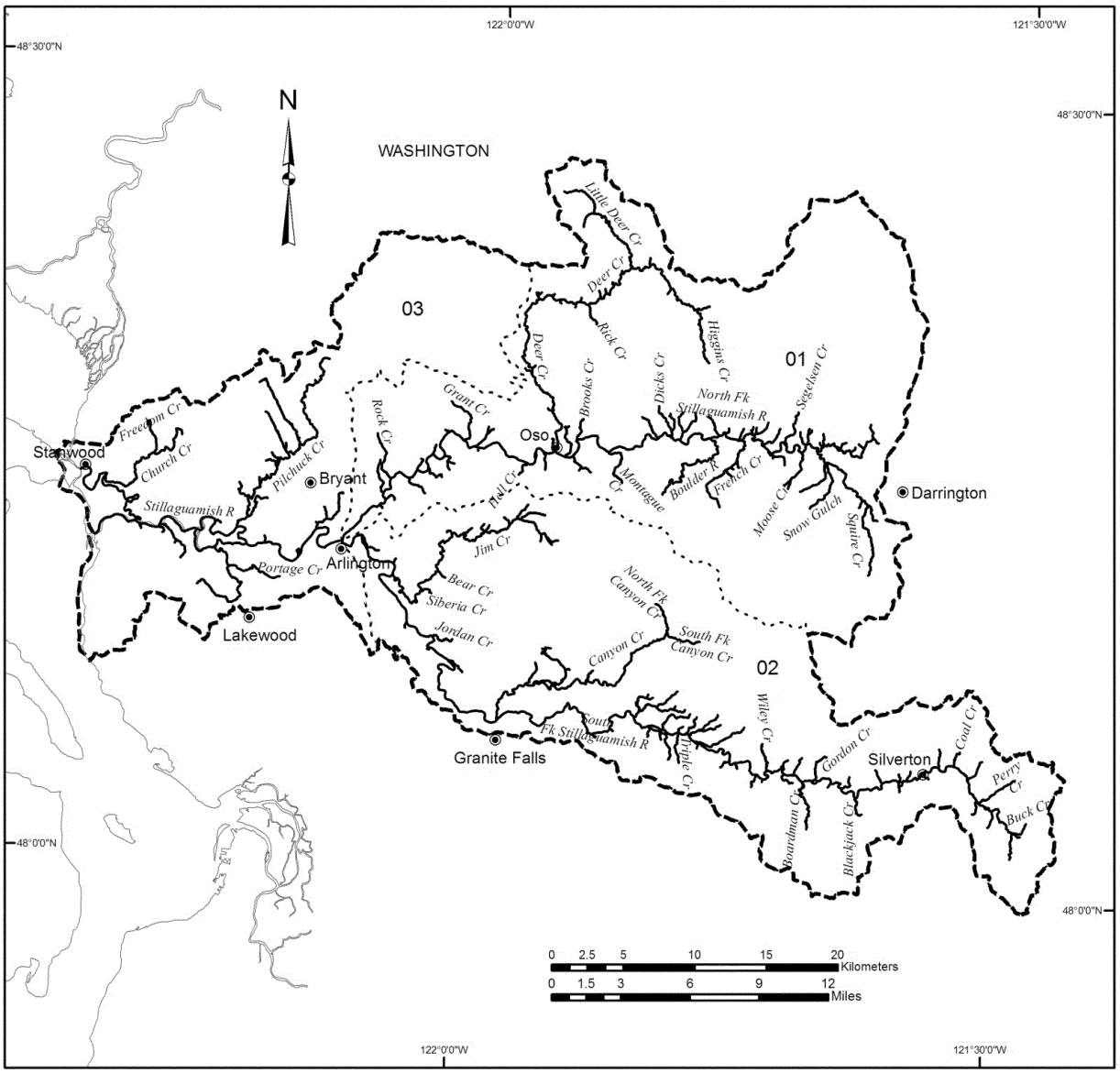
Area of Detail



This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.

Proposed Critical Habitat for the Puget Sound Steelhead DPS

Stillaguamish Subbasin 17110008

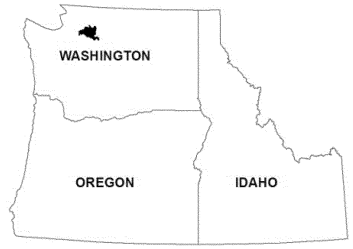


Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 03 = Watershed code - last 2 digits of 17110008xx

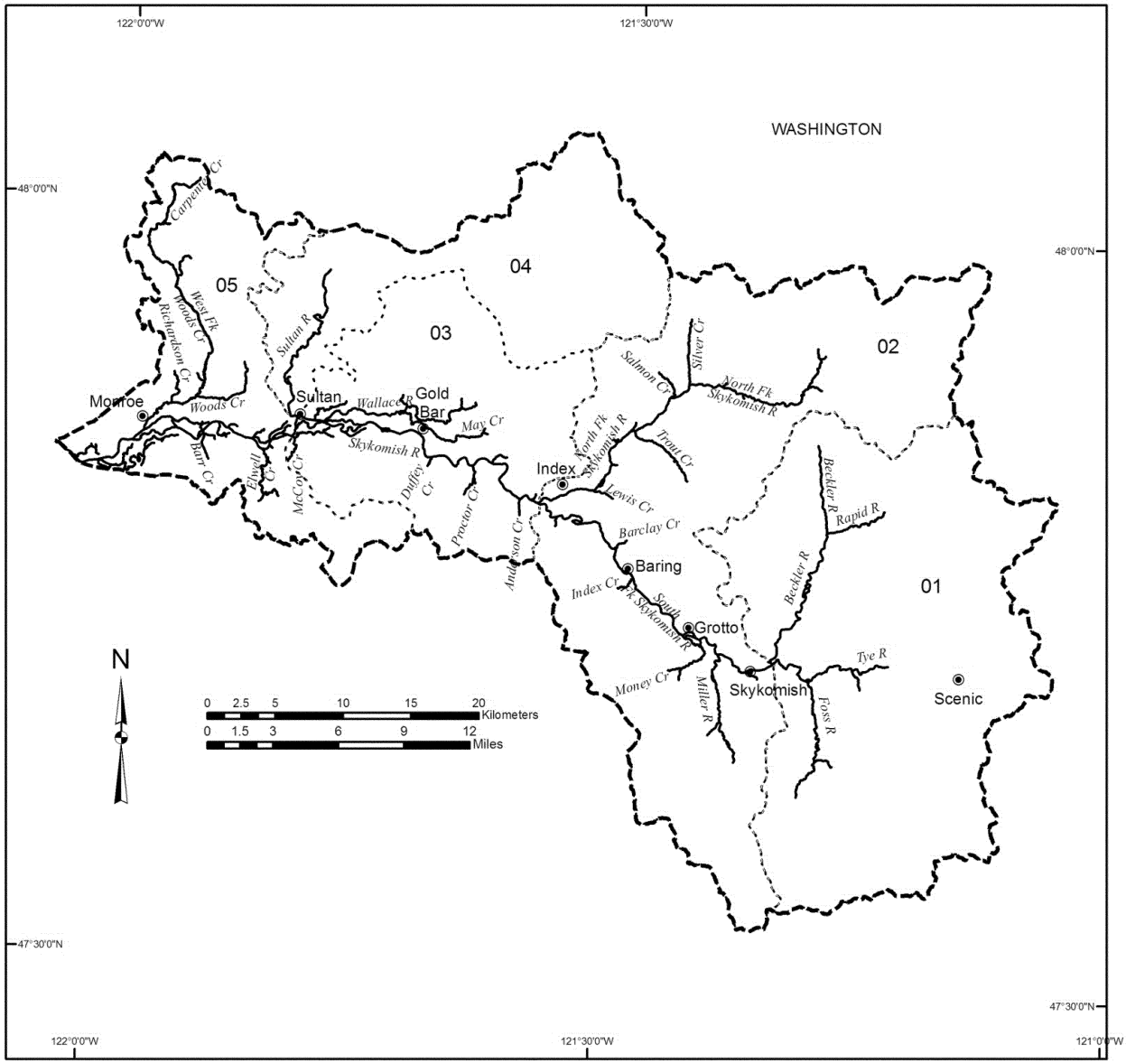
Area of Detail



This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.

Proposed Critical Habitat for the Puget Sound Steelhead DPS

Skykomish Subbasin 17110009



Legend

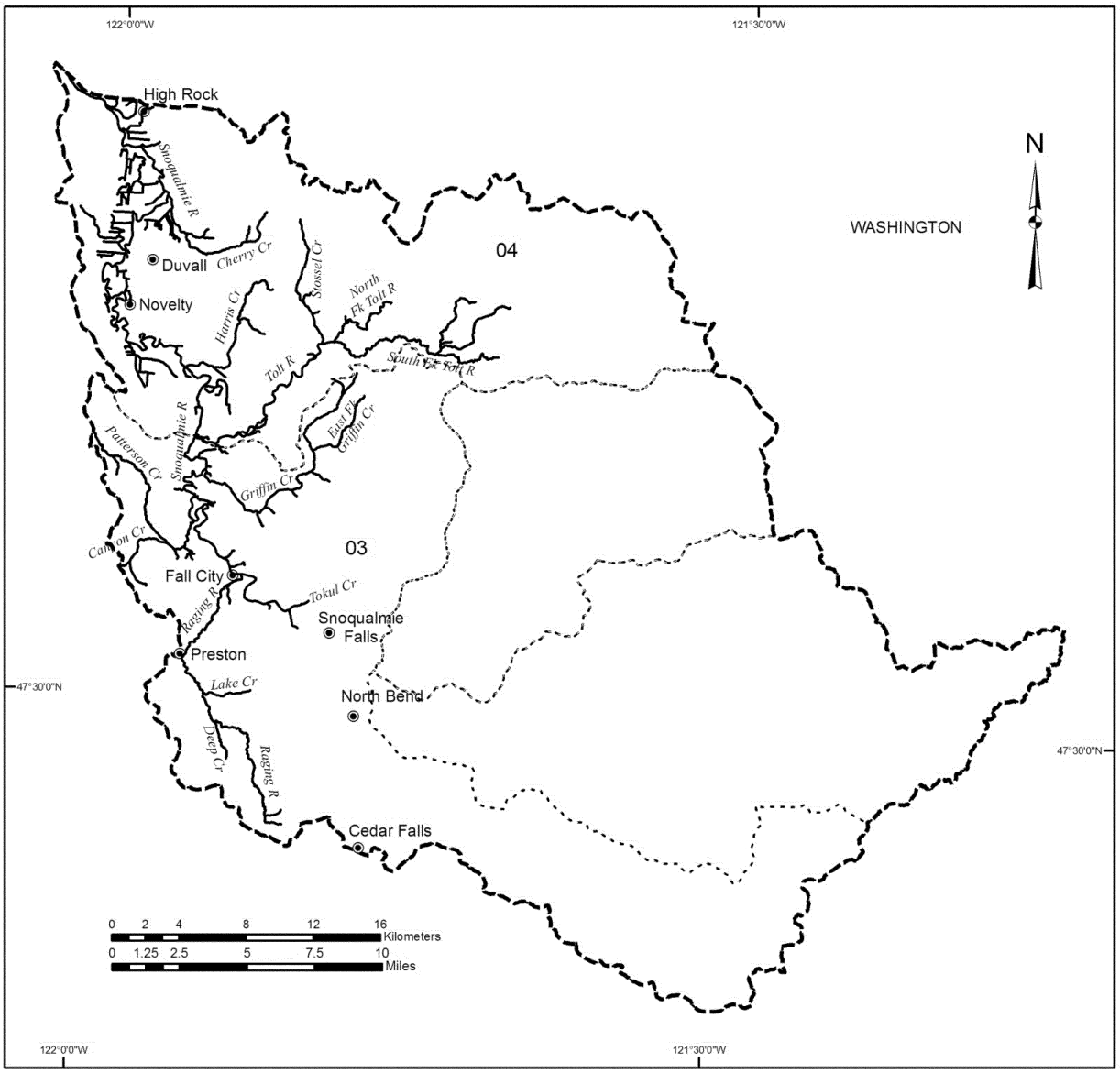
- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 05 = Watershed code - last 2 digits of 17110009xx

This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.

Proposed Critical Habitat for the Puget Sound Steelhead DPS

Snoqualmie Subbasin 17110010



Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

03 - 04 = Watershed code - last 2 digits of 17110010xx

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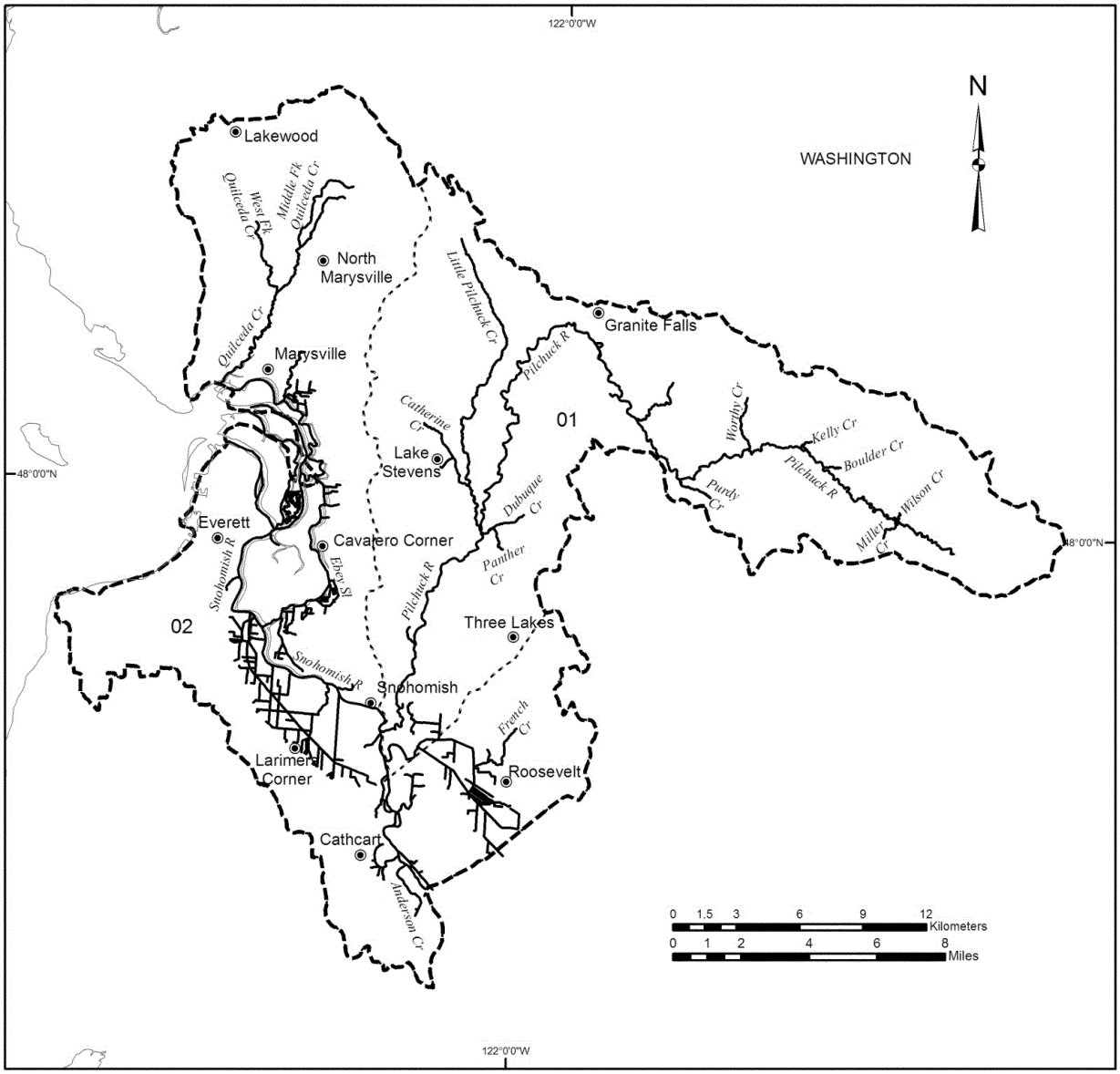
Proposed Critical Habitat for the Puget Sound Steelhead DPS

Snohomish Subbasin 17110011



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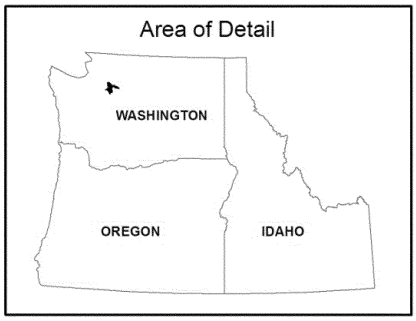
- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 02 = Watershed code - last 2 digits of 17110011xx



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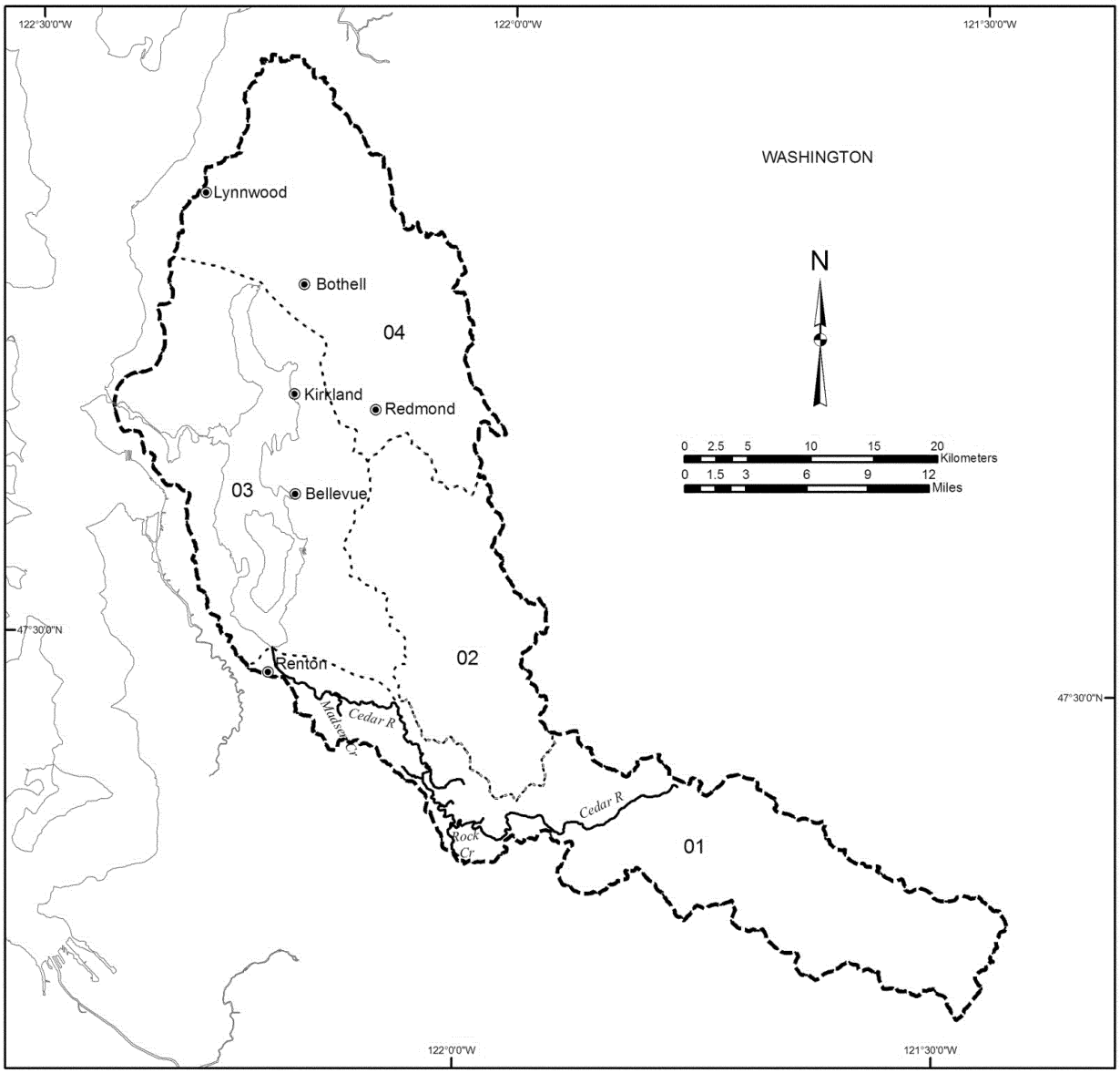
Proposed Critical Habitat for the Puget Sound Steelhead DPS

Lake Washington Subbasin 17110012



Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 04 = Watershed code - last 2 digits of 17110012xx

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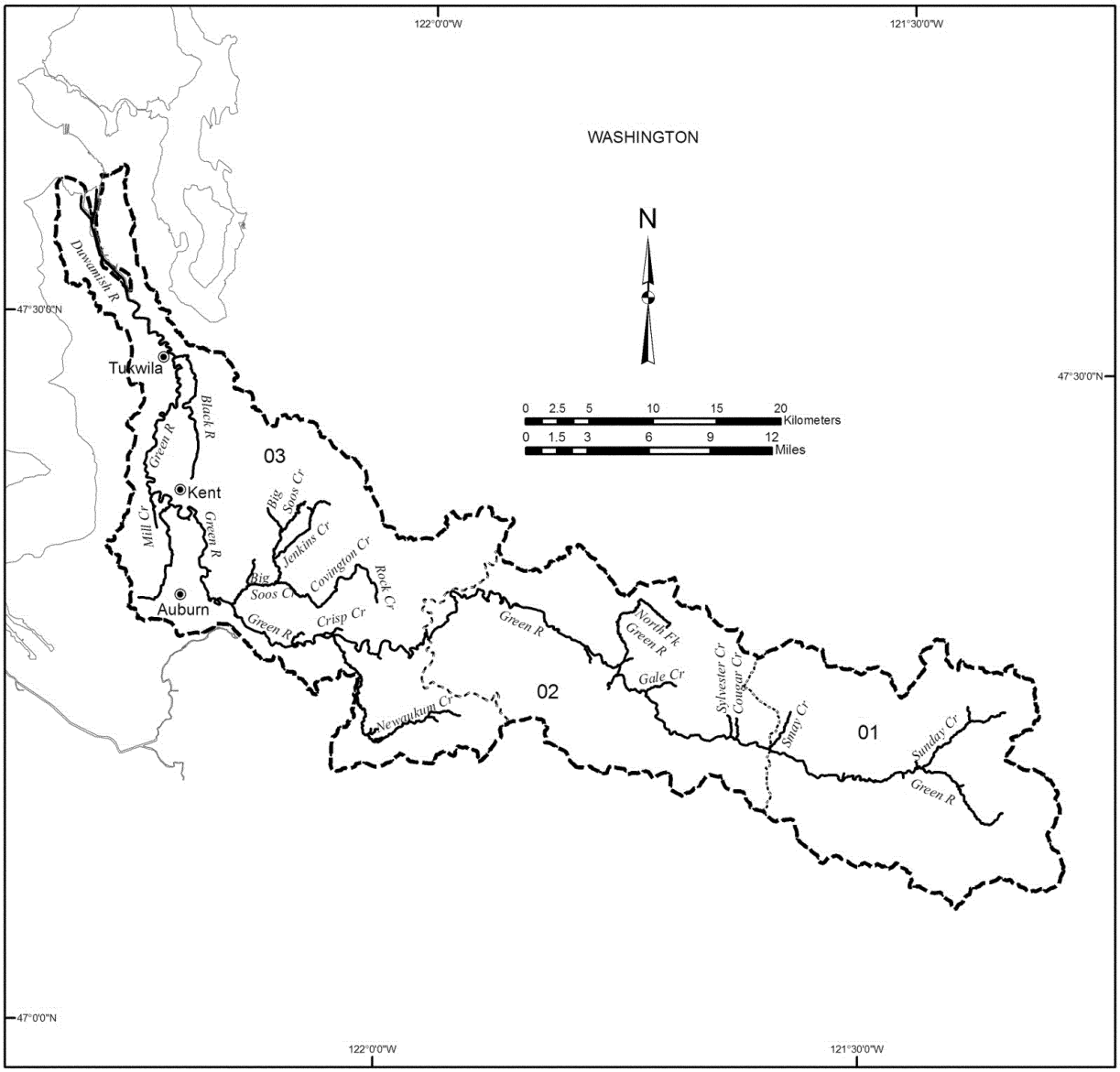
Proposed Critical Habitat for the Puget Sound Steelhead DPS

Duwamish Subbasin 17110013



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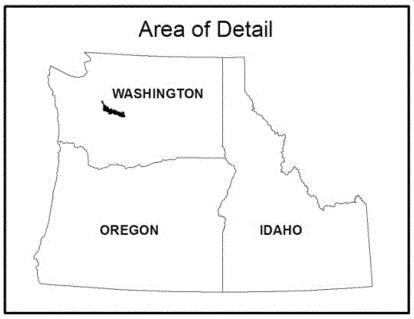
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 03 = Watershed code - last 2 digits of 17110013xx



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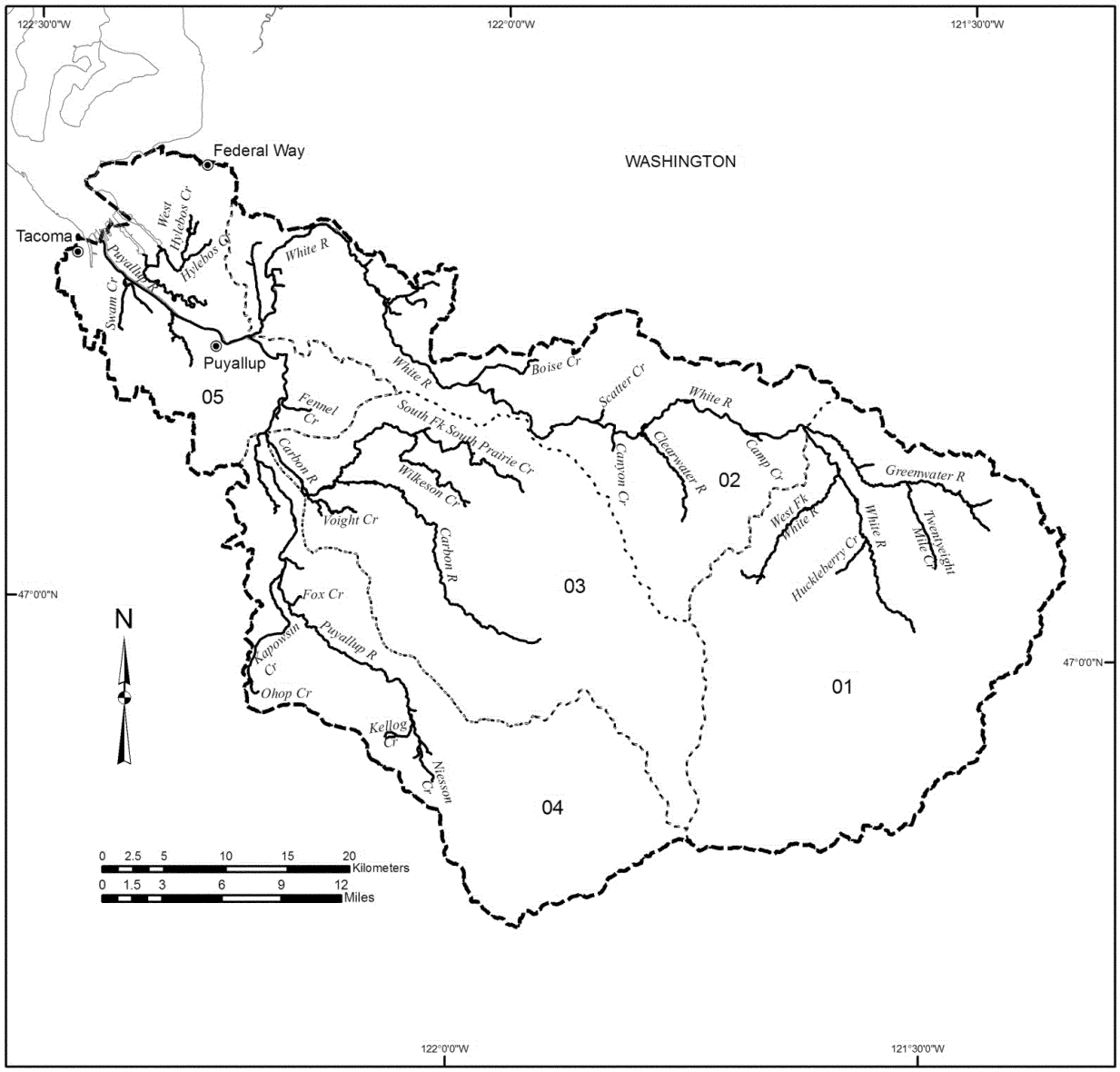
Proposed Critical Habitat for the Puget Sound Steelhead DPS

Puyallup Subbasin 17110014



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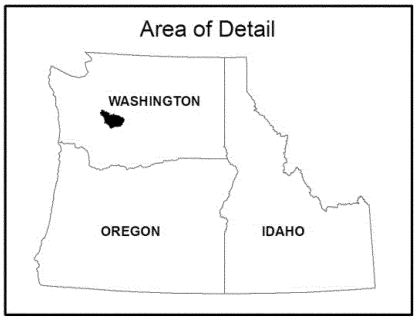
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 05 = Watershed code - last 2 digits of 17110014xx



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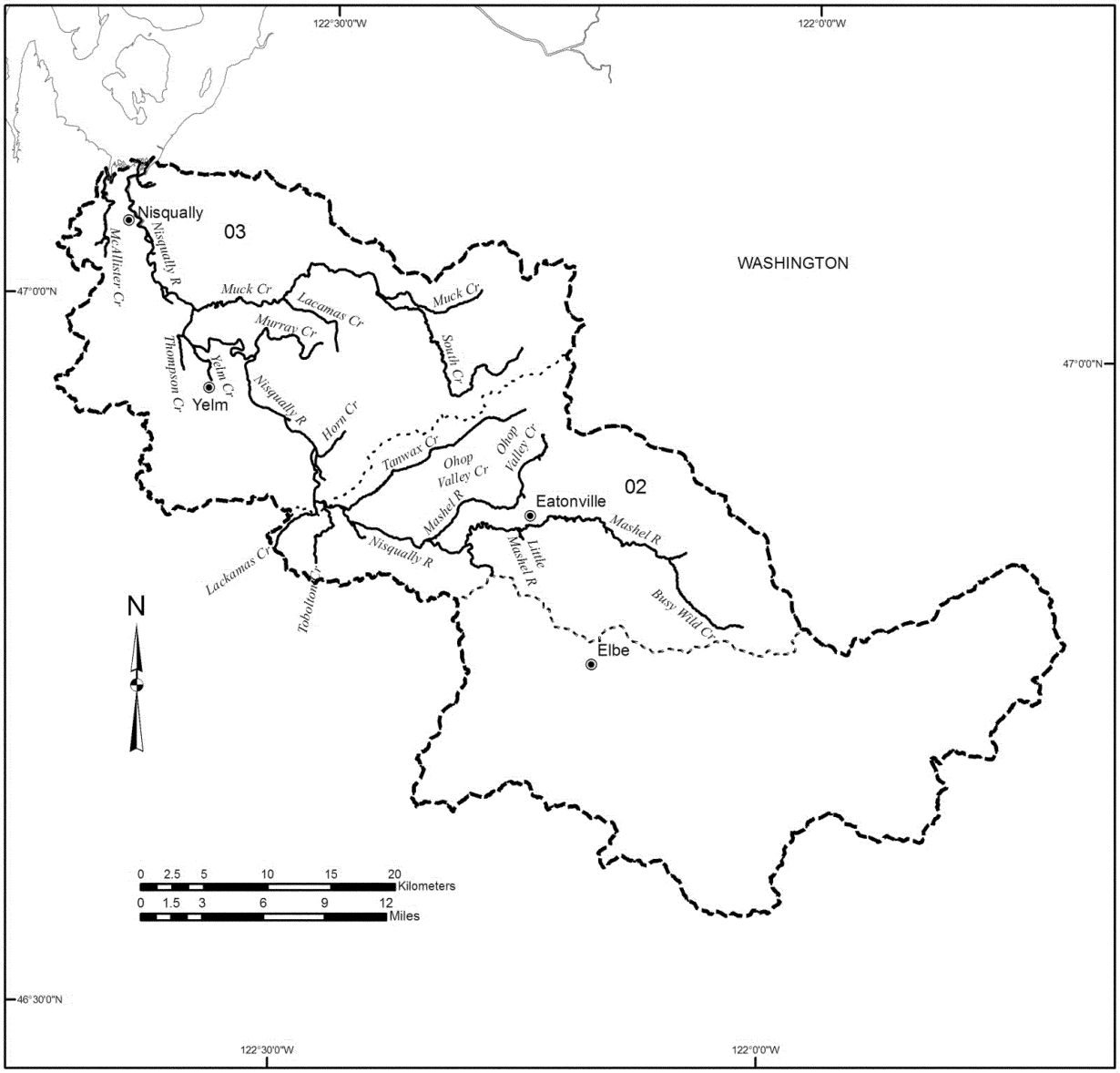
Proposed Critical Habitat for the Puget Sound Steelhead DPS

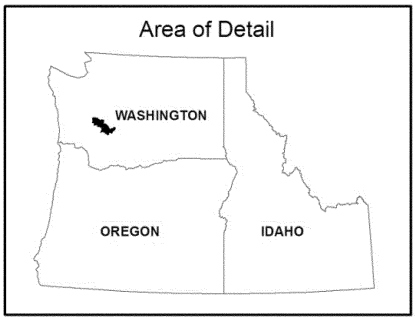
Nisqually Subbasin 17110015



Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

02 - 03 = Watershed code - last 2 digits of 17110015xx



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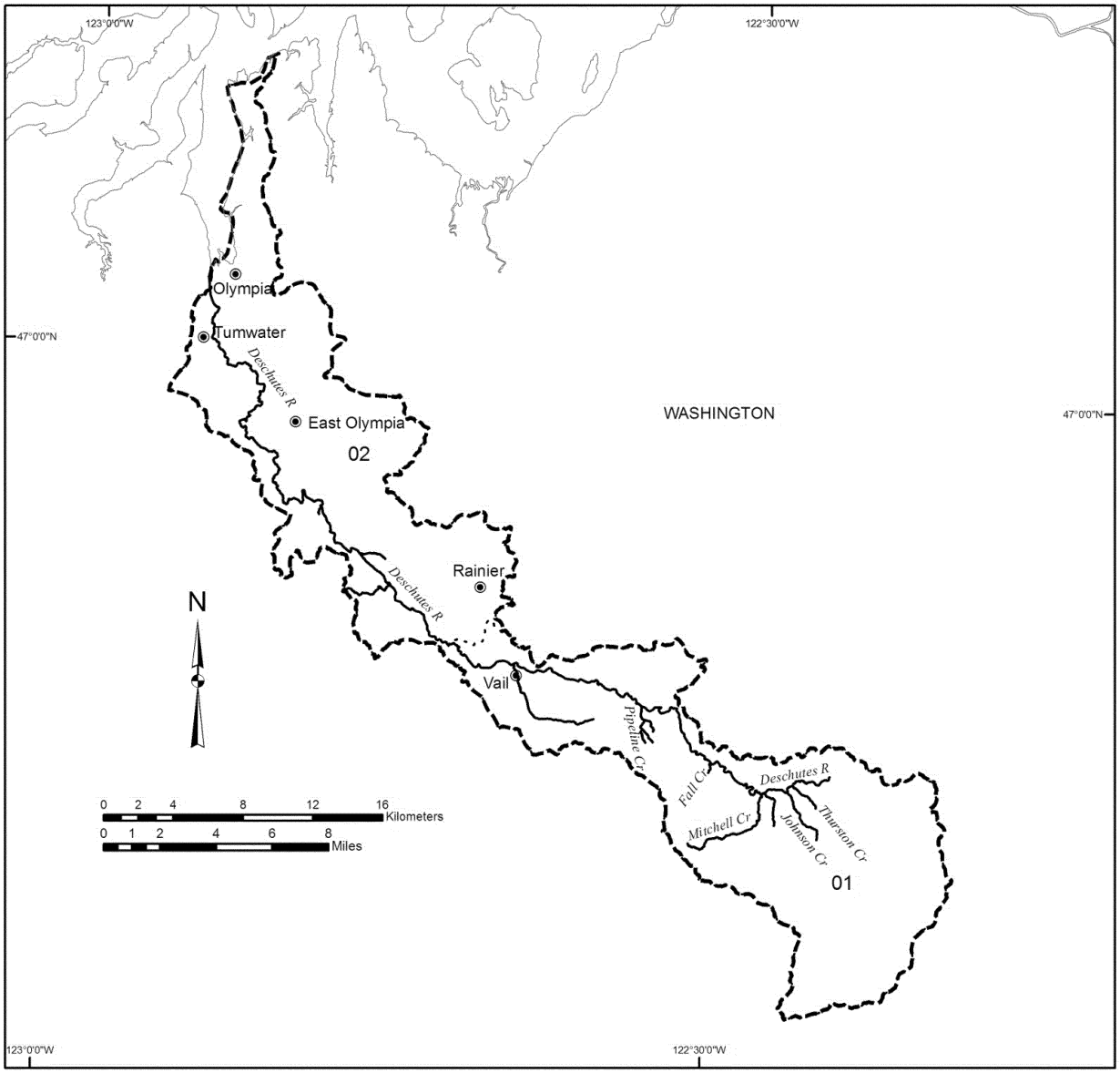
Proposed Critical Habitat for the Puget Sound Steelhead DPS

Deschutes Subbasin 17110016



Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

01 - 02 = Watershed code - last 2 digits of 17110016xx

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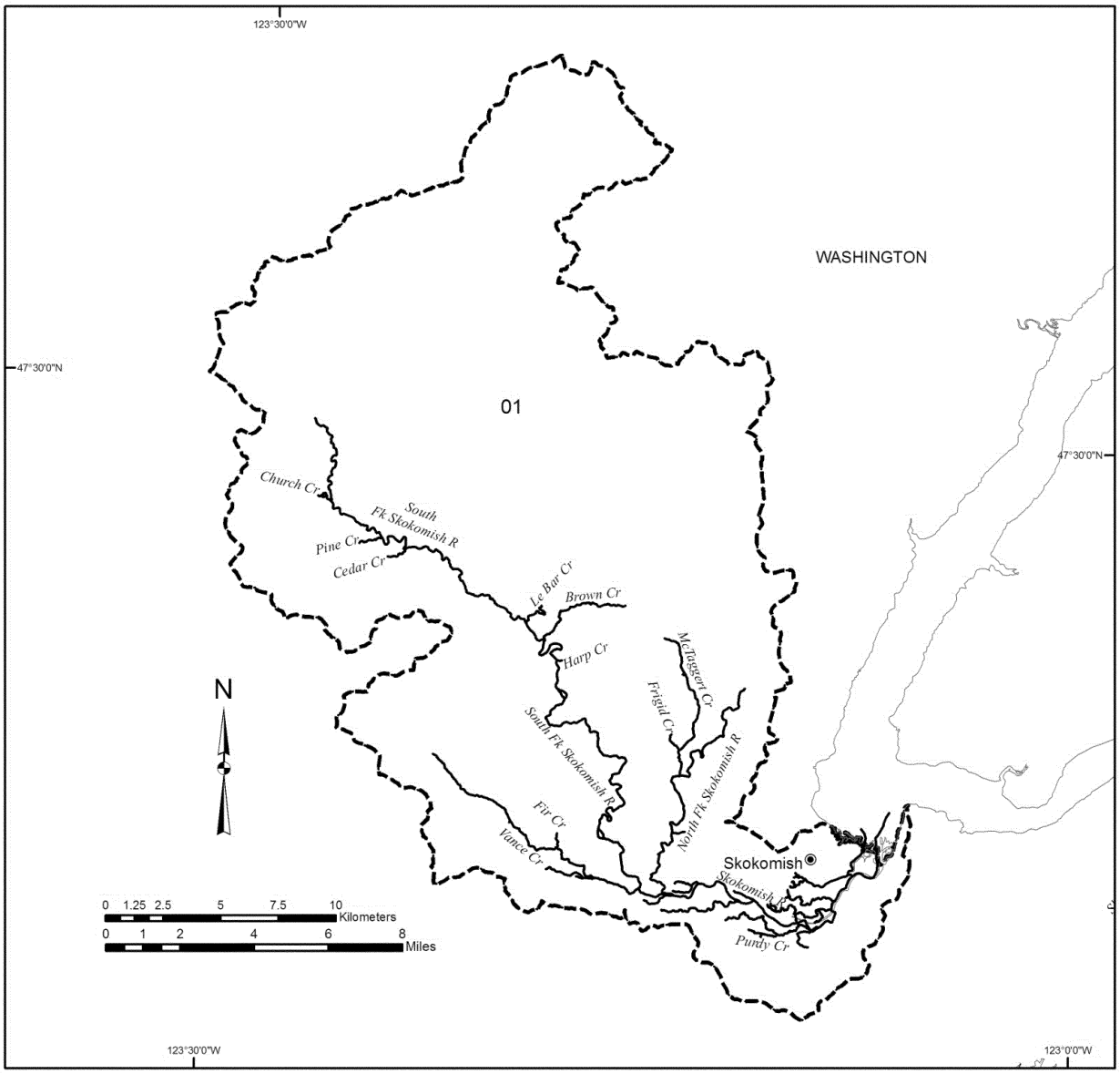
Proposed Critical Habitat for the Puget Sound Steelhead DPS

Skokomish Subbasin 17110017



Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

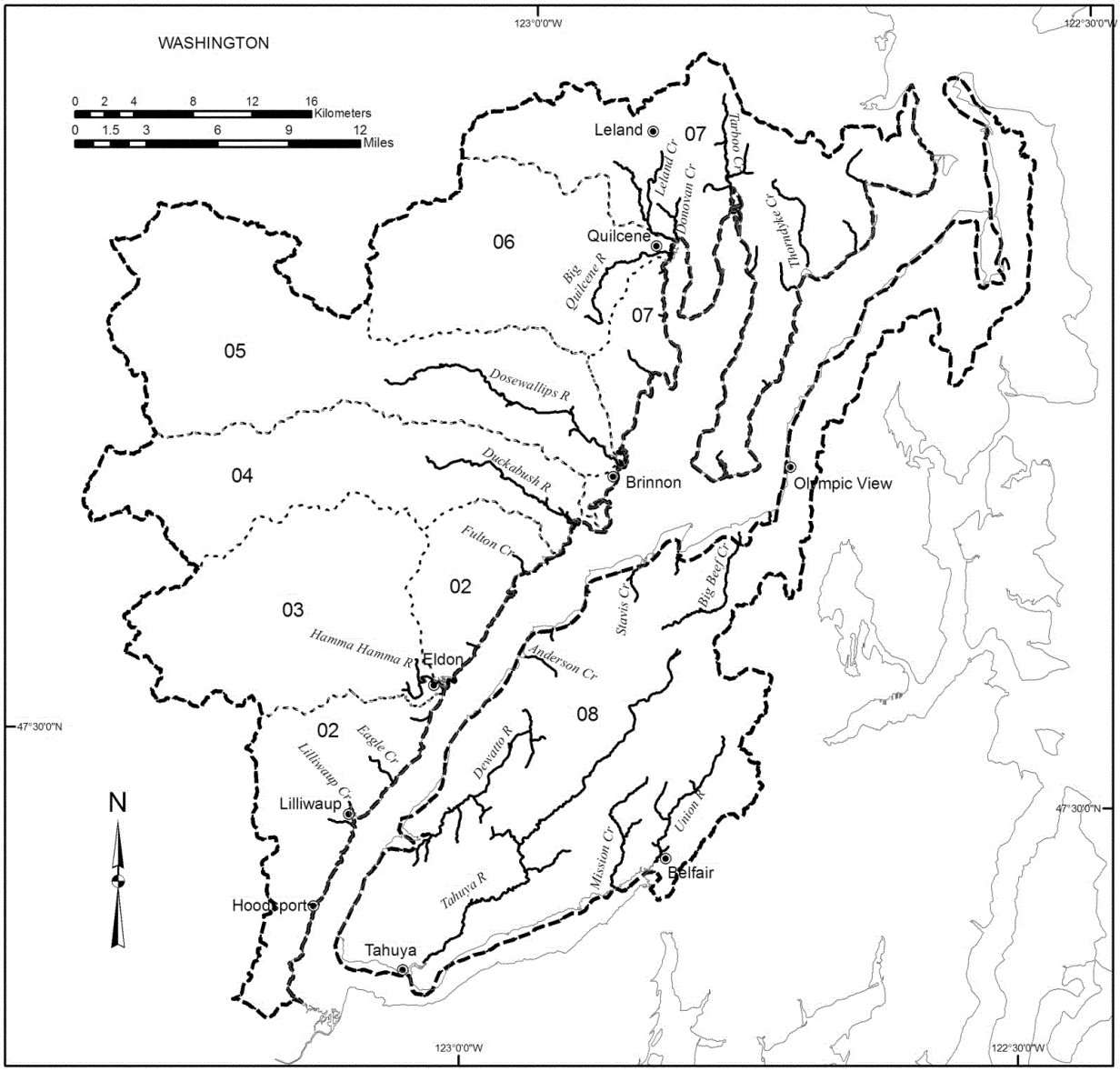
01 = Watershed code - last 2 digits of 17110017xx

Area of Detail

This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.

Proposed Critical Habitat for the Puget Sound Steelhead DPS

Hood Canal Subbasin 17110018

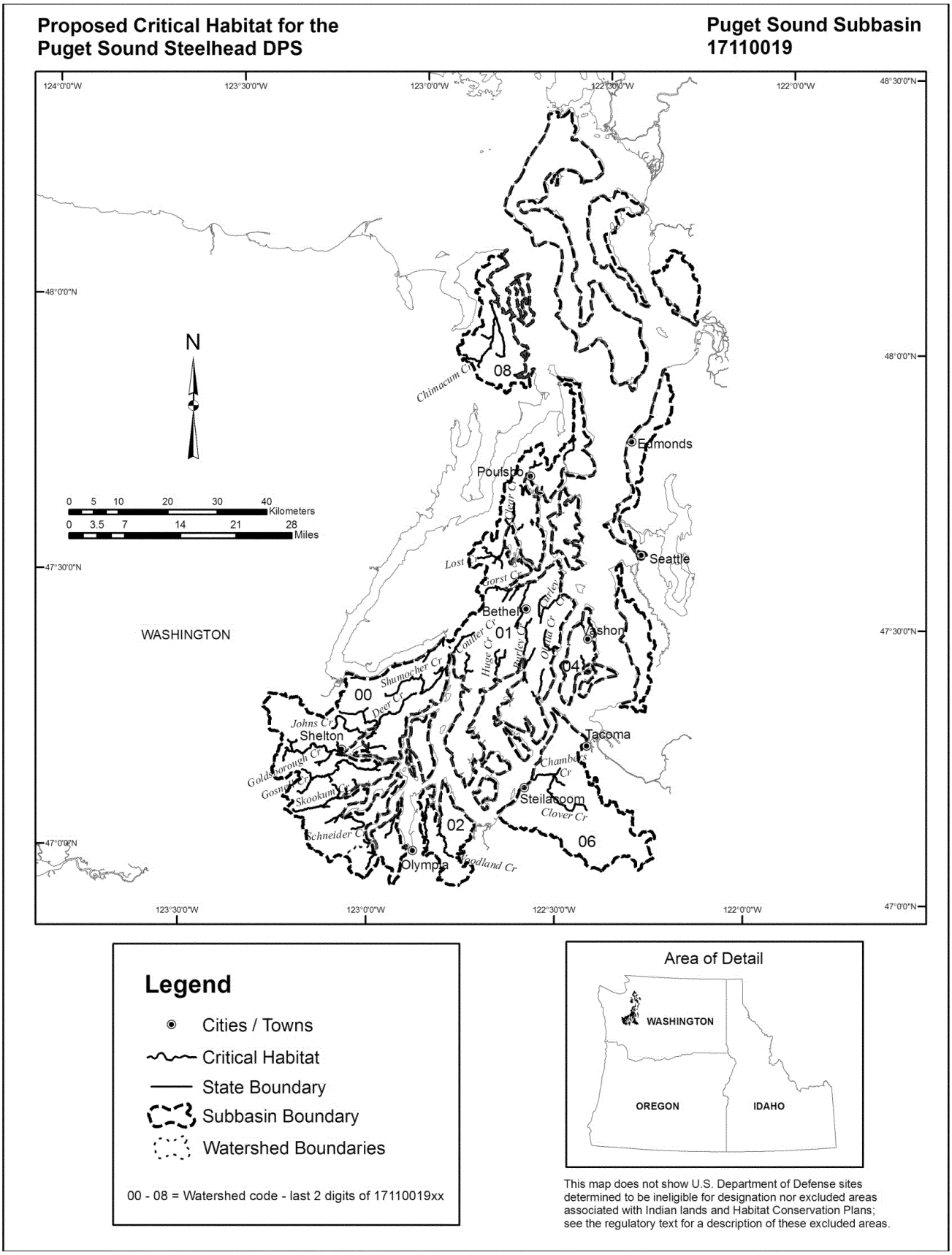


Legend

- Cities / Towns
- Critical Habitat
- State Boundary
- Subbasin Boundary
- Watershed Boundaries

02 - 08 = Watershed code - last 2 digits of 17110018xx

This map does not show U.S. Department of Defense sites determined to be ineligible for designation nor excluded areas associated with Indian lands and Habitat Conservation Plans; see the regulatory text for a description of these excluded areas.



[FR Doc. 2013–00241 Filed 1–11–13; 8:45 am]
BILLING CODE 3510–22–C

FEDERAL REGISTER

Vol. 78 Monday,

No. 9 January 14, 2013

Part III

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Parts 571 and 585

Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles; Draft Environmental Assessment for Rulemaking To Establish Minimum Sound Requirements for Hybrid and Electric Vehicles; Proposed Rules

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 585

[Docket No. NHTSA–2011–0148]

RIN 2127–AK93

Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: As required by the Pedestrian Safety Enhancement Act (PSEA) of 2010 this rule proposes to establish a Federal motor vehicle safety standard (FMVSS) setting minimum sound requirements for hybrid and electric vehicles. This new standard would require hybrid and electric passenger cars, light trucks and vans (LTVs), medium and heavy duty, trucks, and buses, low speed vehicles (LSVs), and motorcycles to produce sounds meeting the requirements of this standard. This proposed standard applies to electric vehicles (EVs) and to those hybrid vehicles (HVs) that are capable of propulsion in any forward or reverse gear without the vehicle's internal combustion engine (ICE) operating. This standard would ensure that blind, visually-impaired, and other pedestrians are able to detect and recognize nearby hybrid and electric vehicles, as required by the PSEA, by requiring that hybrid and electric vehicles emit sound that pedestrians would be able to hear in a range of ambient environments and contain acoustic signal content that pedestrians will recognize as being emitted from a vehicle.

The benefit of reducing the pedestrian injury rate per registered vehicle of HVs to ICE vehicles when 4.1% of the fleet is HV and EV would be 2790 fewer pedestrian and pedalcyclist injuries. We also estimate that this proposal will result in 10 fewer pedestrian and pedalcyclist injuries caused by LSVs. Thus, 2800 total injured pedestrians are expected to be avoided due to this proposal representing 35 equivalent lives saved. We do not estimate any quantifiable benefits for EVs because it is our view that EV manufacturers would have installed alert sounds in their cars without passage of the PSEA and this proposed rule. Comparison of costs and benefits expected due to this rule provides a cost of $0.83 to $0.99 million per equivalent life saved across the 3 and 7 percent discount levels for the light EV and HV and LSV fleet. According to our present model, a countermeasure that allows a vehicle to meet the proposed minimum sound requirements would be cost effective compared to our comprehensive cost estimate of the value of a statistical life of $6.3 million.

DATES: Comments must be received on or before March 15, 2013.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

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

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202–366–9324.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Privacy Act: Please see the Privacy Act heading under Rulemaking Analyses and Notices.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues, Ms. Gayle Dalrymple, Office of Crash Avoidance Standards (telephone: 202–366- 5559) (fax: 202–493–2990). Ms. Dalrymple's mailing address is National Highway Traffic Safety Administration, NVS–112, 1200 New Jersey Avenue SE., Washington, DC 20590.

For legal issues, Mr. Thomas Healy, Office of the Chief Counsel (telephone: 202–366–2992) (fax: 202–366–3820). Mr. Healy's mailing address is National Highway Traffic Safety Administration, NCC–112, 1200 New Jersey Avenue SE., Washington, DC 20590.

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I. Executive Summary

As required by the PSEA,[1] this rule proposes to establish FMVSS No.141, *Minimum Sound Requirements for Hybrid and Electric Vehicles,* which would require hybrid and electric passenger cars, LTVs, medium and heavy duty trucks and buses, LSVs, and motorcycles to produce sounds meeting the requirements of this standard. This proposed standard applies to EVs and to those HVs that are capable of propulsion in any forward or reverse gear without the vehicle's ICE operating. The PSEA requires NHTSA to establish performance requirements for an alert sound that is recognizable as motor vehicle in operation that allows blind and other pedestrians to reasonably detect a nearby EV or HV operating below the crossover speed. The crossover speed is the speed at which tire noise, wind noise, and other factors eliminate the need for a separate alert sound. The PSEA defines ''alert sound'' as ''a vehicle-emitted sound to enable pedestrians to discern vehicle presence, direction, location and operation.'' [2] The legal authority for this rulemaking comes from the PSEA and 49 U.S.C. 30111.

This standard will ensure that blind, visually-impaired, and other pedestrians are able to detect and recognize nearby hybrid and electric vehicles by requiring that hybrid and electric vehicles emit sound that pedestrians will be able to hear in a range of ambient environments and contain acoustic signal content that pedestrians will recognize as being emitted from a vehicle. The proposed standard establishes minimum sound requirements for hybrid and electric vehicles when operating under 30 kilometers per hour (km/h) (18 mph), when the vehicle's starting system is activated but the vehicle is stationary, and when the vehicle is operating in reverse.

The requirements of this proposal apply only to those HVs that are capable of propulsion in any forward or reverse gear without the vehicle's ICE operating because these were the vehicles that the agency believes fall under the definition of ''hybrid vehicle'' contained in the PSEA. The agency chose a crossover speed of 30 km/h because this was the speed at which the sound levels of the hybrid and electric vehicles measured by the agency approximated the sound levels produced by similar ICE vehicles. This proposal contains minimum sound requirements for the activated but stationary operating condition because the definition of alert sound in the PSEA, as explained in Section III of this NPRM, requires the agency to issue minimum sound requirements to allow pedestrians to detect hybrid and electric vehicles. We have tentatively determined that this requirement can be best met by requiring vehicles to emit sound in this operating condition.

At lower speeds, hybrid and electric vehicles produce less sound than vehicles propelled by an ICE. At higher speeds, tire and wind noise are the main contributors to vehicles noise output so at higher speeds the sounds produced by hybrid and electric vehicles and ICE vehicles are similar. Because hybrid and electric vehicles do not produce as much sound as ICE vehicles when operating at lower speeds, pedestrians and other road users may not be aware of the presence of a nearby hybrid or electric vehicle. If a hybrid vehicle is involved in a low speed maneuver (defined as making a turn, slowing or stopping, backing up, entering or leaving a parking space, or starting in traffic), it is 1.38 times more likely than an ICE vehicle to be involved in a collision with a pedestrian and 1.33 times more likely to be involved in a collision with a pedalcyclist. We believe that this difference in accident rates is mostly attributable to the pedestrians' inability to detect these vehicles by hearing them during these maneuvers. We seek comment on this assumption.

Statistics for pedestrian collision rates of hybrid and electric vehicles with a GVWR over 4,536 kg (10,000 lb), and motorcycles were not available because of the limited penetration of these vehicles into the fleet. NHTSA expects that should the penetration of hybrid and electric heavy vehicles, and motorcycles reach the current rate of penetration of light hybrid and electric vehicles into the fleet, then the difference in pedestrian collision rates between hybrid and electric heavy vehicles, and motorcycles and their traditional ICE counterparts will be similar to the difference in pedestrian collision rates between light HVs and light ICE vehicles.

In addition to analyzing crash data, the agency measured the sound produced by HVs, EVs and ICE vehicles to determine the difference in sound output between the propulsion types at different speeds and conducted research to see if there was a difference in the ability of pedestrians to detect approaching hybrid and electric vehicles versus ICE vehicles. The agency also used acoustic models to determine the frequency composition of sounds that would give pedestrians the best chance to detect approaching hybrid and electric vehicles without contributing undesirably to surrounding ambient noise levels.

The proposed standard ensures that pedestrians will be able to determine whether a hybrid or electric vehicle is accelerating or decelerating by requiring the frequency content of the sound emitted by the vehicle to increase in a manner that is similar to the sound produced by ICE vehicles when accelerating and decelerating. The agency developed the minimum sound specifications contained in this proposal using a detection model that estimated the distance at which a pedestrian would be able hear a given sound in the presence of a given ambient sound profile. The standard also requires, as mandated by the PSEA, that all vehicles of the same make, model and model year emit the same sound.

The PSEA requires that the final rule establishing this standard be issued by January 4, 2014 and include a phase-in schedule that concludes with ''full compliance with the required motor vehicle safety standard for motor vehicles manufactured on or after September 1st of the calendar year that begins 3 years after the date on which the final rule is issued.'' For example the means that if the final rule is issued January 4, 2014, compliance would commence on September 1, 2015, which would mark the start of a three-year phase-in period. We tentatively conclude that the following phase in schedule is reasonable for manufacturers and allows the fastest implementation of the standard for pedestrian safety:

30 percent of the subject vehicles produced on or after September 1of the first year of the phase in;

60 percent of the subject vehicles produced on or after September 1of the second year of the phase in;

90 of the subject vehicles produced on or after September 1of the third year of the phase in; and

100 percent of all vehicles produced on or after, by September 1 of the year that begins three years after the date that the final rule is issued.

[1] Public Law 111–373, 124 Stat. 4086 (January 4, 2011).

[2] *Id.* at Section 2(2).

As discussed in detail in Section X of this notice, the benefits of this proposed rule, if made final, will accrue from injuries to pedestrians that will be avoided, assuming that the rule will cause the pedestrian injury rate for HVs and EVs to decrease to that of ICE vehicles. As discussed in Section V, a traditional analysis of pedestrian fatalities is not appropriate for this rulemaking. If HVs and EVs continue to rise in popularity and increase their role in the U.S. fleet to four percent of all vehicle registrations, unchanged by rulemaking or industry action, a total of 2,790 injured pedestrians and pedalcyclists would be expected over the life time of the 2016 model year fleet due to the pedestrians' and pedalcyclists' inability to detect these vehicles by hearing. We estimate that the benefit then of reducing the pedestrian injury rate per registered vehicle of HVs to ICE vehicles when four percent of the fleet is HV and EV would be 2,790 fewer injured pedestrians and pedalcyclists. We do not estimate any quantifiable benefits in pedestrian or pedalcyclist injury reduction for EVs because it is our view that EV manufacturers would have installed alert sounds in their cars without passage of the PSEA and this proposed rule. We also estimate that this proposal will result in 10 fewer injured pedestrians and pedalcyclists caused by LSVs.

DISCOUNTED BENEFITS FOR PASSENGER CARS (PCS) AND LTVS, MY2016, 2010$

3% discount	Pedestrians			Pedalcyclists			Total PED + CYC		
	3% discount factor	Total monetized benefits	Total ELS	3% discount factor	Total monetized benefits	Total ELS	3% discount factor	Total monetized benefits	Total ELS
(PC)	0.8034	$58,640,938	9.27	0.8034	$64,106,653	10.14	0.8034	$122,747,591	19.41
(LTV)	0.8022	26,945,946	4.26	0.8022	28,319,549	4.48	0.8022	55,265,495	8.74
Total	.....	85,586,884	13.54	.....	92,426,203	14.62	.....	178,013,086	28.15

7% discount	Pedestrians			Pedalcyclists			Total PED + CYC		
	7% discount factor	Total monetized benefits	Total ELS	7% discount factor	Total monetized benefits	Total ELS	7% discount factor	Total monetized benefits	Total ELS
(PC)	0.6700	$48,903,944	7.73	0.6700	$53,462,108	8.46	0.6700	$102,366,052	16.19
(LTV)	0.6303	21,171,815	3.35	0.6303	22,251,074	3.52	0.6303	$43,422,889	6.87
Total	.....	70,075,758	11.08	.....	75,713,183	11.97	.....	145,788,941	23.06

TOTAL COSTS FOR PCS AND LTVS, MY2016, 2010$

3% discount	Sales	Sales impacted	Fuel costs/ veh	Fuel costs (total)	Install costs/ veh	Install costs total	Total cost/ veh	Total costs
(PC)	9,032,303	439,586	$4.73	$2,079,240	$30.00	$13,187,566	$34.73	$15,266,805
(LTV)	7,164,729	231,685	5.33	1,234,880	30.00	6,950,542	35.33	8,185,421
Total ..	16,197,032	671,270	4.94	3,314,119	30.00	20,138,107	34.94	23,452,226

7% discount	Sales	Sales impacted	Fuel costs/ veh	Fuel costs (total)	Install costs/ veh	Install costs total	Total cost/ veh	Total costs
(PC)	9,032,303	439,586	$3.83	$1,683,613	$30.00	$13,187,566	$33.83	$14,871,178
(LTV)	7,164,729	231,685	4.23	980,026	30.00	6,950,542	34.23	7,930,568
Total ..	16,197,032	671,270	3.97	2,663,639	30.00	20,138,107	33.97	22,801,746

COSTS AND SCALED BENEFITS FOR LSVS, MY2016 [3]

Discount rate	Sales ratio LSV to light vehicle	Sales	Scaled costs	Scaled injuries (undisc.)	Scaled ELS	Scaled benefits	Scaled benefits minus scaled costs
3%	0.37%	2,500	$87,268	10.39	0.1049	$662,971	$575,703
7%	0.37%	2,500	84,845	10.39	0.0859	542,959	458,114

[3] Scaled benefits and costs for low speed vehicles are estimated directly proportional to light vehicles based on sales. Scaled costs include both installation costs for the system and fuel costs.

NHTSA estimates the fuel and installation cost of adding a speaker system in order to comply with the requirements of this proposal to be around $35 per vehicle for light vehicles. We estimate the total fuel and installation costs of this proposal to the light EV, HV and LSV fleet to be $23.6M at the 3 percent discount rate and $22.9M at the 7 percent discount rate. The estimated total installation cost for hybrid and electric heavy and medium duty trucks and buses and electric motorcycles is $1.48M for MY 2016. We have only calculated the benefits of this proposal for light EVs, HVs and LSVs because we do not have crash rates for hybrid and electric heavy and medium duty trucks and buses and electric motorcycles. To estimate the benefits of this proposal we have converted injured pedestrians and pedalcyclists avoided into equivalent lives saved. We estimate that the impact of this proposal in pedestrian and pedalcyclist injury reduction in light vehicles and LSVs will be 28.15 equivalent lives saved at the 3 percent discount rate and 23.06 equivalent lives saved at the 7 percent discount rate. The benefits of this proposal for the light EV and HV and LSV fleet are $178.7M at the 3 percent discount rate and $146.3M at the 7 percent discount rate. Comparison of costs and benefits expected due to this proposal for the light EV, HV and LSV fleet provides a cost of $0.83 to $0.99 million per equivalent life saved across the 3 and 7 percent discount levels. According to our present model, a countermeasure that allows a vehicle to meet the proposed minimum sound requirements would be cost effective compared to our comprehensive cost estimate of the value of a statistical life of $6.3 million.

TOTAL BENEFITS AND COSTS SUMMARY FOR LIGHT VEHICLES AND LOW SPEED VEHICLES, MY2016, 2010$

	3% discount rate	7% discount rate
Total Monetized Benefits	$178.7M	$146.3M
Total Costs (Install+Fuel)	23.5M	22.9M
Total Net Impact (Benefit—Costs)	155.2M	123.4M

II. Background

Whether or not a vehicle can be easily detected by the sound it makes is a product of vehicle type, vehicle speed, and ambient sound level. Quieter vehicles, such as EVs and HVs, can reduce pedestrians' ability to assess the state of nearby traffic and, as a result, can have an impact on pedestrian safety. EVs and HVs may pose a safety problem for pedestrians, in particular pedestrians who are blind or visually impaired and who therefore rely on auditory cues from vehicles to navigate. For these pedestrians, the primary safety issue arises when an HV or EV operates quietly using its electric motor for propulsion at low speeds. This is also the case when other auditory cues, such as the noise from the vehicle's tires and wind resistance, are less noticeable.

Since August 2007, NHTSA has been monitoring the work of the Society of Automotive Engineers' (SAE) Vehicle Sound for Pedestrians (VSP) Committee. Participants in the VSP committee include vehicle manufacturers, suppliers, consulting firms, government, and other interested parties. The VSP committee's primary goal is to develop a test procedure to measure the minimum sound output of a motor vehicle. In September 2011, the SAE published the test procedure, *Measurement of Minimum Noise Emitted by Road Vehicles,* (SAE–J2889–1).[4] The purpose of J2889–1 is to provide an objective, technology-neutral test to measure the minimum sound emitted by a vehicle in a specified ambient noise condition. This is a test procedure only and does not describe the VSP committee's rationale, provide recommendations about how sounds for HVs and EVs should be developed or produced, nor does it specify the ambient condition at which a vehicle sound should be detectable for the safety of pedestrians.

On May 30, 2008, NHTSA published a notice[5] in the **Federal Register** announcing that the agency would hold a public meeting on June 23, 2008 for government policymakers, stakeholders from organizations representing people who are blind or visually impaired, industry representatives, and public interest groups to discuss the technical, environmental and safety issues associated with EVs, HVs, and quiet ICE vehicles, and the safety of pedestrians. The presentations submitted at the public meeting and a transcript of the meeting can be found in Docket No. NHTSA–2008–0108 on the Web site *http://www.regulations.gov*.[6] Topics discussed at the meeting included a statement of the problem, general pedestrian safety, sound measurement and mobility, automotive industry perspective, SAE work and status, potential solutions, and noise abatement. At the conclusion of the public meeting, NHTSA indicated the agency's intention to put together a research plan and encouraged participants to add comments and ideas to the docket. NHTSA issued a research plan to investigate the topic of quieter vehicles and the safety of pedestrians on May 6, 2009.[7]

In September 2009, NHTSA published a technical report documenting the incidence of crashes involving hybrid-electric passenger vehicles and pedestrians and pedalcyclists.[8] The analysis included a sample of 8,387 hybrid and 559,703 ICE vehicles. The analysis used data from 12 states and a subset of model-year 2000 and later vehicles. The results of the crash data analysis show that HVs are two times more likely than ICE vehicles to be in a pedestrian crash where the vehicle is backing out, slowing/stopping, starting in traffic, and entering or leaving a parking space/driveway. The vehicles involved in such crashes are likely to be moving at low speeds at which the difference between the sounds emitted by ICE vehicles and HVs is substantial. The crash incidence rate for the combined set of maneuvers is 0.6 percent and 1.2 percent for ICE vehicles and HVs respectively and the difference is statistically significant. Some of the factors considered in this analysis are: (1) vehicle maneuver prior to the crash; (2) speed limit as a proxy for vehicle travel speed; and (3) weather and

[4] Society of Automotive Engineers (2011) Measurement of Minimum Noise Emitted by Road Vehicles, SAE–J2889–1. Warrendale, PA. Available at *http://standards.sae.org/wip/j2889/1/*.

[5] 73 FR 31187; May 30, 2008.

[6] The presentations are in document # 0012 and the transcript is in document # 0023 (Docket No. NHTSA–2008–0108–0012 and Docket No. NHTSA–2008–0108–0023, respectively).

[7] Quieter Cars and the Safety of Blind Pedestrians: The NHTSA Research Plan, April 2009, available at *http://www.regulations.gov/#!documentDetail;D=NHTSA-2008-0108-0025*.

[8] R. Hanna (2009) Incidence of Pedestrian and Bicyclists Crashes by Hybrid Electric Passenger Vehicles, Report No. DOT HS 811 204. U.S. Dept. of Transportation, Washington, DC Available at *http://www-nrd.nhtsa.dot.gov/Pubs/811204.PDF*.

lighting condition at the time of the crash.

In October 2009, NHTSA issued a report entitled ''Research on Quieter Cars and the Safety of Blind Pedestrians, A Report to Congress.'' [9] The report briefly discusses the quieter vehicle safety issue, how NHTSA's research plan would address the issue, and the status of the agency's research in implementing that plan.

In April 2010, NHTSA issued a report presenting results of Phase 1 of the agency's research.[10] This report documents the overall sound levels and general spectral content for a selection of ICE vehicles and HVs in different operating conditions, evaluates vehicle detectability for two background noise levels, and considers countermeasure concepts that are categorized as vehicle-based, infrastructure-based, and systems requiring vehicle-pedestrian communications.

The results show that the overall sound levels for the HVs tested are noticeably lower at low speeds than for the ICE vehicles tested. Overall, study participants were able to detect any vehicle sooner in the low ambient noise condition. ICE vehicles tested were detected sooner than their HV twins except for the test scenario in which the target vehicle was slowing down. In this scenario, HVs were detected sooner because of the distinctive sound emitted by the regenerative braking system on the HVs. Response time to detect a target vehicle varies by vehicle operating condition, ambient sound level, and vehicle type (*i.e.,* ICE vehicle versus HV in EV mode).

NHTSA initiated additional research (Phase 2) in March 2010 to explore potential audible countermeasures to be used in vehicles while operating in electric mode in specific low speed conditions.[11] The potential countermeasures explored included quantitative specifications for sound levels and spectral profiles for detectability. The feasibility of objectively specifying other aspects of sound quality for the purpose of predicting recognizability was also explored.

In our Phase 2 study, researchers assumed that acoustic countermeasures should provide alerting information at least equivalent to the cues provided by ICE vehicles. Groups representing people who are blind or visually impaired have expressed a preference for sound(s) that will be recognized as that of an approaching vehicle so that it will be intuitive for all pedestrians.[12] In the Phase 2 research, acoustic data acquired from a sample of ICE vehicles was used to determine the sound levels at which synthetic vehicle sounds, developed as countermeasures, could be set. ICE equivalent sounds were specified using overall A-weighted sound levels and, one-third octave band spectral content. (See Appendix A, ''Glossary of Sound Engineering Terms'' and Appendix B, ''Acoustic Primer'' for definitions and explanations of all acoustic terms used in this notice.)

Psychoacoustic models and human subject testing were used to explore issues of detectability, masking, and recognition of ICE-like and alternative sound countermeasures. Psychoacoustic models showed that frequency components between 1600 and 5000 Hz were more detectable due to strong signal strength and relatively low ambient levels in this range. Also, frequency components below 315 Hz were often masked by urban ambient noise.[13] Human subject studies were conducted to evaluate countermeasure sounds in a controlled outdoor environment for six miles per hour forward pass-by with the counter measure sound output set at 59.5 A-weighted dB and then at 63.5 A-weighted dB measured 2 meters from the vehicle centerline. The sounds included ICE-like sounds, alternative (non-ICE-like) sounds designed according to psychoacoustic principles to improve detectability, and sounds that combine alternative sounds with some ICE-like components. In addition to the countermeasure sounds, an ICE vehicle sound was included in the study as a baseline for comparison purposes.

The results of this research show that synthetic sounds that resemble those of an ICE produce detection distances similar to actual ICE vehicles. Some of the synthetic sounds examined in the study that were designed according to psychoacoustic principles produced detection distances twice as long as those of ICE sounds. The study participants had difficulty detecting synthetic sounds that contained only the fundamental of the combustion noise of the engine (the lowest frequency associated with the combustion).

This research examined four potential ways in which countermeasure sounds could be specified. The study examined countermeasure sounds based on recordings of ICE vehicles, synthetically generated countermeasure sounds that emulate the sounds of an ICE, non-ICE like countermeasure sounds designed for maximum detectability at a given sound-pressure level, and synthetically generated sounds that have special characteristics to enhance detection and characteristics that ensure that the sounds contain ICE-like components to enhance recognizability. The report noted that an objective specification for non-ICE-like sounds is more difficult to develop than one for synthetic sound generators that emulate the sound of typical ICEs. The report also noted that the former approach could result in a wider variety of sounds, some of which might be not recognized as a vehicle or might be perceived as annoying.

In early 2011, NHTSA initiated additional research and data collection activities to further support this rulemaking (Phase 3). Acoustic measurements and analyses were completed to support the development of specifications for alerting sounds and test procedures for compliance with agency requirements. Acoustic data was gathered from eight vehicles: four ICE vehicles and four EVs/HVs with alerting sounds (one production and three prototype vehicles). The SAE J2889–1 test procedure was used to measure the sound levels for the stopped and pass-by conditions. Acoustic measurements were completed on an ISO 10844:1994 noise pad. All HVs and EVs were measured in electric propulsion mode.

Variations on SAE J2889–1 were used to explore other aspects such as directivity, sound level as a function of vehicle speed, and to capture binaural recordings. Directivity refers to the relative proportions of acoustical energy

[9] Research on Quieter Cars and the Safety of Blind Pedestrians, A Report to Congress. U.S. Dept of Transportation, Washington, DC, October 2009, available at *http://www.nhtsa.gov/DOT/NHTSA/NVS/Crash%20Avoidance/Technical%20Publications/2010/RptToCongress091709.pdf.*

[10] Garay-Vega *et al.* (2010) Quieter Cars and the Safety of Blind Pedestrians: Phase I, Report No. DOT HS 811 304, U.S. Dept. of Transportation, Washington, DC. Available at *http://www.nhtsa.gov/DOT/NHTSA/NVS/Crash%20Avoidance/Technical%20Publications/2010/811304rev.pdf.*

[11] Garay-Vega *et al.* (2011) Quieter Cars and the Safety of Blind Pedestrians, Phase 2: Development of Potential Specifications for Vehicle Countermeasure Sounds, Report No. DOT HS 811 496. Dept. of Transportation, Washington, DC. Available at *http://www.nhtsa.gov/DOT/NHTSA/NVS/Crash%20Avoidance/Technical%20Publications/2011/811496.pdf.*

[12] Goodes *et al.* (2009) Investigation into the Detection of a Quiet Vehicle by the Blind Community and the Application of an External Noise Emitting System, SAE 2009–01–2189. Society of Automotive Engineers, Warrendale, PA; Maurer (2008) The Danger Posed by Silent Vehicles. National Federation of the Blind. Remarks made for the United Nations Economic Commission for Europe, Working Party on Noise. 47th GRB session February 19, 2008 Geneva. Informal Document No. GRB–47–10. *http://www.unece.org/trans/doc/2008/wp29grb/ECE-TRANS-WP29-GRB-47-inf10e.pdf.*

[13] The level and frequency of sounds masked by the ambient will depend on the sound pressure level and shape of that ambient. For a full description of the typical urban ambient used in this study, see the full report cited in footnote 11.

that is emitted from a source, in this case a vehicle, as a function of direction to the front, back, left, and right. Binaural recordings were captured for potential use in future research activities. Acoustic measurements, modeling, and sound simulation tools were used to identify sound attributes that aid in detection of alert sounds and recognition of these sounds as a motor vehicle.

Two approaches were considered in the development of parameters for alert sounds. In one approach, sound levels for the alert sound were developed using loudness models and a calculation of safe detection distances. In the other approach, sound levels for alert sounds were based on the sound of current ICE vehicles. This research focused on developing specifications that can be applied to all sounds and that are objective and practical.

All of the research activities summarized above are described in more detail in Section VI. NHTSA Research and Industry Practices.

III. Pedestrian Safety Enhancement Act of 2010

On January 4, 2011, the Pedestrian Safety Enhancement Act of 2010 (Public Law 111–373) was signed into law. The Pedestrian Safety Enhancement Act (PSEA) requires NHTSA to conduct a rulemaking to establish a Federal Motor Vehicle Safety Standard (FMVSS) [14] requiring an ''alert sound'' [15] for pedestrians to be emitted by all types of motor vehicles [16] that are electric vehicles [17] (EVs) or hybrid vehicles [18] (HVs). The covered types of vehicles include light vehicles (passenger cars, vans, sport utility vehicles and pickup trucks), as well as LSVs, motorcycles, medium and heavy trucks and buses. Trailers are specifically excluded from the requirements of the PSEA. The PSEA requires NHTSA to establish performance requirements for an alert sound that allows blind and other pedestrians to reasonably detect a nearby EV or HV. The PSEA defines ''alert sound'' as a vehicle-emitted sound that enables pedestrians to discern the presence, direction,[19] location, and operation of the vehicle.[20] Thus, in order for a vehicle to satisfy the requirement in the PSEA to provide an ''alert sound,'' the sound emitted by the vehicle must satisfy that definition. The alert sound must not require activation by the driver or the pedestrian, and must allow pedestrians to reasonably detect an EV or HV in critical operating scenarios such as constant speed, accelerating, or decelerating. In addition to the operating scenarios previously mentioned the definition of alert sound in the PSEA requires the agency to establish requirements for a sound while the vehicle is activated but stationary and when the vehicle is operating in reverse.

The agency has concluded that the requirement in the PSEA that the alert sound must allow pedestrians to ''discern vehicle presence, direction, location, and operation,'' [21] requires the agency to establish minimum sound requirements for the stationary but activated operating condition. The requirement that pedestrians be able to discern vehicle presence must be read along with the requirements that the sound allow pedestrians to discern direction, location, and operation. The term ''presence'' means something that is in the immediate vicinity. The term ''operation'' means a state of being functional or operative. Read together the definition of alert sound requires that pedestrians be able to detect vehicle presence when the vehicle is in operation. A vehicle with an engaged ignition is in a state of being functional even though it may not be moving. It is the agency's position that the provision that pedestrians be able to detect the presence of a vehicle that is turned on requires that the vehicle emit a minimum sound level when the vehicle is stationary, but the starting system is activated.

The agency believes that the PSEA requires the agency to establish requirements for a sound while the vehicle is moving reverse for the same reason that a sound while the vehicle is stationary is required. The PSEA requires minimum sound level requirements promulgated by NHTSA to allow pedestrians to discern vehicle presence and operation. A vehicle moving in reverse is unquestionably operating, thus a minimum sound level is required for this condition.

The PSEA also requires that the minimum sound level requirements promulgated by NHTSA allow pedestrians to discern the direction of the vehicle. This language also indicates that the PSEA requires any standard to establish minimum sound requirements for when the vehicle is operating in reverse.

Because the PSEA directs NHTSA to issue these requirements as a FMVSS under the National Traffic and Motor Vehicle Safety Act (Vehicle Safety Act),[22] the requirements must comply with that Act as well as the PSEA. The Vehicle Safety Act requires each safety standard to be performance-oriented, practicable,[23] and objective [24] and meet the need for safety. In addition, in developing and issuing a standard, NHTSA must consider whether the standard is reasonable, practicable, and appropriate for each type of motor vehicle covered by the standard.

As a FMVSS, the pedestrian alert sound system standard we are proposing today would be enforced in the same fashion as other safety standards issued under the Vehicle Safety Act. Thus, violators of the standard would be subject to civil penalties.[25] A vehicle manufacturer would be required to conduct a recall and provide remedy without charge if its vehicles were determined to fail to comply with the standard or if the vehicle's alert sound were determined to contain a safety related defect.[26]

Under the PSEA, the standard must specify performance requirements for an alert sound that enables blind and other pedestrians to reasonably detect EVs

[14] NHTSA is delegated authority by the Secretary of Transportation to carry out Chapter 301 of Title 49 of the United States Code. *See* 49 CFR 501.2. This includes the authority to issue Federal motor vehicle safety standards. 49 U.S.C. 30111.

[15] The definition of that term is discussed below.

[16] Section 2(4) defines the term ''motor vehicle'' as having the meaning given such term in section 30102(a)(6) of title 49, United States Code, except that such term shall not include a trailer (as such term is defined in section 571.3 of title 49, Code of Federal Regulations). Section 30102(a)(6) defines ''motor vehicle'' as meaning a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

[17] Section2(10) of the PSEA defines ''electric vehicle'' as a motor vehicle with an electric motor as its sole means of propulsion.

[18] Section 2(9) of the PSEA defines ''hybrid vehicle'' as a motor vehicle which has more than one means of propulsion. As a practical matter, this term is currently essentially synonymous with ''hybrid electric vehicle.''

[19] The PSEA does not specify whether vehicle ''direction'' is to be defined with reference to the vehicle itself (thus meaning forward or backward) or the pedestrian.

[20] Section 2(2).

[21] Public Law 111–373, § 2(2), 124 Stat. 4086 (2011).

[22] 49 U.S.C. Chapter 301.

[23] In a case involving passive occupant restraints, the U.S. Circuit Court of Appeals for the District of Columbia said that the agency must consider public reaction in assessing the practicability of required safety equipment like an ignition interlock for seat belts. *Pacific Legal Foundation* v. *Department of Transportation,* 593 F.2d 1338 (D.C. Cir. 1978). cert. denied, 444 U.S. 830 (1979).

[24] In a case involving passive occupant restraints, the U.S. Circuit Court of Appeals for the 6th Circuit said, quoting the House Report (H.R. 1776, 89th Cong. 2d Sess.1966, p. 16) for the original Vehicle Safety Act, that ''objective criteria are absolutely necessary so that 'the question of whether there is compliance with the standard can be answered by objective measurement and without recourse to any subjective determination.' '' *Chrysler* v. *Department of Transportation,* 472 F.2d 659 (6th Cir. 1972).

[25] 49 U.S.C. 30112 and 30165.

[26] 49 U.S.C. 30118–30120.

and HVs operating below their cross-over speed.[27] The PSEA specifies several requirements regarding the performance of the alert sound to enable pedestrians to discern the operation of vehicles subject to the Act. First, the alert sound must be sufficient to allow a pedestrian to reasonably detect a nearby EV or HV operating at constant speed, accelerating, decelerating and operating in any other scenarios that the Secretary deems appropriate.[28] Second, it must reflect the agency's determination of the minimum sound level emitted by a motor vehicle that is necessary to allow blind and other pedestrians to reasonably detect a nearby EV or HV operating below the cross-over speed.[29] NHTSA plans to ensure that EVs and HVs are detectable to pedestrians by specifying performance requirements for sound emitted by these vehicles so that they will be audible to pedestrians in the ambient noise environment typical of urban areas.

Nothing in the PSEA specifically requires the alert sound to be electrically generated. Therefore, if manufacturers wish to meet the minimum sound level requirements specified by the agency through the use of sound generated by the vehicle's power train or any other vehicle component, there is nothing in the PSEA to limit their flexibility to do so.

The alert sound must also reflect the agency's determination of the performance requirements necessary to ensure that each vehicle's alert sound is recognizable to pedestrians as that of a motor vehicle in operation.[30] We note that the requirement that the alert sound be recognizable as a motor vehicle in operation does not mean that the alert sound be recognizable as a vehicle with an internal combustion engine (ICE). The PSEA defines ''conventional motor vehicle'' as ''a motor vehicle powered by a gasoline, diesel, or alternative fueled internal combustion engine as its sole means of propulsion.'' [31] If Congress had intended the alert sound required by the PSEA to be recognizable as an ICE vehicle, Congress would have specified that the sound must be recognizable as a ''conventional motor vehicle'' in operation rather than a motor vehicle because Congress acts purposefully in its choice of particular language in a statute.[32] While the mandate that NHTSA develop performance requirements for an alert sound that is recognizable as a motor vehicle does not mean that the sound must be based solely on sounds produced by ICE vehicles, the mandate does impose substantive requirements that the agency must follow during the rulemaking. The Vehicle Safety Act defines a motor vehicle as a ''vehicle driven or drawn by mechanical power and manufactured primarily for use'' on public roads.[33] The requirement that the agency develop performance requirements for recognizability means that the pedestrian alert sound required by this standard must include acoustic characteristics common to all sounds produced by vehicles driven by mechanical power that make those sounds recognizable as a motor vehicle based on the public's experience and expectations of those sounds. For example, pitch shifting and increases in sound pressure level denote changes in speed and are common to all vehicles driven by mechanical power. Further, sounds that the public currently recognizes as generated by a vehicle driven by mechanical power have tonal components.

The PSEA mandates that the standard shall not require the alert sound to be dependent on either driver or pedestrian activation. It also requires that the safety standard allow manufacturers to provide each vehicle with one or more alert sounds that comply, at the time of manufacture, with the safety standard. Thus, a manufacturer may, if it so chooses, equip a vehicle with different sounds to denote different operating scenarios, such as reverse or start up. Each vehicle of the same make and model must emit the same alert sound or set of sounds. The standard is required to prohibit manufacturers from providing anyone, other than the manufacturer or dealers, with a device designed to disable, alter, replace or modify the alert sound or set of sounds emitted from the vehicle. A manufacturer or a dealer, however, is allowed to alter, replace, or modify the alert sound or set of sounds in order to remedy a defect or non-compliance with the safety standard. Additionally, vehicle manufacturers, distributors, dealers, and motor vehicle repair businesses would be prohibited from rendering the sound system inoperative under Section 30122 of the Vehicle Safety Act.

It is the agency's intention that the requirements of this standard be technology neutral. For this reason, we have chosen to establish minimum sound requirements for a vehicle-level test. The agency recognizes that, in the near term, most manufacturers would install speaker systems that emit synthetically developed sounds in order to meet the requirements of the proposed standard.

The agency interprets the requirement in the PSEA that each vehicle of the same make and model emit the same sound as applying only to sound added to a vehicle for the purposes of complying with this proposed standard. We also interpret the PSEA requirement that NHTSA prohibit manufacturers from providing anyone with a means of modifying or disabling the alert sound and the prohibition on making required safety systems inoperative contained in Section 30122 of the Vehicle Safety Act as applying only to sound added to a vehicle for the purposes of complying with this proposed standard.

Many changes to a vehicle could affect the sound produced by that vehicle. In issuing this proposal the agency does not wish to prevent manufacturers, dealers, and repair businesses from making modifications to a vehicle such as adding a spoiler or changing the vehicle's tires that may have the effect of changing the sound produced by the vehicle.

The agency will test to ensure sounds produced by two vehicles of the same model are the same (within 3 A-weighted dB) at the stationary condition so that a determination of the sameness of the sounds is not dependent on tire or wind noise or other factors that could influence a vehicle's sound output. The agency will not consider any modifications made to a vehicle that affect the mechanical, tire or wind noise produced by that vehicle to make an alert sound added to the vehicle inoperative.

The PSEA requires NHTSA to consider the overall community noise impact of any alert sound required by the new safety standard. In addition, NHTSA will consider the environmental analysis required by the National Environmental Policy Act (NEPA) when setting the standard.

As part of the rulemaking process, NHTSA is required to consult with various other organizations. This is further described in Section IV below.

[27] Section 2(3) of the PSEA defines ''cross-over speed'' as the speed at which tire noise, wind resistance, or other factors make an EV or HV detectable by pedestrians without the aid of an alert sound. The definition requires NHTSA to determine the speed at which an alert sound is no longer necessary.

[28] Section 3(a). Under the PSEA, as with most legislation like it, the Secretary of Transportation delegates responsibility for achieving the legislation's objectives to the appropriate Department of Transportation Administration, in this case NHTSA.

[29] Section 3(b).

[30] Section 3(b)(2).

[31] Section 2(5).

[32] *Keene Corp.* v. *United States,* 508 U.S. 200, 208 (1993).

[33] 49 U.S.C. § 30102(a)(6).

In addition to requiring NHTSA to publish a final rule establishing the standard requiring an alert sound for EVs and HVs by January 4, 2014, the PSEA requires that the agency provide a phase-in period, as determined by NHTSA. However, full compliance with the standard must be achieved for all vehicles manufactured on or after September 1st of the calendar year beginning three years after the date of publication of the final rule. Thus, if the final rule were promulgated sometime in 2014, the three-year period after the date of publication of the final rule would end sometime in 2017. The first calendar year that would begin after that date in 2017 would be calendar year 2018. Thus, under that time scenario, full compliance would be required not later than September 1, 2018.

Finally, the PSEA requires NHTSA to conduct a study and report to Congress whether the agency believes that there is a safety need to require the alert sounds required by the FMVSS promulgated to meet the mandate of the Act for some motor vehicles with internal combustion engines. The report must be submitted to Congress by January 4, 2015. If NHTSA determines that there is a safety need to require alert sounds for those motor vehicles the agency must initiate a rulemaking to require alert sounds for them.

IV. Consultation With External Organizations

NHTSA is required by the PSEA to consult with the following organizations as part of this rulemaking: The Environmental Protection Agency (EPA) to assure that any alert sound required by the rulemaking is consistent with noise regulations issued by that agency; consumer groups representing visually-impaired individuals; automobile manufacturers and trade associations representing them; technical standardization organizations responsible for measurement methods such as the Society of Automotive Engineers, the International Organization for Standardization, and the United Nations Economic Commission for Europe (UNECE), World Forum for Harmonization of Vehicle Regulations (WP.29).

The agency has established three dockets to enhance and facilitate cooperation with outside entities including international organizations. The first docket (No. NHTSA–2008–0108) [34] was created after the 2008 public meeting was held; it contains a copy of the notice of public meeting in the **Federal Register**, a transcript of the meeting, presentations prepared for the meeting and comment submissions. It also includes NHTSA's research plan, our ''Notice of Intent to Prepare an Environmental Assessment for the Pedestrian Safety Enhancement Act of 2010'' published on July 12th 2011 in the **Federal Register**, and the agency's Phase 1 and 2 research reports. (The Notice of Intent [NOI] and the agency's research are discussed more fully later in this document.) The second docket (No. NHTSA–2011–0100) [35] was created to collect comments on the NOI; it also includes a copy of that notice. The third docket (No. NHTSA–2011–0148) [36] was created in September 2011 to include materials related to the rulemaking process (''The Pedestrian Safety Enhancement Act of 2010'', Phase 1 and 2 research reports, statistical reports, meeting presentations, etc.), outside comments and items to be released in the future up to and including this Notice of Proposed Rulemaking.

NHTSA has since 2009 also been hosting a series of roundtable meetings with industry, technical organizations and groups representing people who are visually-impaired. Below are the dates and topics of discussion:

- April 14th, 2009: Status of Phase 1 research and industry updates.
- August 4th, 2009: Phase 1 research plan.
- January 25th, 2010: Final results of Phase 1 research and industry updates.
- June 24th, 2010: Phase 2 research plan and status of Phase 2 work.
- February 22nd, 2011: Final results of Phase 2 research. Attendees were asked to submit comments.

The following organizations have been participating in these meetings: The Alliance of Automotive Manufacturers, the Global Automakers (formerly Association of International Automobile Manufacturers (AIAM)), American Council of the Blind, The American Foundation of the Blind (AFB), the National Federation of the Blind (NFB), The International Organization for Standardizations (ISO), The Society of Automotive Engineers (SAE), the International Organization of Motor Vehicles Manufacturers (OICA), The Environmental Protection Agency (EPA) and Japan Automobile Manufacturers Association (JAMA).

Representatives of the EPA have also been included in our activities with outside organizations. They have been kept updated on our research activities and have actively participated in our outreach efforts. NHTSA has also kept up to date on EPA activities on the international front through the activities of the UNECE Working Party of Noise (GRB).

The American Foundation of the Blind, the American Council of the Blind and the National Federation of the Blind have provided NHTSA with invaluable information about visually-impaired pedestrian safety needs since the 2008 Public Meeting was held.

The Alliance of Automotive Manufacturers and Global Automakers (formerly the Association of International Automobile Manufacturers (AIAM)) have met separately with the agency to discuss our research findings and their ideas regarding this rulemaking. Members of both organizations have also met separately with the agency to discuss their own research findings and ideas for a potential regulatory approach to address the safety issues of interest to the agency.

Automotive manufacturers that produce EVs for the U.S. market have developed various pedestrian alert sounds, recognizing that these vehicles, when operating at low speeds, may pose an elevated safety risk to pedestrians. They have made vehicles with sound alert systems available for lease by NHTSA for research purposes. This information has been helpful in the agency decision making process.

The Society of Automotive Engineers (SAE) established the Vehicle Sound for Pedestrians (VSP) subcommittee in November 2007 with the purpose of developing a recommended practice to measure sounds emitted by ICE vehicles and alert sounds for use on EVs and HVs. Their efforts resulted in standard SAE J2889–1, *Measurement of Minimum Noise Emitted by Road Vehicles*.[37] The agency has been sending liaisons to the VSP meetings since 2008. SAE is the U.S. technical advisory group to the International Organization for Standardizations (ISO) and they both have cooperated in the development of the standard. The ISO document (ISO/NP 16254 Measurement of minimum noise emitted by road vehicles) [38] and SAE document are reported to be technically identical but this has not been confirmed by NHTSA at this time. The agency is currently using standard

[34] *http://www.regulations.gov/#!searchResults;rpp=10;po=0;s=NHTSA–2008–0108.*

[35] *http://www.regulations.gov/#!searchResults;rpp=10;po=0;s=%252BNHTSA–2011–0100.*

[36] *http://www.regulations.gov/#!searchResults;rpp=10;po=0;s=NHTSA–2011–0148.*

[37] *http://standards.sae.org/j2889/1_201109.*

[38] *http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=56019.*

SAE J2889–1 and ISO10844 [39] as references in the test procedure development.

The UNECE World Forum WP.29 determined that road transportation vehicles propelled in whole or in part by electric means present a danger to pedestrians and directed the Working Party on Noise (GRB) to assess what necessary steps WP.29 should take to help mitigate the problem. In response, GRB established an informal group on Quiet Road Transport Vehicles (QRTV) [40] to carry out the necessary activities to address the quieter vehicles issue and the potential need for global harmonization. NHTSA has been participating in the QRTV's meetings since its foundation in 2010 and has kept the group informed about ongoing agency research activities as well as the results from completed research studies.

At its March 2011 meeting, WP.29 adopted guidelines covering alert sounds for electric and hybrid vehicles that are closely based on the Japanese guidelines discussed more fully later in this document. The guidelines were published as an annex to the UNECE Consolidated Resolution on the Construction of Vehicles (R.E.3).

Considering the international interest and work in this new area of safety, the U.S. has proposed working on a new GTR, with Japan as co-sponsor, to develop harmonized pedestrian alert sound requirements for electric and hybrid-electric vehicles under the 1998 Global Agreement. WP.29 is now working to develop a GTR that will consider international safety concerns and leverage expertise and research from around the world. Meetings of the working group are planned to take place regularly with periodic reports to WP.29 until the expected establishment date for the new GTR in November 2014. NHTSA is currently leading the GTR development process.

Other international organizations, such as the International Organization of Motor Vehicles Manufacturers (OICA) and Japan Automobile Manufacturers Association (JAMA) have been providing NHTSA with their own research findings and have also been attending our quiet vehicle meetings.

V. Safety Problem

A. Comparing the Vehicle to Pedestrian Crash Experience of ICE Vehicles and HVs and EVs

Crash Risk

Passenger hybrid electric vehicles first became available to consumers in 2000, and their numbers as well as their proportion of the passenger vehicle fleet have risen every year since their introduction. According to the R.L. Polk and Company National Vehicle Population Profile, there were 18,628 registered passenger HVs in 2001. By 2004, there were 145,194 registered HVs comprising 0.1 percent of the passenger vehicle fleet. By 2009, the number had grown to 1,382,605 registered HVs comprising 0.6 percent of the fleet.

Advocacy groups have raised pedestrian safety concerns regarding HVs because a vehicle using an electric motor may be quieter than an ICE vehicle and may not emit the sounds that non-motorists rely on for warning as vehicles approach them. In 2009, NHTSA released the report ''Incidence of Pedestrian and Bicyclist Crashes by Hybrid Electric Passenger Vehicles'' which found that, when comparing similar vehicles, 77 out of 8,387 total HVs reported to be in any crash incident were involved in pedestrian crashes, and 3,578 out of 559,703 total ICE vehicles were involved in similar pedestrian crashes.[41] The report used data collected from 12 individual states. The years for which data was available varied across different states. Generally, the data used ranged from the years 2000 to 2006. HV crashes had an overall 40 percent higher chance to involve pedestrians. In situations involving certain low-speed maneuvers, HVs were twice as likely to be involved in a pedestrian crash as ICE vehicles in similar situations. The state data set that NHTSA used to determine the pedestrian and pedalcyclist crash rates for HVs did not include any information about the vision status of the pedestrians involved in the crashes. Therefore, we were unable to determine whether any of the pedestrians involved in these crashes were blind or visually impaired.

A recent analysis updated and verified these previous findings [42] by adding additional years of state crash files as well as by increasing the number of states included in the analysis from 12 to 16, with a total of 24,297 HVs (approximately three times the HVs of the 2009 study) and 1,001,000 ICE vehicles by Honda and Toyota, with five different models, in 16 States during 2000–2008. This updated analysis indicates that a total of 186 HVs and 5,699 ICE vehicles were involved in pedestrian crashes. A total of 116 HVs and 3,052 ICE vehicles were involved in crashes with bicycles. Overall, a statistical analysis referred to as odds ratios indicates that the odds of an HV being in either a pedestrian or bicycle crash is greater than the odds of an ICE vehicle being in a similar crash, 19 percent higher for pedestrian crash odds and 38 percent higher for bicycle crash odds.[43] The crash factors of speed limit, vehicle maneuver and location were examined to determine the relative incidence rates of HVs versus ICE vehicles and whether the odds ratio was different under different circumstances. This finding also indicates that the largest differences between the involvement of HVs and ICE vehicles in pedestrian crashes occur with speed limits of 35 mph and lower and during certain, typically low-speed, maneuvers such as making a turn, starting up, and pulling into or backing out of a parking space. HVs were about 1.38 times more likely to be involved in a pedestrian crash than a vehicle with an ICE after completing a low speed maneuver. The results in this updated analysis show trends similar to those first reported in our 2009 report. The sample sizes of pedestrian or bicycle crashes were verified to validate the sufficient statistical powers in this updated analysis.

The rate of crashes between HVs and pedalcyclists was different than the rate of crashes between HVs and pedestrians. While a larger percentage of pedalcyclist crashes for both HVs and ICE vehicles occurred at posted speed limits of 35 mph and below, the difference in rates of pedalcyclist crashes between HVs and ICE vehicles was higher at speed limits above 35 mph that at speed limits of 35 mph and below. For posted speed limits of 35 mph and below HVs showed an

[39] *http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=45358.*

[40] Papers relating to the informal group periodic meetings may be found at *http://live.unece.org/trans/main/wp29/wp29wgs/wp29grb/qrtv_1.html*, *http://live.unece.org/trans/main/wp29/wp29wgs/wp29grb/qrtv_2.html*, *http://live.unece.org/trans/main/wp29/wp29wgs/wp29grb/qrtv_3.html*, *http://live.unece.org/trans/main/wp29/wp29wgs/wp29grb/qrtv_4.html*, *http://live.unece.org/trans/main/wp29/wp29wgs/wp29grb/qrtv_5.html*, and *http://live.unece.org/trans/main/wp29/wp29wgs/wp29grb/qrtv_6.html.*

[41] See footnote 6.

[42] Wu *et al.* (2011) Incidence Rates of Pedestrian And Bicyclist Crashes by Hybrid Electric Passenger Vehicles: An Update, Report No. DOT HS 811 526. Dept. of Transportation, Washington, DC. Available at *http://www-nrd.nhtsa.dot.gov/Pubs/811526.pdf.*

[43] The incidence rates for pedestrian and pedalcyclist crashes involving HVs and EVs were calculated from the State data by comparing the pedestrian and pedalcyclist crash rates for all HVs contained in the State data set with the crash rates for all ICE vehicles from that data set. Because this proposal does not apply to HVs that always have their ICE on while moving, the agency removed the Honda Civic and the Honda Accord from the HV category and included those vehicles in the calculations as ICE vehicles in estimating the incidence rate used in the benefit calculations.

increased rate of pedalcyclist crashes when compared to ICE vehicles, however, the results were not statically significant. The difference in pedealcyclist crash rates between HVs and ICE vehicles was also greater when driving straight as compared to low-speed maneuvers.

This updated analysis further included all vehicle models from all manufacturers during the period covered by the study, beyond the five models from Toyota and Honda, and a similar pedestrian crash trend was also found from the expanded data. Comparisons restricted to HV and similar ICE pairs (Prius and Corolla; Civic HV and ICE model) only were also made. These comparisons also resulted in similar conclusions about HV pedestrian crashes relative to ICE vehicle pedestrian crashes, including that the odds of an HV being in a pedestrian crash is greater than the odds of an ICE vehicle being in a similar crash.

Despite the similarities in the overall sound level produced by the two vehicles, the differential crash rate for the Civic HV and the ICE version of the Civic was even larger than for other pairs of HVs and ICEs. We note that the HV Civic is much different than the other hybrid vehicles in the analysis because when the agency tested this vehicle, we could not get the ICE engine to shutoff even at idle. Thus, unlike the other HVs tested, the ICE was always on in this vehicle, but we acknowledge that in the real-world, the ICE may shut-off at some point. We do know that, although sound levels are similar, there are differences between the frequency profile of the HV and ICE Civics, but we do not know how pedestrians would perceive this difference either in general or in the low-speed maneuvers used in our crash analysis. The agency seeks comments on whether the differences in pedestrian crash rates between HVs and ICEs are solely due to a pedestrians' inability to detect the vehicle based on the vehicle's sound while operating below the crossover speed or whether there may be other factors that we have not identified that affect the difference in crash rates between the two types of vehicles.

While this updated analysis provides insightful comparisons of the incidence rates of HVs versus ICE vehicles involved in pedestrian crashes, there are some limitations to consider: the use of data from 16 states cannot be used to directly estimate the national problem size; there is still not enough data to draw conclusions in all scenarios of interest such as for individual low-speed maneuvers like making a turn, starting up, or in parking lots.

Fatalities

The Fatality Analysis Reporting System (FARS) contains a census of all traffic fatalities. HVs and EVs that struck and killed a pedestrian were identified using the Vehicle Identification Numbers (VINs) contained in the 2001 through 2009 FARS files. During this period, there were 53 pedestrian fatalities attributed to crashes involving 47 HVs and EVs. Almost all of these fatalities (47 of the 53) involved vehicles that were identified as passenger vehicles. In 2008, there were 10 HVs or EVs that struck and killed 10 pedestrians, and in 2009, there were 11 HVs or EVs that struck and killed 11 pedestrians.

However, these fatalities are not included in the target population for analysis under this rulemaking for two reasons. The first is that pedestrian fatalities are not as likely to occur at low speeds for which the rate of HV pedestrian collisions is significantly higher than collisions between ICE vehicles and pedestrians. This proposal would establish minimum sound requirements for hybrid and electric vehicles operating at speeds of 30 km/hr (18 miles per hour (mph)) and below. A majority of pedestrian fatalities occur when the vehicle involved in the collision is travelling at a speed greater than 18 mph. Overall, 67 percent of the pedestrian fatalities involving HVs or EVs and with known speed limits occurred at a speed limit above 35 mph. For all pedestrian fatalities with known speed limits, 62 percent occurred at a speed limit above 35 mph and 61 percent of those involving passenger vehicles occurred at a speed limit above 35 mph. The goal of this proposal is to prevent injuries to pedestrians that result from pedestrians being unable to hear nearby hybrid and electric vehicles. At speeds of 35 mph and above, at which a majority fatal crashes involving pedestrians occur, the sound levels produced by hybrid and electric vehicles are the same as the sound levels produced by ICE vehicles. Therefore, establishing minimum sound requirements for hybrid and electric vehicles operating at low speeds is not expected to have an impact on pedestrian fatalities.

The second reason is that the rate of pedestrian fatalities per registered vehicle for HVs and EVs is not larger (and is in fact lower) than that for ICE vehicles. Using 2008 data, the fatality rate for pedestrians in crashes with HVs and EVs is 0.85 fatalities per 100,000 registered vehicles, and the corresponding rate for ICE vehicles is 1.57 per 100,000 vehicles.

There also could be fatalities involving HVs and EVs that occur in non-traffic crashes in places such as driveways and parking lots. However, a comprehensive search for HVs and EVs involved in pedestrian fatalities could not be undertaken because NHTSA's Not in Traffic Surveillance (NiTS) system does not provide VINs, and a search for model names that indicate hybrid or electric vehicles did not identify any crashes involving pedestrian fatalities.

B. Need for Independent Mobility of People Who Are Visually Impaired

In addition to addressing the safety need in the traditional sense of injuries avoided as a result of preventing vehicle-pedestrian crashes, NHTSA believes it is important to note another dimension of safety that should be taken into account with respect to pedestrians who are blind or visually impaired. Pedestrians who are blind or visually impaired need to be able to travel independently and safely throughout their communities without fear of injury, both as a result of collisions with motor vehicles and as a result of other adverse events in the environments they must negotiate. To a far greater extent than is the case for sighted people, vehicle sounds help to define a blind or visually-impaired person's environment and contributes to that person's ability to negotiate through his/her environment in a variety of situations.[44]

Two long-established navigation aids that visually-impaired people use are the white cane and a guide dog. The modern white cane and the techniques for its use help the user to navigate and allow sighted people to recognize that a person is blind or visually impaired. Today, the ''structured discovery'' method of teaching independent travel for visually-impaired people emphasizes learning to use information provided by the white cane, traffic sounds, and other cues in the environment to travel anywhere safely and independently, whether the individual has previously visited the place or not.

Of the thirteen guide dog schools currently operating in the United States, most require applicants for guide dogs to have at least some skill in traveling with a long white cane, since the basic techniques for using a white cane and a guide dog are similar in many

[44] National Federation of the Blind (2011) How People Who are Blind Use Sound for Independent Travel, memorandum to the docket NHTSA–2011–0148, Washington, DC. This memorandum is the source for this information.

respects. A guide dog does not lead a person but simply guides him or her around obstacles; the handler is still responsible for navigation.

Whether a blind or visually-impaired person uses a white cane or guide dog, the primary purpose of both travel tools is to help the blind traveler identify and/or avoid obstacles in his or her path using the sense of touch. The remaining information needed by a blind or visually-impaired person to travel safely and independently is provided primarily through the sense of hearing.

When traveling with a white cane or guide dog, the primary sound cue used by blind pedestrians is the sound of vehicle traffic, which serves two purposes: navigation and collision avoidance. Navigation involves not only ascertaining the proper time to enter a crosswalk and maintain a straight course through an intersection while crossing, but also the recognition of roadways and their traffic patterns and their relationship to sidewalks and other travel ways a blind or visually-impaired person might use.

Sound emitted by individual vehicles, as opposed to the general sound of moving traffic, is critical. The sound of individual vehicles alerts blind travelers to the vehicle's location, speed, and direction of travel. For example, a blind or visually-impaired person moving through a parking lot can hear and avoid vehicles entering or exiting the lot or looking for parking spaces; a blind person walking through a neighborhood can hear when a neighbor is backing out of a driveway. The vehicle sound also indicates to a blind or visually-impaired pedestrian whether a vehicle is making a turn, and if so, in which direction. The sound of individual vehicles also allows the blind traveler to detect and react to unusual or unexpected vehicle movement.

The sound of a vehicle that has an activated starting system but is stationary (usually referred to as ''idling'' for vehicles with internal combustion engines) alerts the blind or visually-impaired traveler to the fact that the vehicle is not simply parked and that it may move at any moment. The sound of a vehicle starting is important for the same reason. If a blind person is approaching a driveway and notes a vehicle that is stationary but running, or hears a vehicle start, he or she will wait for the vehicle to pull out, or for an indication that it will not, for example by noting that the vehicle remains stationary for some time, indicating that the driver has no immediate plans to move.

Because traffic sound is a navigation aid for blind and visually-impaired pedestrians, as well as an indispensable part of traveling safely, blind people listen to the sound of traffic actively and constantly when they are walking, even when they are not at an intersection. The sound of traffic helps blind individuals follow the roadway; this is critical, even when there is a sidewalk, to keep the blind individual on course. Traffic sounds also allow the detection of roadway changes like curves, forks, or merges. The sound of traffic is particularly important in negotiating intersections. By listening to the traffic, a blind or visually-impaired traveler can determine how the intersection is controlled (traffic signal, stop sign, etc.); how many lanes of traffic are involved; and any unusual characteristics of the intersection (*e.g.,* three-way intersections or roundabouts). These determinations can be made by listening to the sounds of vehicle engines—often through one or two entire signal cycles—to determine driver behavior, which is usually a reliable indicator of the characteristics of the intersection. This includes the sound of stationary vehicles—particularly in multi-lane or oddly shaped intersections—because it is important to identify which lanes of traffic are active, when, and for how long; and to then follow the line of traffic that most nearly parallels the direction in which the traveler wishes to proceed. At the same time that the blind traveler is listening to the overall traffic pattern, he or she also listens for cues from individual vehicles, particularly when determining the precise moment to enter the crosswalk. At signaled intersections, an idling vehicle in the street parallel to the path of the traveler that accelerates and moves through the intersection is an indication that a traffic signal has just changed and that it is safe to proceed into the cross street, with maximum time to complete the crossing. In general, by crossing when the traffic flow is parallel to him or her, a blind individual can safely cross most intersections without difficulty. The individual will use the sound of the parallel traffic while crossing to maintain a roughly straight line through the intersection. Figure 1 shows several examples of how a blind pedestrian would use the sound of traffic to cross a complex intersection.

Example 1: A blind pedestrian standing at corner A (facing corner B) ready to cross, will wait for the stationary vehicles behind him/her to start moving as an indication that the traffic light has changed. Then, the pedestrian will proceed to cross the street and follow the parallel line of traffic on his left (from A to B) confident there is enough time to safely cross the street.

Example 2: A blind pedestrian standing at corner A (facing corner C) ready to cross, will use the sound of the stationary vehicles on his/her left and the parallel traffic on his/her right as guides to follow a straight path while crossing.

Example 3: A blind pedestrian at corner C (facing corner D) ready to cross, will wait for the traffic from C to A to stop and the parallel traffic across the intersection to start, to safely walk from corner C to Corner D. The sounds from the stationary vehicles on his/her left and the parallel traffic across the intersection serve as guides to keep a straight path while crossing.

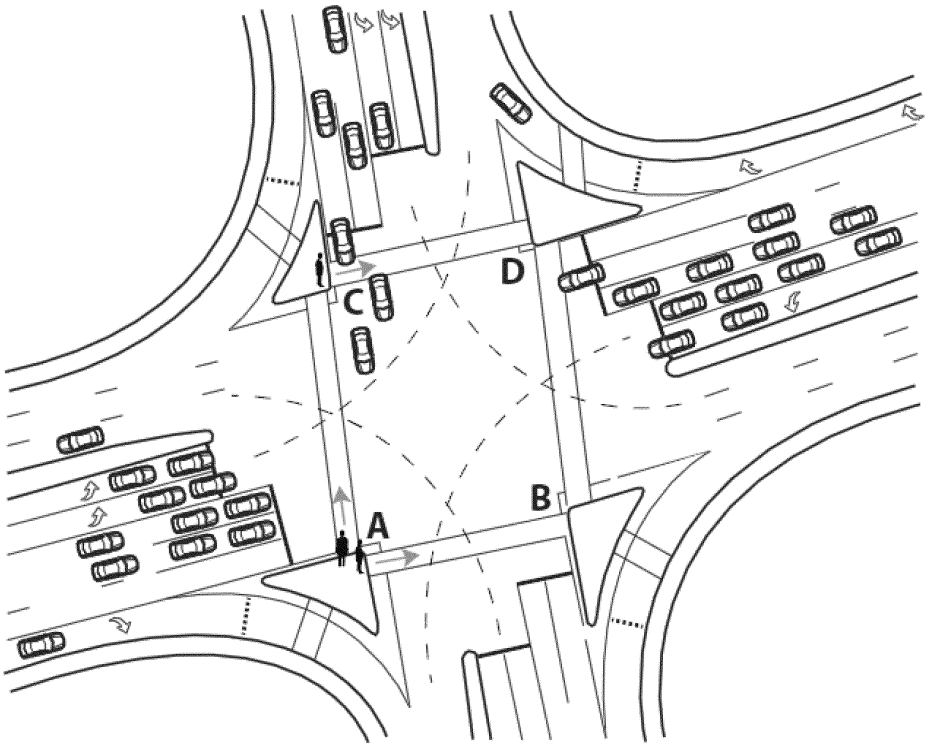

Figure 1: Complex Intersection

Using the white cane or guide dog and the sound of traffic, people who are blind or visually-impaired have been able to navigate safely and independently for decades. Blind and visually-impaired people travel to school, the workplace, and throughout their communities to conduct the daily functions of life primarily by walking and using public transportation. Safe and independent pedestrian travel is essential for blind or visually-impaired individuals to obtain and maintain employment, acquire an education, and fully participate in community life. Short of constantly traveling with a human companion, a blind or visually-impaired pedestrian simply cannot ensure his or her own safety or navigate effectively without traffic sound. To the extent that there are more and more HVs and EVs on the road that are hard to detect, people who are blind or visually impaired will lose a key means—the sound of traffic—by which they determine when it is safe to cross streets, but also by which they orient themselves and navigate safely throughout their daily lives, avoiding dangers other than automobiles.

VI. NHTSA Research and Industry Practices

On May 6, 2009 NHTSA issued a research plan describing the research relating to quieter vehicles it planned to conduct. This section reports on the research completed to date.

A. NHTSA Phase 1 Research [45]

In April 2010 NHTSA released a report titled ''Quieter Cars and the Safety of Blind Pedestrians: Phase 1'' referred to as Phase 1. This report documented a study conducted by the John A. Volpe National Transportation Systems Center (Volpe) under an interagency agreement. This study documents the overall sound levels and general spectral content for a selection of HVs and ICE vehicles in different operating conditions, evaluates vehicle detectability for two ambient sound levels, and considers countermeasure concepts. The study investigated operating scenarios of concern for pedestrians who are blind or visually impaired, documented acoustic measurements of hybrid, electric and ICE vehicles and ambient environments in which blind or visually impaired pedestrians might reasonably be expected to make travel decisions based on sound alone, examined the auditory detectability of vehicles in safety scenarios of concern to individuals who are blind or visually impaired and examined potential countermeasures.

Safety Scenarios for Pedestrians Who Are Blind or Visually-Impaired

As part of Phase 1 research NHTSA sought to identify operating scenarios necessary for the safety of visually-impaired pedestrians. The researchers identified these scenarios based on crash data, literature reviews, and unstructured conversations with blind pedestrians and orientation and mobility specialists. Scenarios were defined by combining pedestrian vehicle environments, vehicle type, vehicle maneuver/speed/operation, and considerations of ambient sound level. The operating scenarios identified in Phase 1 are:

- *Vehicle approaching at low speed:* One of the strategies used by pedestrians who are blind is to cross when the road is quiet. This technique assumes that it is safe to proceed when a vehicle is loud enough to be heard far enough away, there are no other masking sounds present, and no other vehicles are detected.
- *Vehicle backing out (as if coming out of a driveway)*: There is a concern

[45] see footnote 8.

quieter vehicles may not be detectable when backing out. This scenario is complex for pedestrians since it is difficult to anticipate where there may be a driveway and the driver's visibility may be limited. The pedestrian may have limited time to *react and respond to* avoid a conflict.

• *Vehicle travelling in parallel and slowing:* Pedestrians who are blind often need to distinguish between a vehicle moving through an intersection and a vehicle turning into their path. The pedestrian needs to perceive this information when the vehicle is in the parallel street, before it turns into his or her path. The sound of slowing vehicles in the parallel street helps pedestrians identify turning vehicles.

• *Vehicle accelerating from stop:* Pedestrians who are blind use the sound of traffic in the parallel street to establish alignment and to identify a time to cross. The sound of accelerating vehicles in the parallel street indicates, for example, that the perpendicular traffic does not have the right of way and thus a crossing opportunity is available. Pedestrians may initiate their crossing as soon as they detect the surge of parallel traffic or may delay the decision to make sure traffic is moving straight through the intersection and not turning into their path. A delay in detecting the surge of parallel traffic may impact the opportunity to complete a crossing within the designated walking interval.

• *Vehicle stationary:* The sound of vehicles idling provides important cues. For example, the sound of a vehicle in the far lane gives cues about the width of the road (number of lanes), and conveys information about the distance to walk and the time needed to navigate across the street. A quieter vehicle may not be detected when it is stationary at intersections or parking lots and it may start moving suddenly at the same time a pedestrian enters the conflicting path.

NHTSA was able to gather crash data for collisions involving pedestrians and HVs when the HV was operating in one of the scenario described above (the crash report did not separately analyze vehicle starting from a stop and the vehicle stationary conditions) immediately prior to the crash in both the crash report released by NHTSA in September of 2009 [46] and the updated crash report released in October 2011.[47] The 2011 report analyzed the crash rates for vehicles making a turn, slowing/stopping, backing, entering and leaving a parking space/driveway and starting in traffic separately and then analyzed all those operating conditions together. Because of the sample size an independent odds ratio was not available for any of the scenarios. When taken together, however, these low speed operating conditions show a statistically significant 1.38 odds ratio showing an increased risk of pedestrian collisions.

For this study, the sounds emitted by HVs and ICE vehicles were measured and recorded under operating conditions representative of the previously identified safety scenarios.[48] The operating conditions were as follows: (1) a vehicle backing up at 5 mph (mimicking a vehicle backing out of a driveway); (2) a vehicle slowing from 20 to 10 mph (mimicking a vehicle preparing to turn right from the parallel street); (3) a vehicle approaching at a low constant speed (6 mph and 10 mph); (4) a vehicle accelerating from a stop; and (5) a vehicle idling. Average A-weighted sound levels for each of the six vehicles tested are reported in Table 1.

TABLE 1—OVERALL A-WEIGHTED SOUND LEVEL AT THE MICROPHONE LOCATION (12 FT)

[Average A-weighted level, LAeq0.5s, dB]

Scenario/vehicle operation	2010 Toyota Prius	2009 Toyota Matrix	Honda Civic Hybrid	Honda Civic ICE	2009 Toyota Highlande Hybrid	2008 Toyota Highlander
Approaching at 6 mph	44.7	53.5	49.3	52.0	53.2	55.5
Backing out (5 mph)	44.2	51.3	48.5	58.2	45.9	52.7
Slowing from 20 to 10 mph	53.0	54.2	56.6	55.0	53.0	55.4
Acceleration	62.9	63.1	65.4	63.5	64.8	64.9
Idling or Stationary but activated	[1]	47.8	44.8	46.0	[1]	48.1

[1] Background.

Additionally, measurements were collected for vehicles approaching at moderate constant speeds (20 mph, 30 mph, and 40 mph) in order to document the convergence, if any, of HVs and ICE vehicles at higher speeds. In general, HVs were quieter below approximately 20 mph, above which either the vehicle's ICE engine turned on, tire and road noise became dominant, or both. HVs also tended to have less high frequency content than ICEs at low speeds. Further details and results from this study can be found in NHTSA's final report DOT HS 811 304.[49]

Auditory Detectability of Vehicles in Critical Safety Scenarios [50]

In Phase 1, NHTSA compared the auditory detectability of HVs and ICE vehicles by pedestrians who are legally blind. Forty-eight independent travelers, with self-reported normal hearing, listened to binaural [51] audio recordings of two HVs and two ICE vehicles in three operating conditions, and two different ambient sound levels. The operating conditions included a vehicle: approaching at a constant speed (6 mph); backing out at 5 mph; and slowing from 20 to 10 mph (as if to turn right). The ambient sound levels were a quiet rural (31.2 dB (A)) and a moderately noisy suburban ambient (49.8 dB (A)). Overall, participants took longer to detect the two HVs tested

[46] See footnote 7,

[47] See footnote 39.

[48] The SAE J2889–1 draft test method covers only two operating conditions: stationary vehicle and 10 km/h (6 mph) constant speed pass by. This study follows recommendations of the SAE draft method with regard to instrument settings, calibration, meteorological monitoring, etcetera; however, it deviates from the SAE method with respect to operating condition, data measured, as well as height, distance, and orientation of the microphones. For each measurement, one-half second contiguous average SPLs were measured. The maximum of these for each event were analyzed for the development of Table 1. These levels are representative of the sound level when the vehicle is at or near the microphone line (line PP' in SAE J2889–1, Figure 1).

[49] See Docket for this notice, Item # NHTSA–2011–0148–0004.

[50] See footnote 8; Garay-Vega *et al.,* Auditory Detectability of Hybrid Electric Vehicles by Pedestrians Who Are Blind. 90th Annual Meeting Transportation Research Board January 23–27, (2011), Washington, DC Available at *http://amonline.trb.org/12ktc8/1.*

[51] Binaural recordings reproduce the acoustic characteristics of the sound similar to how a human perceives it. Binaural recordings reproduce a more realistic three dimensional sensation than conventional stereo and are intended for playback through headphones, rather than loudspeakers.

(operated in electric mode), except for the slowing maneuver. Vehicle type, ambient level, and operating condition had a significant effect on response time.

Data collection included missed detection frequency and response time (and corresponding time-to-vehicle arrival and detection distance). Missed detection frequency is defined as instances when the target vehicle is present and the participant fails to respond. Response time is computed as the time from the start of a trial to the instant the participant presses a space bar as an indication he/she detects the target vehicle. Time-to-vehicle-arrival is the time from first detection of a target vehicle to the instant the vehicle passes the microphone line/pedestrian location. Detection distance is the longitudinal space between the vehicle and the pedestrian (microphone) location at the instant the participant indicated detection of a target vehicle.

A repeated measure of analysis of variance (ANOVA) was used to analyze the main and interaction effects of the independent variables: vehicle type, vehicle maneuver and ambient sound level. A separate analysis was completed for each scenario, and a pair-wise t-test compared each vehicle with the other (ICE vehicle and HV twins) for each ambient sound level. The time-to-vehicle arrival for each vehicle-ambient condition is shown in Table 2, Table 3 and Table 4 for each of three scenarios.

Vehicle Approaching at 6 mph (9.6 km/h) Pass by: The first traveling situation examined was a pedestrian standing on the curb waiting to cross a one-way street when there may be vehicles approaching from the left. Some trials included a target vehicle and some trials only included background noise. The target vehicle in this scenario was traveling from the left at a constant speed of 6 mph. There were vehicles in the background in all trials. The pedestrian had to be able to detect a vehicle that would affect the decision about when to start to cross the street. This scenario tested the distance and time at which a pedestrian can detect a vehicle approaching at low speed. On average, participants took 1.1 seconds longer to detect vehicles in the high ambient sound condition than in the low ambient sound condition. The main effect of ambient was statistically significant. The mean time-to-vehicle-arrival was 5.5 and 4.3 seconds for the low and high ambient condition respectively. Participants detected both ICE vehicles sooner than the HV twins. The main effect of vehicle type was statistically significant. The interaction effect of vehicle type and ambient was also statistically significant, meaning that the difference between when a passenger was able to detect an ICE vehicle versus its HV twin was greater when ambient was high than when it was low. Table 2 presents the individual differences between ICE vehicles and their HV peers (*i.e.,* Prius vs. Matrix and Highlander hybrid vs. Highlander ICE); pair-wise comparisons are statistically significant within a given ambient condition. Participants were more likely to miss the Toyota HVs than the Toyota ICE vehicles approaching at a constant low speed. The missed detection rates in the low ambient condition were: 0.02 for the Prius; 0.01 for the Matrix; 0.03 for the Highlander Hybrid; and 0.0 for the Highlander ICE vehicle. The corresponding values in the high ambient condition were: 0.21 for the Prius; 0.02 for the Matrix; 0.04 for the Highlander; and 0.01 for the Highlander ICE vehicle.

TABLE 2—TIME-TO-VEHICLE ARRIVAL AND DETECTION DISTANCE FOR 6 MPH VEHICLE PASS-BY BY VEHICLE TYPE AND AMBIENT CONDITION

Vehicle	Ambient sound level	Time-to-vehicle arrival (s)	Detection distance (ft)
2010 Toyota Prius	Low	4.3	37.9
	High	2.4	20.9
2009 Toyota Matrix	Low	5.5	48.4
	High	4.6	40.5
2009 Highlander Hybrid	Low	5.3	46.6
	High	4.1	36.6
2008 Highlander ICE	Low	6.8	59.4
	High	6.3	55.1

Vehicle Backing Out (5 mph (8 km/h) Reverse): The second traveling situation was a pedestrian walking along a sidewalk with driveways on the left side; the pedestrian heard distant vehicles in the background in all trials. This is similar to walking in an area that is a few blocks away from a main road. The target vehicle was a nearby vehicle backing towards the pedestrian at a constant speed of 5 mph. This task is complex for pedestrians since it is difficult to anticipate where there may be a driveway and when a vehicle will move out of a driveway. In addition, a driver's visibility may be limited and the pedestrian may have very limited time to respond to avoid a conflict. The main effect of ambient was statistically significant. The average time-to-vehicle-arrival was 4.4 and 2.7 seconds for the low and high ambient condition, respectively. Participants took longer to detect both HVs than their ICE twins. The main effect of vehicle type was statistically significant. Table 3 shows the individual differences between ICE vehicles and their HV twins; pair-wise comparisons were statistically significant within a given ambient condition. Participants were more likely to miss the Toyota HVs than the Toyota ICE vehicles in the backing out session. The missed detection rates in the low ambient condition were: 0.05 for the Prius; 0.02 for the Matrix; 0.10 for the Highlander Hybrid; and 0.02 for the Highlander ICE. The corresponding values in the high ambient condition were: 0.11 for the Prius; 0.0 for the Matrix; 0.26 for the Highlander; and 0.02 for the Highlander ICE. On average, participants took longer to detect vehicles in the high ambient sound condition than in the low ambient sound condition.

TABLE 3—TIME-TO-VEHICLE ARRIVAL AND DETECTION DISTANCE FOR VEHICLE BACKING OUT BY VEHICLE AND AMBIENT CONDITION

Vehicle	Ambient sound level	Time-to-vehicle arrival(s)
2010 Toyota Prius	Low	4.0
	High	2.5
2009 Toyota Matrix	Low	5.2
	High	3.6
2009 Highlander Hybrid	Low	3.3
	High	1.4
2008 Highlander ICE	Low	5.2
	High	3.3

Vehicle Traveling in Parallel Lane and Slowing (Slowing from 20 to 10 mph (32 to 16 km/h): The third and last traveling situation examined in the study was a pedestrian trying to decide when to start crossing a street with the signal in his/her favor and a surge of parallel traffic on the immediate left. The sound of slowing vehicles in the parallel street helps blind pedestrians identify turning vehicles. In some trials (no-signal condition), a vehicle continued straight through the intersection at 20 mph, so pedestrians can cross whenever they choose. However, in other trials there was a vehicle slowing from 20 mph to 10 mph as if to turn right into the pedestrian path (target vehicle). The pedestrian had to be able to detect when the vehicle was slowing. This scenario tests whether the pedestrian perceived this information when the vehicle was in the parallel street. Participants were more likely to miss the ICE vehicles approaching in the parallel lane and slowing than the HVs in the same situation. Table 4 shows the time-to-vehicle arrival and detection distance for the 'vehicle slowing' scenario. Pair-wise comparisons (HV vs. ICE twin) were statistically significant within a given ambient condition. On average, participants detected HVs sooner than their ICE vehicle twins. The main effect of vehicle type was statistically significant. The trend observed in the vehicle-slowing scenario (*i.e.,* HVs are detected sooner than their ICE vehicle twins) may be explained by a noticeable peak in the 5000 Hz one-third octave band for the HVs tested during this operation. The tone emitted was associated with the electronic components of the vehicles when braking (*e.g.,* regenerative braking). The missed detection rates in the low ambient condition were: 0.05 for the Prius; 0.31 for the Matrix; 0.03 for the Highlander Hybrid; and 0.17 for the Highlander ICE vehicle. The missed detection rates in the high ambient condition were: 0.05 for the Prius; 0.35 for the Matrix; 0.03 for the Highlander Hybrid; and 0.17 for the Highlander ICE vehicle.

TABLE 4—TIME-TO-VEHICLE ARRIVAL AND DETECTION DISTANCE FOR VEHICLE DECELERATING FROM 20 TO 10 MPH BY VEHICLE TYPE AND AMBIENT CONDITION

Vehicle	Ambient sound level	Time-to-vehicle arrival(s)	Detection distance (ft)
2010 Toyota Prius	Low	2.0	35.9
	High	1.9	33.8
2009 Toyota Matrix	Low	1.1	18.0
	High	0.8	12.8
2009 Highlander Hybrid	Low	3.0	58.8
	High	2.7	51.6
2008 Highlander ICE	Low	1.5	25.7
	High	1.3	21.8

Table 5 shows the time-to-vehicle arrival by vehicle type, and ambient condition. Considering all three independent variables, there was a main effect of vehicle, vehicle maneuver, and ambient sound level. Similarly, there were interaction effects between vehicle type and ambient; vehicle type and maneuver, ambient and vehicle maneuver, and a three way interaction between ambient, vehicle type and vehicle maneuver.

TABLE 5—AVERAGE TIME-TO-VEHICLE ARRIVAL BY SCENARIO, VEHICLE TYPE AND AMBIENT SOUND

Scenario	Low ambient		High ambient	
	HVs	ICE Vehicles	HVs	ICE Vehicles
Approaching at 6 mph	4.8	6.2	3.3	5.5
Backing out (5 mph)	3.7	5.2	2.0	3.5
Slowing from 20 to 10 mph	2.5	1.3	2.3	1.1

B. NHTSA Phase 2 Research

In October 2011 NHTSA released a second report examining issues involving hybrid and electric vehicles and blind pedestrian safety titled ''Quieter Cars and the Safety of Blind Pedestrians, Phase 2: Development of Potential Specifications for Vehicle Countermeasure Sounds.'' The research conducted by Volpe first sought to define acoustic specifications to be used as alert sounds for quiet vehicles based on the sounds produced by ICE vehicles. Volpe then analyzed the loudness of the ICE sounds in a suburban ambient using psychoacoustic modeling. Volpe used human subject testing to evaluate the performance of several different varieties of countermeasure sounds including ICE sounds. Based on the results from the Phase I research, the psychoacoustic modeling and the human subjects testing Volpe developed potential specifications for vehicle countermeasure sounds.

The Phase 2 research developed various options and approaches to specify vehicle sounds that could be used to provide information at least equivalent to the cues provided by ICE vehicles, including speed change. In this research, acoustic data acquired from a sample of 10 ICE vehicles was used to determine the sound levels at which synthetic vehicle sounds, developed as countermeasures, could be set. ICE-equivalent sounds were specified as overall A-weighted sound levels and spectral content at the one-third octave band level. Psychoacoustic models and human-subject testing were used to explore issues of detectability, masking, and recognition of ICE-like and alternative sound countermeasures.

The researchers determined that the elements of a specification for vehicle sounds should consider sound output levels; pitch changes that convey changes in vehicle speed; and acoustic qualities that determine whether the sound is perceived as a vehicle. The options discussed in the Phase 2 final report [52] assume that the vehicle acoustic countermeasure should:

- Provide information at least equivalent to that provided by ICE vehicles, including speed change; and
- Provide for detection of a vehicle in residential, commercial and other suburban and urban environments.

Note: Human-subject tests for Phase 2 were conducted in an ambient level of approximately 58–61 dB (A).

Phase 2 work focused initially on the following two ideas: (1) the lack of detectability of quieter vehicles can be remediated if they are fitted with synthetic sound generators that emulate the sound of typical ICEs; and (2) the specifications for the vehicle sounds can be defined in terms of objective parameters—namely, overall sound output as measured by the SAE J2889–1 procedure and spectral distribution specifications for the minimum amount of sound level in one-third-octave bands.

Recognizability is more complex than detectability. Most sounds, and sounds as complex as those emitted by an ICE, have numerous properties in addition to loudness and spectral distribution that affect human perception. Among these properties are rise time, decay time, repetition rates, variations in pitch and loudness, and phase relations among various components of the sound. These challenges can be demonstrated, for example, by playing a recording of a sound backwards, for example, that changes in these properties can render a sound unrecognizable even though loudness and spectral distribution are unchanged. There are no established quantitative metrics for many qualities of a sound that a person might use for recognition.

In the Phase 2 report Volpe first considered whether HVs and EVs should be equipped with sounds that are based on the acoustic profile of ICE vehicles. This concept is based on the assumption that the ICE vehicles measured in this study are typical of the current fleet, emit an acceptable amount of noise during low-speed operations, and that some (*e.g.,* ICE-like) countermeasure sounds can be based on the statistical average of real-vehicle spectral characteristics. Researchers developed the potential specifications for alert sounds shown in Table 6 and Table 7 based on acoustic analysis of sounds produced by ICE vehicles to demonstrate what acoustic specifications for a vehicle alert sound might look like. The derivations of these data are given in Section 5 of the Phase 2 final report.

TABLE 6—MINIMUM OVERALL A-WEIGHTED LEVEL (LAEQ, 1/2; SEC) BY VEHICLE OPERATION

Vehicle operation	$L_{Aeq,\ 1/2\ sec,}$ dB(A)
6 mph	61.1
10 mph	63.6
15 mph	68.1
20 mph	70.2
Acceleration	66.7
Start-up	70.7
Stationary but activated	55.2

Table 7 shows the corresponding minimum A-weighted one-third-octave-band spectra for each operating mode. ICE vehicles have energy components in all frequencies (*e.g.,* 100 to 20k Hz), however, the psychoacoustic models implemented in this study show that energy components in the one-third octave bands ranging from 1600 Hz to 5000 Hz contributed the most to detection, and those ranging from 315 Hz to 1600 Hz contributed additional detection and pitch information. These spectral distribution limits are derived from the procedures described in Section 6 of the Phase 2 final report.

TABLE 7—A-WEIGHTED ONE-THIRD-OCTAVE-BAND SPECTRA AT MICROPHONE LINE LAEQ, 1/2 SEC

1/3 Octave band center frequency, Hz	6 mph	10 mph	15 mph	20 mph	Acceleration	Startup	Stationary but activated
100 to 20000	61.1	63.6	68.1	70.2	66.7	70.7	55.2
315	43.9	46.9	50.2	52.5	49.8	44.2	37.3
400	46.5	48.7	53.0	54.1	51.4	46.6	39.0
500	47.9	51.2	55.6	57.1	53.4	51.8	42.1
630	49.0	52.5	56.9	59.1	54.6	52.4	42.3
800	51.1	54.6	59.5	62.3	55.1	55.2	43.2
1000	51.4	55.2	60.2	63.2	55.6	57.8	44.9
1250	52.2	54.6	59.6	62.2	57.2	60.5	46.3
1600	52.0	54.3	58.8	61.3	57.0	61.1	45.4

[52] See footnote 11.

TABLE 7—A-WEIGHTED ONE-THIRD-OCTAVE-BAND SPECTRA AT MICROPHONE LINE LAEQ, 1/2 SEC—Continued

1/3 Octave band center frequency, Hz	6 mph	10 mph	15 mph	20 mph	Acceleration	Startup	Stationary but activated
2000	50.3	52.0	56.1	57.9	55.7	60.5	44.6
2500	49.1	50.3	53.9	54.9	55.1	61.1	43.8
3150	48.6	49.2	52.4	52.1	54.9	61.6	44.1
4000	46.9	47.5	50.5	49.5	53.2	60.9	42.4
5000	44.1	45.0	47.8	46.4	50.8	59.2	40.3

The Volpe Center examined two options [53] under this first concept (ICE-like sounds):

Recordings of Actual ICE Sounds

The first option under the ICE-like sound concept explored using recordings of actual ICE vehicles as alert sounds. Recordings would be made when the vehicle is operating at constant speeds, forward from 0 to 20 mph and in reverse at 6 mph. Other components of the vehicles noise output (*e.g.,* tire noise, aerodynamic noise, AC fan noise) would be emitted regardless of whether an ICE is in use and would not be included in these recordings. Sound generation systems with signal processing capabilities would be used to continuously and monotonically vary the sounds from one operating condition to the next according to vehicle input (*e.g.* vehicle speed sensors, throttle sensors, etc.). In this option, emitted sounds would be based on standardized recordings with processing limited to pitch shifting in proportion to vehicle speed and interpolation between sounds.

Synthesized ICE-Equivalent Sounds

The second option under the ICE-like sound concept explored using simulated ICE sounds directly synthesized by a digital-signal processor (DSP) programmed to create ICE-like sounds (based on actual target sounds) that would vary pitch and loudness depending on vehicle inputs. This is in contrast to the first option, described above, in which the sounds come directly from recordings of actual vehicles, and the processor must store and interpolate among files representing every mode of operation and for every speed within the 0 to 20-mph range. Here, the resulting synthesized sounds would resemble those of the first option, but have fewer spectral components. A synthesizer could be simpler and cheaper than a sound generator based on real ICE sounds. For this option, target sounds, recorded from actual vehicles for the operations specified above would be used. The synthesized sounds would then be developed to match the spectral shape of these target sounds. (**Note:** by definition, power-spectra spectral lines have a resolution of 1 Hz).

Sound generation systems with signal processing capabilities would be used to continuously and monotonically vary the sounds from one operating condition to the next according to vehicle input (*e.g.* vehicle speed sensors, throttle sensors, etc.) and the synthesis algorithms developed for their sounds. The two options listed above assume that band-limited (315 Hz to 5000 Hz) ICE-like sounds will be recognizable as motor vehicles.

Alternative, Non-ICE-Like Sounds Designed for Detectability

The second concept, described in the Phase 2 final report, consists of alternative countermeasure sounds with acoustic characteristics different from ICE vehicles. Some of the countermeasures evaluated in the human-subject studies have sound characteristics that could improve detectability when compared to ICE-equivalent sounds. The following sound characteristics can improve detectability of a sound source [54]:

- Pulsating quality with pulse widths of 100 to 200 msec.
- Inter-pulse intervals of about 150 msec.
- Fundamental tonal component in 150 to 1000 Hz range.
- At least three prominent harmonics in the 1 to 4 kHz range.
- Pitch shifting denoting vehicle speed change.

The design of a non-ICE sound involves a complex tradeoff among several factors including annoyance, cost, detectability, and overall sound pressure level values. While the required sound pressure level values for non-ICE-like sounds will generally be lower than for ICE-like sounds for the same detection distance, there is no objective basis upon which to calculate the difference in sound pressure level values for the class of non-ICE sounds as a whole. Rather, the equivalent detectability sound pressure level value for a particular non-ICE sound must initially be determined experimentally by a jury process that rates detectability. As psychoacoustic models improve, it may be possible to use them in place of jury testing to determine minimum sound pressure level specifications for these sounds, but that approach is not yet sufficiently accurate.

In this concept sound generation systems with signal processing capabilities would be used to continuously and monotonically vary the pitch and amplitude of sounds as appropriate to operating conditions according to vehicle inputs (*e.g.* vehicle speed sensors, throttle sensors, etc.). The appropriate relationship between sound amplitude and throttle position would need to be determined. The detectability of a specific non-ICE sound can be best determined only through human subjects testing, at the present state of the art.

Hybrid of Options Discussed Above

A third concept to designing countermeasure sounds, explored in the Phase II report, would be a combination of the concepts (*i.e.* using ICE-like or non-ICE-like sounds) discussed above, with the goal of gaining the benefits of each, while minimizing the disadvantages. Simulated ICE sound could be generated which would vary pitch and loudness depending on vehicle inputs. This system could simultaneously generate both ICE-like sounds at a lower sound pressure level than the concepts based on ICE sounds discussed above, and synthetic sounds designed for optimal alerting potential with minimal annoyance. The ICE-like sound components may not be heard in higher urban ambient-noise conditions, but their association with the alerting sound would be learned over time from when the pedestrian is exposed to the sound in lower ambients. This method would most likely depend on jury testing of human subjects to set the sound level for detection.

[53] In this section of the notice the word ''option'' refers to countermeasure concepts developed in Phase 2 research and not rulemaking options considered by the agency when developing this proposal (see Sections VII and VIII for NHTSA's proposal and alternatives considered, respectively).

[54] Stanton & Edworthy (Eds.) (1999) Human Factors in Auditory Warnings

Human Subject Evaluation of Detectability

A human subject study was conducted to compare the auditory detectability of potential sounds for hybrid and electric vehicles operating at a low speed. The sounds evaluated included: (1) Sounds produced by vehicles with integrated sound systems rented from manufacturers, and (2) sounds produced by prototype systems rented from manufacturers, and played back by loudspeakers temporarily mounted on HVs rented separately. Five vendors, motor vehicle manufacturers or suppliers of automotive electronics, provided prototypes of synthetic sound generators for EVs or HVs. The five systems were labeled ''A'' to ''E''. A total of nine sounds were evaluated: A1, A2, A5, B, C, D, E1, E3, and E4. Sounds were evaluated at two sound pressure levels typical of ICE vehicles at low speeds (*i.e.,* A-weighted SPL of 59.5 dB and 63.5 dB).[55] An ICE vehicle that produced A-weighted SPL of 60 dB in the 6 mph pass-by test was used as a reference in this evaluation. The ICE vehicle was labeled 'R'.

Sound A1 was an engine like sound with a turbine-like whine that had a prominent peek that varied from 150 Hz to 300 Hz based on vehicle speed. Sound A2 was an engine sound with enhanced valve noise with prominent signal content between 100 Hz and 200 Hz. Sound A5 was a whirring sound with a diesel engine sound. The fundamental signal content of the whirring part of the sound for sound A5 was between 400 Hz and 600 Hz based on vehicle speed. Sound B emulated the exhaust note (the fundamental of the combustion noise) of an engine. The sound did not contain appreciable components above 250 Hz. Sound C was a Wavy, turbo-like sound with most of its energy as broadband noise in the 200 Hz to 5000 Hz range. Sound D was a broadband sound designed to suggest an electric motor coupled to other rotating machinery. Sound E1 was a pure engine noise with most of its energy below 300 Hz. Sound E3 was an engine-like sound with a 'whirring' character and a flatter spectral distribution than Sound E1 and had none of the prominent harmonics of the combustion note. Sound E4 contained short bursts of predominantly high-frequency sound with the peak amplitude of the fundamental varying in frequency from about 450 Hz to 700 Hz based on speed.

Data was collected outdoors during three independent sessions conducted on three days in July and August 2010. The first session included four operating modes: idle (stationary), acceleration from stop, start-up and 6 mph forward pass-by. The following two sessions included the 6 mph forward pass-by. The HVs used in the study were operated in electric mode during the pass-by trials. The sample included 79 participants 34 of which were sighted and 45 of which were legally blind. The legally blind participants were independent travelers and all participates had self-reported normal hearing.

The study took place in a parking lot located on the USDOT/Volpe Center campus in Cambridge, Massachusetts. The test site has the acoustic characteristic of an urban area with a typical ambient noise of approximately A-weighted sound pressure level of 58–61 dB. The dependent variables examined in the study included raw detection distance, proportion of detection, time-to-vehicle arrival, and detection distance. Raw detection distance is the number of feet the vehicle was from the participant when the participant indicated she or he heard the sound. A failure to detect the sound before the vehicle passed was treated as missing data. Proportion of detection is the proportion of trials of a given condition in which the participant detected the sound anytime before the vehicle passed the participant. Time-to-vehicle-arrival is the time, in seconds, from detection of a target vehicle sound to the instant the vehicle passes the pedestrian location. Detection distance is the calculated distance, feet, to the target vehicle at the moment each subject responded.

Each subject had a push button device which they used to indicate when they detected a nearby vehicle. Participants were asked to press a response button when they detected and recognized a vehicle that would affect their decision about when to start crossing the street.

Table 8 shows the mean detection distances for the sounds evaluated in the human-subject studies for the 6 mph pass-by; sounds at the top of the list can be described as sounds designed according to psychoacoustic principles and sounds at the end of the list can be described as ICE-like sounds with only the fundamental combustion noise or otherwise lacking in the qualities that support detectability. The results show that high amplitude sounds (A-weighted SPL of 63.5 dB) were detected more often and at greater distances than low amplitude sounds (A-weighted SPL of 59.5 dB).

TABLE 8—MEAN DETECTION DISTANCE (FT) FOR ALL SOUNDS AT TWO AMPLITUDES AND FOR THE REFERENCE ICE VEHICLE

Sound number	Average detection distance (feet) for amplitude equal 59.5 dB(A)	Average detection distance (feet) for amplitude equal 63.5 dB(A)
E4	72	85
A2	57	77
E3	52	70
A5	50	47
ICE vehicle, 60 dB(A)	41	NA
A1	35	44
C	32	41
E1	30	32
B	20	25
D	19	NA

[55] As measured by the SAE J–2889 draft test procedure (SAE J–2889, draft, 2009).

Results show that A2, A5, E3, and E4 have significantly better detectability than the ICE reference sound at 6 mph. These sounds never have significantly worse detectability in any condition. Thus, these sounds overall have better detectability than the ICE reference sound. In contrast, sounds A1, B, C, D, and E1 all have significantly worse detectability than the reference sound for the 6 mph forward pass-by. These sounds never have significantly better detectability in any of the conditions presented to subjects. Thus, these sounds overall have worse detectability than the reference sound.

The analysis also indicated significant main effects of sound and a significant three-way interaction of session, sound, and direction. This implies that the relative performance of each sound, including the reference sound, is jointly contingent on the direction it comes from and the session it was presented in. The directional effect results primarily from the fact that the roof-top fans on buildings to the west were the predominant source of ambient noise, which can mask vehicles approaching from the west compared with vehicles approaching from the east. The detectability of each sound relative to the reference was evaluated by comparing each sound to the reference vehicle for the corresponding session and direction condition of each.

To compare the detectability of the sounds to each other, a mixed design ANOVA was performed on detectability with session and vision as between-subjects independent variables, and sound, direction, and amplitude as within-subject independent variables.[56] Sounds were ranked by comparing each to the other (t-tests) for each session by-direction-by-amplitude condition. To assist in the control for family-wise error rate, the analyses only included the four sounds shown to be superior to the reference sound. Results show that E4 has overall significantly better detectability than the other sounds, and within each condition it is never worse than any other sound, except for one condition when compared to A2. Sounds A2 and E3 are overall not significantly different than each other, showing only a difference in a single condition. Sound A5 has overall significantly worse detectability than the other sounds, and within each condition is it never better, except for one condition when compared to E3. The overall ranking of the sounds from most to least detectable is therefore: E4, A2 and E3, and A5.[57]

In summary, the human subject testing in Phase 2 suggest that synthetic sounds that resemble those of an ICE produce similar detection distances as actual ICE vehicles. In some instances, synthetic sounds designed according to psychoacoustic principles can produce double the detection distances relative to the reference vehicle. The results also suggest that synthetic sounds that contain only the fundamental combustion noise are relatively ineffective. None of the analyses found a significant effect of vision ability.[58] Participants who are legally blind, on average, were no better or worse than sighted participants in detecting the approach sounds.

C. NHTSA Phase 3 Research

The third phase of NHTSA's research involving quiet vehicles consisted of developing an objective, repeatable test procedure and objective specifications for minimum sound requirements for hybrid and electric vehicles. NHTSA's Vehicle Research and Test Center (VRTC) conducted acoustic measurements and recordings of several HVs and EVs and those vehicle's ICE pair vehicles. Volpe used these recordings as well as data from the Phase 1 and Phase 2 research to identify parameters and criteria for sounds to be detectable and recognizable as a motor vehicle.

VRTC Acoustic Measurements

The primary focus of Phase 3 research conducted by VRTC was to evaluate the new SAE J2889–1 test method and several variations used to test operating conditions that were not included in SAE J2889–1 and provide data to establish performance criteria. The research was conducted using 3 HVs, 1 EV, and 4 ICE vehicles.

SAE J2889–1 was still in draft form at the start of the project, but the final version published in September of 2011 was not significantly different from the draft. The vehicles were used to gather sample data on the difference in sound pressure levels between ICE sounds and EV or HV sounds as well as directivity and sound quality levels using eleven test scenarios developed for this program (4 static and 7 pass-by). Some of the hybrid and electric vehicles were tested with multiple alert sounds. Some the hybrid and electric vehicles were also tested with no alert sound at all to determine crossover levels.

A significant modification to the SAE procedure was the addition of a laser at the microphone line-labeled as PP' in SAE J2889–1. This addition enabled recording the time at which the leading edge of the vehicle reached the microphone location.

Test Scenarios [59]

VRTC measured the vehicle sound output for the operating scenarios listed below for ICE vehicles, hybrid and electric vehicles with an alert sound active, and hybrid and electric vehicles with no alert sound active. The overall goal of the research was to capture as much acoustic data as possible for both ICE sounds and artificial sounds added to hybrid and electric vehicles as alert sounds so that the sounds could be analyzed when the agency was the establishing acoustic specifications contained in this proposal.

- *Scenario 1: SAE J2889–1 modified Startup (8 microphones).* This set up was used to generate a 360 degree sound or directivity profile for the vehicle.
- *Scenario 2: SAE J2889–1 modified Stationary but active (8 microphones).* This scenario was the same as Scenario 1 except that the sound of the vehicle while stationary was recorded.
- *Scenario 3: SAE J2889–1 modified Startup (5 microphones).* Data from this recording can be used can be used to generate a 180 degree sound or directivity profile for the vehicle.
- *Scenario 4: SAE J2889–1 modified Stationary but active (5 microphones).* This scenario was the same as Scenario 3 except that the sound of the vehicle while stationary was recorded.
- *Scenario 5: SAE J2889–1 10 km/h Forward Constant Speed (2 microphones).* This test produced result from 2 microphones on either side of the vehicle centerline.
- *Scenario 6: SAE J2889–1 20 km/h Forward Constant Speed (2 microphones*). This test produced result from 2 microphones on either side of the vehicle centerline.
- *Scenario 7: SAE J2889–1 30 km/h Forward Constant Speed (2 microphones*). This test produced result from 2 microphones on either side of the vehicle centerline.
- *Scenario 8: SAE J2889–1 10 km/h Reverse Constant Speed (2 microphones).* This test was pass-by noise test with data being recorded as the vehicle is driven backwards though the noise test pad with two

[56] The reference sound 'R' and sound 'D' were excluded from this analysis since they did not differ in amplitude.

[57] The acoustic characteristics of these sounds are discussed in Section 5.2 of NHTSA Report No. DOT HS 811 496.

[58] All participants were required to wear a blindfold during the study.

[59] Diagrams showing the microphone setup for all the scenarios are contained in the Phase 3 report from VRTC.

microphones on either side of the vehicle centerline.

• *Scenario 9: 0 to 10 km/h Forward Acceleration to Constant Speed (2 microphones)* The vehicle was positioned 2 meters before the PP' line and accelerated at 0.1 g from 0 to 10 km/h pass-by noise test with data being recorded by two microphones on either side of the vehicle centerline as the vehicle is accelerated though the remainder of the noise test pad.

• *Scenario 10: 30 to 10 km/h Forward Deceleration to Constant Speed (2 microphones).* The vehicle was driven at 30 km/h into the test zone and began deceleration at 0.1 g to 10 km/h at the PP' line.

• *Scenario 11: 0 to 10 km/h Reverse Acceleration to Constant Speed (2 microphones).* The vehicle was positioned 2 meters before the PP' line and accelerated from 0 to 10 km/h with data being recorded by microphones on both sides of the vehicle centerline as the vehicle was accelerated though the remainder of the noise test pad.

When testing the vehicle in the scenarios described above VRTC identified some challenges. The test drivers found that it was difficult to reliably maintain a low travel speed for some vehicles during the 10 km/hr forward pass-by test as these vehicles tried to shift gears or the electric controls energized or de-energized. During the pass-by tests conducted in reverse at 10 km/hr the test drivers experienced some of the same difficulties experienced during the forward pass-by testing. Also, it was very difficult to maintain the vehicle in the center of the lane. Testing in reverse could only be done during daylight hours due to difficulty in driving backwards, drifting in the lane and possible equipment damage. During the testing of the vehicle accelerating from 0 to 10 km/hr the test drivers encountered difficulty in maintaining a consistent acceleration rate. Positioning the vehicle for this test and starting the data acquisition was very labor intensive

When testing the vehicle decelerating from 30 to 10 km/hr the test drivers encountered difficulty in maintaining a consistent deceleration rate. Determining the starting point of deceleration was difficult. Some vehicle braking rates were difficult to maintain the 0.1 g rate. During braking the vehicles' regenerative braking systems transitioned back and forth from mechanical to regenerative braking. When testing the vehicles while accelerating in reverse the test drivers encountered difficulty in maintaining a consistent acceleration rate and maintaining the center of the lane for the remainder of the test pad. Positioning the vehicle and starting the data acquisition was very labor intensive for this test.

Interpretation of Results

One of the purposes of the Phase 3 acoustic measurements was to gather additional data on the difference in sound levels between EVs and HVs operating in electric mode and ICE vehicles. For the pass-by tests in Phase 3 the ICE vehicles were 6.2 to 8.5 A-weighted dB louder than the EV/HVs without added sound at 10 km/h. At 20 km/h the difference between the HV/HVs and ICE vehicles varied, but the average level was 3.5 A-weighted dB louder for the ICE vehicles. At 30 km/h the sound levels of the HV/HVs approached the levels of the ICE vehicles and the individual measurements for the two types of vehicles have considerable overlap. Table 9 shows the results of HEV/EV vehicles with no sound alert system as compared to their ICE counterpart.

TABLE 9—PASS-BY SOUND LEVEL FOR HEV/EV VEHICLES WITHOUT ALERT SOUND ACTIVE VERSUS COUNTERPART ICE VEHICLES

Manufacturer	Speed, km/h	HEV/EV Sound level, dB	ICE Sound level, dB	ICE minus HEV/EV, dB
Nissan	10	50.5	56.6	6.2
	20	60.0	62.3	2.2
	30	66.5	68.1	1.5
Prototype Vehicle G	10	51.4	59.9	8.5
	20	60.5	63.1	0.6
	30	67.0	67.5	0.5
Prototype Vehicle H	10	51.2	59.7	8.5
	20	59.3	64.5	5.2
	30	65.3	69.2	3.9
Average	10	51.0	58.7	7.7
	20	59.9	63.3	3.5
	30	66.3	68.3	2.0

The measurements from the startup and stationary but active scenarios were used to measure the directivity of the vehicles' sound. The purpose of measuring the directivity pattern of the vehicles was to compare the directivity pattern of ICE vehicles to those hybrid and electric vehicles equipped with a speaker system. For the ICE vehicles the sound pressure level behind the vehicle was from 6 to 10 dB less than that directly in front of the vehicle. For the vehicles with an speaker system the sound level behind the vehicle was 12 to 15 dB lower behind the vehicle, and in some cases the sound level at the microphone behind the vehicle was not distinguishable from a quiet background sound level of 40 dB. There was a systematic difference from left to right for some vehicles, particularly with an artificial sound.

Acoustic Analysis Performed by Volpe

As part of the Phase 3 research Volpe examined the frequency range, minimum sound level for selected one-third octave bands, and requirements for broadband noise and tones as possible criteria for vehicle sound using a loudness model to determine when the sounds might be detectable in a given ambient. Also considered were the relative proportions of acoustical energy emitted from a vehicle as a function of direction (directivity) and ways to denote changes in vehicle speed. Two approaches were used to identify potential detectability specifications for alert sounds to be included in the NPRM: (a) sound parameters based on a loudness model and detection distances and (b) sound parameters based on the sound of ICE vehicles.

Volpe's work in developing the acoustic specifications based on a loudness model and detection distances was guided by several aspects of the agency's Phase 1 and Phase 2 research. Volpe analyzed the acoustic data of the sounds used in the human factors research in Phase 2 from a psychoacoustic perspective to determine the loudness of the sounds and whether the sounds would be detectable in several different ambient environments. Of the several different loudness models examined by Volpe, Moore's Loudness provided the most pertinent information about the perceived loudness and detectability of a sound.

Because the response of the study participants in the human subject experimentation in Phase 2 varied significantly due to variations in the ambient, Volpe determined that any analysis of sounds using a loudness model should use a synthetic ambient that did not vary with respect to the frequency profile or overall sound pressure level. Volpe used a synthetic ambient sound with the loudness model during Phase 3 in developing the specifications contained in this proposal. Volpe also observed during the human factors research that sounds with strong tonal components were more detectable.

Volpe developed the specifications based on the sound of ICE vehicles using measurements of ICE vehicles captured in Phase 2 and acoustic data provided by representatives of auto manufacturers.

Before presenting these two approaches, it is important to explain how background noise, critical frequency range, and loudness models relate to the detectability of a sound.

Background Noise

When talking about the detectability of a sound, it is important to understand masking and background noise (ambient noise). Masking occurs when the perception of one sound is affected by the presence of an unrelated sound. Background noise can affect the extent to which masking occurs. Two characteristics of background sounds are of primary importance: overall sound pressure level and the frequency content or shape of the frequency spectrum. Masking depends on the signal-to-noise ratio in the different frequency bands and therefore cannot be estimated from the overall A-weighted sound level alone. Acoustic data for background noise can be obtained from recordings of background noise made at various locations. Recordings of actual traffic may include peaks (*e.g.,* passage of nearby loud vehicles) that can introduce variability when using human subjects for testing or when applying detectability models. An alternative to recordings of the actual traffic is to use standardized synthetic background noise. Synthetic background noise consists of, for example, white noise filtered to have the same spectrum as what a pedestrian would hear in real traffic but without the variations in amplitude over time (*e.g.,* those caused by the passage of a particular loud vehicle or aircraft). This broadband noise creates masking while reducing the issues associated with fluctuations or peaks. The standardized noise is an advantage for repeatability. For more information about this, see Pedersen *et al.* 2011.[60]

A standardized background noise was used in Phase 3 in the implementation of Moore's Loudness model to compute minimum sound levels for detection in a given one-third octave band and to identify frequency ranges relevant for alert sounds.[61] The ambient selected for these analyses is representative of many common urban ambients.[62] Being detectable in this ambient would mean that the alert sound would be detectable in other ambients with lower overall levels and similar spectral shapes. The spectral shape is given in Figure 2. The overall A-weighted level for detection computations was 55 dB). Results for 60 A-weighted dB can be accurately estimated by adding 5 dB to the results from the 55 A-weighted dB analysis. Similarly, results for 50 A-weighted dB can be accurately estimated by subtracting 5 dB from the results from the 55 A-weighted dB analysis.

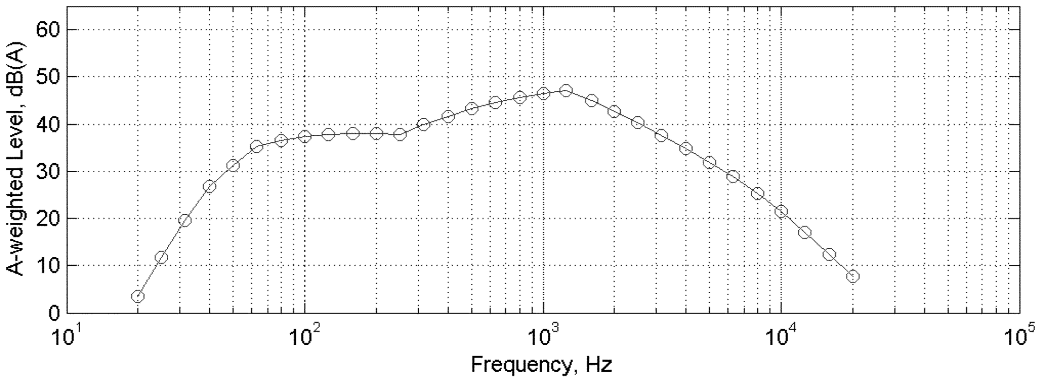

Figure 2. A-weighted Spectrum and Ambient at 55 A-weighted dB

Critical Frequency Range

Critical frequency regions, defined by a set of one-third octave bands, are determined by applying psychoacoustic principles for a given ambient condition. The purpose of identifying a critical frequency region(s) is to ensure that a sound signal is emitted from the vehicle such that it would be expected to be detectable at a reasonable distance away from a pedestrian. Due to masking effects of the ambient and potential hearing loss of the pedestrian, opportunities for detection will be maximized if the alert signal contains detectable components over a wide frequency range.

Frequencies in the audible range for children and most young adults are from about 20 to 20,000 Hz. Human

[60] Pedersen *et al.* (2011). White paper on external sounds for electric cars—Recommendations and guidelines. Delta-Senselab. Copenhagen.

[61] For a discussion of loudness models see page 67.

[62] See footnote 59.

hearing is more sensitive in the 500–5,000 Hz range than it is at low frequencies or very high frequencies.[63] Exposure to loud noise and age-related factors often diminish a person's sensitivity to sound at higher frequencies. Mid-range frequencies (approximately 320—5120 Hz) are perceived with greater loudness than lower (20 to 320 Hz) or higher frequencies (5000 to 20,000 Hz). Frequencies below 300 Hz are commonly masked by urban background noise.[64]

Localization of sounds is accomplished through multiple neurophysiological processes, each of which is most effective in a different range of frequencies. Above 1600 Hz, inter-aural level differences (caused by the shadowing effect of the head) become the primary directional cues. For some combinations of frequency and angular orientation between sound source and listener, cancellation of the direction cues can occur. Hence, an accurate localization of a sound source is most likely to occur when it contains multiple high-frequency components that are audible above the background noise.[65] [66]

A person's relative sensitivity to different frequencies varies with loudness. Loudness is a numerical designation of the strength, expressed in units called ''sones,'' of a sound that is proportional to the subjective magnitude as estimated by listeners having normal hearing (ANSI S3.4 2007).[67] Loudness models predict this strength by accounting for how the human auditory system processes both the amplitude and frequency characteristics of a sound.

Loudness Models

Sound-pressure-level-based metrics, such as, the A-weighted level, provide a first estimate of the perceived loudness of a sound. These metrics fail to account for several factors that affect the perceived loudness including: the level dependence of the frequency sensitivity, level dependence on frequency selectivity, and frequency based masking effects. The level dependence of the frequency sensitivity refers to the fact that for the same change in sound pressure level for a low frequency sound and a high frequency sound, the low frequency sound will be perceived as increasing in loudness more than the high frequency sound. The level dependence of the frequency selectivity refers to how the human auditory system separates frequency components of a complex sound's signal. Frequency-based masking is used to describe how a high-energy component can prevent or reduce the perception of a lower-energy component at a different frequency. That is, for example, an ambient with a high level of low-frequency sound can mask a signal with components in a higher frequency range.

Several psychoacoustic models exist that relate sound pressure level data to the perceived loudness of the signal or its detectability/audibility. Moore's Loudness model[68] [69] was used in Phase 3 to estimate the minimum sound level needed for a sound to be detectable in the presence of an ambient. This model is useful for the prediction of thresholds in quiet ambients and for thresholds in the presence of a masker,[70] as well as for computing equal loudness contours.[71] This model was developed for use with ISO 226, *Normal Equal-Loudness Contours,* (1987) and the absolute thresholds found in ISO 389–7, *Acoustics—Reference zero for the calibration of audiometric equipment—Part 7: Reference threshold of hearing under free-field and diffuse-field listening conditions,* (1996). Since the model's original development, both of these standards have been updated to ISO 226 (2003) and ISO 389–7 (2005). There are newer implementations of Moore's model that reflect these new data. However, we are not aware of any implementations that include these updates as well as provide for computing thresholds in the presence of a masker. Since computing thresholds in the presence of a masker is of fundamental importance for the work in Phase 3, and since the updates represent ''fine tuning'' of the model, the 1997 model was identified as the most suitable choice.

Moore's Loudness model, as described in Moore and Glasberg (1997),[72] accounts for the following factors: how the sound is presented to the subject (free field, diffuse field, via headphones); transmission through the pinna (outer ear) and the middle ear; frequency sensitivity and selectivity; excitation compression/amplification; the transformation of pressure entering the cochlea to an excitation pattern (determined from the magnitude of auditory filter output); transformation from an excitation pattern to specific loudness for sounds in quiet ambient environments and in the presence of a masker (specific loudness is analog to power spectral density); and integration of specific loudness (integrating the area under the curve of a power spectral density function gives the total power of that function).

The general procedure for running the model is to provide un-weighted one-third octave band levels for both the signal and the masker and to provide information on how the signal is presented. For the purposes of the Phase 3 work, free-field, frontal presentation was used, which is both accurately and conservatively compared to diffuse field or headphones. The model provides several levels of detail in the results, including the specific loudness as a function of the number of equivalent rectangular bandwidths. It is the integral of this function, or simply Loudness in sones that was utilized in Phase 3.

This model was adequate for the needs of Phase 3. However, since this is a time-invariant model, it does not take into account differences in duration (sounds with very short durations are perceived differently than long duration sounds due to the temporal windows associated with the auditory system). Nor does it account for periodic modulations including the effect of co-modulation masking release.

As part of the Phase 3 research, in addition to exploring the detectability of sounds, the agency examined acoustic characteristics that make sounds recognizable. Recognition includes two aspects: 1) recognition that the sound is emanating from a motor vehicle, and, 2) recognition of the type of operation that the vehicle is conducting so that the pedestrian can take appropriate measures. Our research has shown that sounds that contain both broadband components and tones are more likely to be recognized as vehicles. Sounds that contain only high frequencies have a synthetic (and unpleasant) character.

[63] Fletcher, H. and Munson, W. A. (1933). Loudness, its definition, measurement, and calculation. *Journal of the Acoustic Society of America.* 5 (1), 82–108.

[64] See footnote 11 Chapter 6.

[65] Feddersen *et al.* (1957). Localization of high frequency tones. Journal of the Acoustical Society of America. 5, 82–108.

[66] Yost, W.A. (1994) Fundamentals of Hearing: An Introduction. San Diego: Academic Press.

[67] American National Standard (1995). Procedure for the computation of loudness of steady sound (ANSI S1.13). New York, New York: Secretariat, Acoustical Society of America.

[68] Moore *et al.* (1997). A model for the prediction of thresholds, loudness, and partial loudness, *J. Audio Eng. Soc.* 45(5).

[69] Moore and Glasberg (1997). A model of loudness perception applied to cochlear hearing loss. Auditory Neuroscience, 3, 289–311.

[70] A value of 0 sones is approximately the threshold of perception. Moore models threshold to be at 0.003 sones to match ISO 389–7:2005 to within 0.2 dB over the frequency range from 50 to 12,500 Hz (ANSI S3.4–2007).

[71] Loudness contours is a graphical representation of frequency (x-axis) versus levels (y-axis) such that tones of different frequency and different level are judged to be equally loud.

[72] See footnote 67, 289–311.

Sounds with lower frequency tones and broadband components have a more closely resemble the sound produced by an ICE vehicle. In the Phase 2 human factors research Volpe observed that sounds with strong tonal components were more detectable.

While developing the acoustic parameters contained in this proposal during Phase 3, parameters that were critical to recognition were determined by simulating sounds. Sound simulations were developed for the following vehicle operating scenarios: stationary but activated, constant speed pass-bys, and accelerating pass-bys. Pass-bys included Doppler shifts and accelerations also included a pitch shifting tied to vehicle speed. The sound pressure levels changed as a function of speed and as a function of position relative to the receiver during the vehicle pass-by sound simulations. Roughly two hundred sounds were generated and evaluated. Based on initial assessment of these sounds and engineering judgment, at least one tone (and preferably more) should be included in the acoustic specifications for HVs and EVs for the purpose of recognition. The lowest tone should have a frequency no greater than 400 Hz. A component is considered to be a tone if the Tone-to-Noise ratio according to ANSI S1.13–1995 [73] is greater than or equal to 6 dB. (Note: the methodology in ANSI S1.13–1995 appears to be overly conservative for the Phase 3 work. It may be better to: a) either reduce the bandwidth, or b) include all tones within the band for this calculation for the current application. Comments are specifically sought on this issue).

Broadband components, which may be modulated, should be in each one-third octave band from 160 Hz to 5000 Hz. Tones at frequencies above 2000 Hz do not contribute to recognition. To aid in recognition of vehicle acceleration and deceleration, the pitch (as measured by the fundamental frequency) should increase and decrease by at least one percent per km/hr of speed over the range from 0 km/hr to 30 km/hr. Additional cues for recognition will be obtained by the movement of the vehicle relative to the pedestrian, and were not considered for potential acoustic specifications.

The following are recommendations to increase recognition based on the Phase 3 research:

- No greater than 50 percent amplitude modulation at stationary but activated, at a frequency equal to the modeled combustion frequency.
- Ratios of the total tonal power to the total broadband power should not exceed 15 dB. (Note: this is not the same as the Tone-to-Noise Ratio).
- Multiple harmonics with a fundamental equal to a hypothetical combustion frequency.
- The lowest harmonic included should be as low in frequency as the countermeasure system can reliably produce.
- The first or second harmonic present should have the highest amplitude with higher harmonics generally decreasing in amplitude.
- Amplitude should increase as a function of speed beyond the required change for minimum detection (but not beyond the maximum level).

The agency solicits comments regarding the specific values, *e.g.* 50 percent, 15 dB, etc., as well as why characteristics should be included/excluded from this list.

In addition to the recommendations for the recognition of HV and EV sounds contained above, the Phase 3 research found the acoustic requirements for HVs and EVs should include pitch shifting as an element to enhance recognition. A pitch shifting requirement would keep out melodies or sounds that change over time. The low-frequency requirement would convey the sound of rotating machinery. Limiting amplitude modulation would reduce annoyance and help with recognition, as will excluding frequency modulation and the noise component of the sound filter shapes with high roll-off rates.

D. International Approach to Pedestrian Alert Sounds

In 2009, the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) of Japan assembled a committee to study the issue of the quietness of HVs. The committee concluded that an Approaching Vehicle Audible System (AVAS) was a realistic alternative to allow pedestrians who are blind or visually impaired to detect quiet vehicles. In 2010, MLIT announced guidelines for AVAS based on the recommendations of the study committee. Although several vehicles were considered in the initial scope, MLIT concluded that AVAS should be installed only on HVs that can run on electric motors, EVs and fuel-cell vehicles. In terms of the activation condition, the MLIT recommended that AVAS automatically generate sound at least in a speed range from the start of a vehicle until reaching 20 km/h (12 mph) and when moving in reverse. The AVAS would not be required when a vehicle is stopped. The system may include a switch to temporarily halt the operation of the AVAS. The reason for including this switch is because the committee believes that the system is not needed on expressways where there are no pedestrians and to reduce other issues such as drivers deliberately increasing vehicle speed in order to stop the AVAS.

The MLIT included the following guidelines for the type and volume for the sound generator system:

- ''The sound shall be continuous sound associating motor vehicles running condition.''
- ''Siren, chime, bells, melody, horns sounds, animals, insects, and sound of natural phenomenon such as wave, wind, river current, etc., are not allowed.''
- ''The sounds generated shall be automatically altered in volume or tone depending on the vehicle speed for easier recognition of the movement of the vehicle.''
- ''Sound volume shall not exceed a level of the sound generated when vehicles driven by internal combustion only run at speed of 20 km/h.''

The use of 'add-on' devices, generating sound continuously for five seconds or longer, have been approved in order to increase AVAS penetration. MLIT will look into social acceptability and verification of technology implementation issues before moving from a voluntary process to a mandate.[74]

In addition to the actions taken in Japan the United Nations Economic Commission for Europe (UNECE) World Forum for Harmonization of Vehicle Regulation has an informal group on Quiet Road Transport Vehicles (QRTV). The objective of the QRTV is to ''[d]etermine the viability of 'quiet vehicle' audible acoustic signaling techniques and the potential need for their global harmonization.'' The QRTV's program plan includes: review the available research; determine human factors needed for pedestrians; develop technical performance parameters for vehicles based on human factors needs; determine audible sound characteristics and ways to convey desired vehicle performance information to pedestrians; and determine technical and

[73] Secretariat, Acoustical Society of America (1995). Procedure for the computation of loudness of steady sound, American National Standard ANSI S1.13. New York, NY.

[74] MLIT and JASIC (2010). Guidelines for Measure Against Quietness Problem of HV. GRB Informal group on Quiet Road Transport Vehicles (QRTV) Working papers of the 3rd informal meeting. Tokyo, 13–15 July 2010. Available at: *http://www.unece.org/trans/main/wp29/wp29wgs/wp29grb/QRTV_3.html.*

economical feasibility of potential audible warning techniques.[75]

UNECE has adopted guidelines substantially similar to the MLIT guidelines discussed above with the same requirements and recommendations.[76] The guidelines are intended to provide manufacturers with recommendations to follow in developing alert sound systems for adding sound to quiet vehicles.

E. SAE Sound Measurement Procedure

SAE J2889–1 SEP2011, *Measurement of Minimum Noise Emitted by Road Vehicles,*[77] is a performance-based and technology neutral test standard. The standard specifies an objective method for measuring the minimum noise emitted by road vehicles. The standard reflects the development of engine and propulsion technologies that cannot be correctly tested under other SAE standards. SAE J2889–1 SEP2011 specifies test site and meteorological conditions, as well as the ambient noise level under which the sound should be recorded. The standard includes provisions for outdoor and indoor (hemi-anechoic) testing. The test procedure includes specifications for microphone position, condition of vehicles (*e.g.,* battery state, tires, warning signals), operating condition (*i.e.,* 10 km/hr (6 mph) and stopped), measurement readings, and reporting requirements. SAE J2889–1 is derived from SAE 2805, *Measurement of Noise Emitted by Accelerating Road Vehicles,* and therefore some of the requirements related to ambient, equipment, and facilities are the same.

The standard also includes procedures to evaluate external vehicle sound generator systems for alerting pedestrians about a vehicle's operating conditions. The outcome includes various acoustic metrics for the external vehicle sound generators such as sound pressure level, frequency content, and changes in sound pressure level and frequency as a function of vehicle speed. SAE J2889–1 SEP2011 does not account for psychoacoustic factors such as annoyance, recognizability, or detectability.

SAE published a second version of SAE J2899–1 in May of 2012. This version, SAE J2889–1 MAY2012, in addition to the provisions described above, contains a bench test to allow the alert sound's shift in pitch to be measured on a component level and a procedure to measure the alert sound's shift in pitch on a vehicle level indoors. SAE J2889–1 MAY2012 also contains a procedure for measuring a ''commencing motion'' sound.

The International Organization for Standardization (ISO) is cooperating with SAE in its efforts to develop a vehicle minimum noise measurement standard. The ISO document ISO/NP 16254 *Measurement of Minimum Noise Emitted by Road Vehicles*[78] and SAE J2889–1 are reportedly technically identical but this has not yet been confirmed by NHTSA because the ISO document is still in draft form.

F. Alert Sounds Currently Provided by Manufacturers

Automotive manufacturers that produce EVs for the U.S. market have recently developed various pedestrian alert sounds. At the time that PSEA was enacted, most manufacturers of HVs had not typically been equipping those vehicles with alert sounds for the U.S. market. As of the date of this writing, we have detailed knowledge of only one system developed by Nissan. We know that others are under development and that several manufacturers plan to equip their vehicles with these systems in the near future. Nissan has developed a system called Approaching Vehicle Sound for Pedestrians (VSP) for the 2011 Nissan Leaf.[79] The system consists of a digital sound synthesizer connected to a speaker mounted under the hood of the vehicle and a sound control system. The sound controller gets three inputs: Vehicle speed, gear position, and brake signal. The VSP has an on/off switch located in the instrument panel for temporary deactivation by the driver. A forward sound activates at low speeds, fades off as the vehicle reaches 30 km/hr (18 mph) and fades back on as the vehicle speed reduces to 25 km/hr. The pitch increases proportionally with vehicle speed. A unique sound is activated when the gear is in ''reverse'' and when the vehicle starts from a stopped position. No sound is emitted when the vehicle is in ''drive'' gear but stationary, but the vehicle does emit a sound when stationary in ''reverse'' gear. The sounds emitted from the vehicle are digitally generated as opposed to being a recording of an ICE vehicle, and plays through speakers.

Nissan indicates that the sound was designed to achieve the same detectability as ICE sound while maintaining a quiet cabin for the driver and without being intrusive to communities. The VSP was developed based on three design guidelines. First, increase peak frequency content between 600 and 800 Hz to improve detectability for aging pedestrians with high frequency hearing loss. Second, increase peak frequency content between 2000 and 5000 Hz to improve detectability of pedestrians with normal hearing. Lastly, reduce frequency content at around 1000 Hz to avoid noise intrusion. The VSP was set to have a similar sound pressure level as a Nissan Versa 1.8L at 10 km/hr (6 mph) while having two peaks at 630 Hz and 2500 Hz, and a valley at 1000 Hz.

G. The Notice of Intent To Prepare an Environmental Assessment

On July 12, 2011, the agency published a Notice of Intent to Prepare an Environmental Assessment (NOI) seeking comment on the alternatives that the agency should consider when analyzing the environmental consequences of a proposed quiet vehicle rule. The NOI stated that the purpose and need of the rulemaking was to ''require EVs and HVs, which tend to be quieter than the ICE vehicles, to be equipped with a pedestrian alert sound system that would activate in certain vehicle operating conditions to aid blind and other pedestrians in detecting the presence, direction, location, and operation of those vehicles.''[80]

The NOI discussed the following five alternatives that the agency planned on considering in its analysis of the environmental consequences of the rule and requested that the commenters propose other alternatives for the agency to consider: (1) Taking no action; (2) requiring alert sounds based on recordings of ICE vehicles; (3) specifying acoustic requirements for synthetic sounds that would closely resemble sounds produced by ICE vehicles; (4) setting requirements for alert sounds that possess aspects of both

[75] QRTV (2010). Terms of Reference and Rules of Procedure for the GRB Informal Group on Quiet Road Transport Vehicles (QRTV). Available at: *http://www.unece.org/trans/main/wp29/wp29wgs/wp29grb/QRTV_1.html.*

[76] *http://www.unece.org/fileadmin/DAM/trans/main/wp29/wp29wgs/wp29gen/wp29fdoc/ECE-TRANS-WP29-78-r2e.pdf.*

[77] See footnote 2.

[78] ISO/NP 16254 Measurement of Minimum Noise Emitted by Road Vehicles. *http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=56019.*

[79] Konet *et al.* (2011) Development of Approaching Vehicle Sound for Pedestrians (VSP) for Quiet Electric Vehicles. SAE International. Paper No. 2011–01–0928. Abstract available at: *http://saeeng.saejournals.org/content/4/1/1217.abstract.*

[80] 76 FR 40860 (July 12, 2011). The agency intends this proposal to be technology neutral. The statement of purpose and need in the NOI acknowledges, for the purposes of the agency's NEPA analysis of the environmental impacts of this rulemaking action, that many manufacturers will choose to install speaker systems on their vehicles in order to meet the minimum sound requirements in this proposal. This proposal establishes minimum sound requirements that HVs and EVs must meet. It does not specify that vehicles must be equipped with a speaker system.

sounds produced by ICE vehicles and acoustic elements that contribute to detectability; and (5) using psychoacoustic principals to develop requirements for alert sounds that would have enhanced detectability but would not necessarily have a reference to sounds produced by ICE vehicles. The NOI stated that it was likely that a rule that allowed alternatives 4 and 5 would need to include a jury testing procedure to ensure that the sounds were recognizable to pedestrians as a motor vehicle in operation.

Comments Received in Response to NOI

In response to the NOI, NHTSA received 33 comments from state governments and Indian tribes, advocacy organizations for individuals who are blind, national and international standards organizations, auto manufacturers, heavy vehicle manufacturers, trade organizations that represent motor vehicle manufacturers, component manufacturers, environmental groups and private individuals. The agency received comments on both the technical and environmental aspects of the NOI.

Most of the commenters expressed support for all of the alternatives, except the no action alternative. All the commenters that commented on possible methods for determining compliance with the various alternatives stated that the performance criteria for alert sounds should be based on objective factors and that jury testing was not an appropriate method for determining compliance with an FMVSS.

Several of the commenters requested that the agency set the minimum sound level requirements for EVs and HVs to the sound levels produced by quiet ICE vehicles rather than the average sound pressure level produced by ICEs. These commenters expressed concerns that if NHTSA set the minimum sound pressure level requirements for EVs and HVs to the average sound level produced by ICE vehicles, this would stop noise reduction trends in vehicle design. Commenters that stated that the minimum sound level requirements for EVs and HVs should be tied to quiet ICE vehicles were also concerned about minimizing the environmental effects of adding sound to EVs and HVs and driver acceptance of the added sounds. One commenter stated that the acoustic specifications developed by the agency should include a dB level dip in the mid-range frequencies around 1000 Hz to limit the community noise impact of adding sound to hybrid and electric vehicles.

Several commenters also questioned whether there was a safety need for the agency to set minimum sound level requirements for the stationary but activated operating condition. Most motor vehicle manufacturers stated that the agency should only require that EVs and HVs produce sound until the vehicle reaches a speed of 20 km/hr (12 mph) while advocacy groups for individuals who are blind stated that EVs and HVs should produce sound until 32 km/hr (20 mph).

Light vehicle manufacturers stated that the agency should not be overly concerned with writing the acoustic specifications for the alert sound to prevent the use of annoying noises. These manufacturers stated that they did not believe it was necessary to try to prevent annoying sounds because manufacturers would not use annoying sounds as alert sounds because they do not want to annoy their customers.

Several commenters stated that the agency should adopt the ECE guidelines for alert sound systems (the ECE guidelines are based on the Japanese guidelines discussed in Section VIII.E), as the agency's requirements for alert sounds for HVs and EVs. These commenters believed that the ECE guidelines provide manufacturers with flexibility in developing sounds while appropriately balancing the needs of pedestrians and concerns about environmental noise impact. In discussions with the agency manufacturers have stated that they believe that the ECE guidelines would address the agency's concerns about annoying alert sounds.[81]

Several commenters pointed out potential drawbacks in requiring an alert sound that was a recording of an ICE vehicle.

The commenters requested that the agency maintain a significant degree of flexibility in developing acoustic specifications for alert sounds. Several commenters stated they did not believe that all of the characteristics that the agency used to describe sounds comprising alternative 5 were necessary to provide effective pedestrian alert sounds. Advocacy groups for individuals who are blind also stated that the agency should not allow alert sounds with none of the acoustic characteristics of current ICE vehicles and that the agency should not consider alternative 5 in specifying acoustic requirements for an alert sound.

Some of the manufacturers of heavy vehicles stated that heavy-duty hybrid vehicles that are not capable of electric propulsion should be exempt from the requirements of the standard because these vehicles produce sufficient sound for pedestrians to detect them in all operating conditions, including stationary but activated. Several commenters also stated that motorcycles should be exempt from the requirements of the proposal.

A few of the commenters questioned whether adding sound to HVs and EVs was an appropriate means of addressing the increased rate of collisions between HVs and EVs and pedestrians. Three of these commenters believed that avoiding pedestrian collisions was the responsibility of the driver. One commenter believed that NHTSA should address crashes between HVs and EVs and pedestrians by adding advanced pedestrian crash avoidance technology to these vehicles.

VII. NHTSA's Proposal

NHTSA has considered three different viable alternatives for ensuring that HVs and EVs provide detectable, recognizable sound cues for pedestrians on which the agency seeks comments. These alternatives include setting the minimum sound levels for EVs and HVs based on the sound level required for a safe detection distance which is the agency's preferred alternative, setting the minimum sound levels for EVs and HVs based on the sound levels produced by light ICE vehicles and using a jury testing procedure instead of acoustic specifications to ensure that sounds produced by HVs and EVs are recognizable. The alternatives differ in the manner in which they balance recognizability, regulatory feasibility, and manufacturer flexibility. In this section, we propose the alternative that we believe is the best approach. The other two alternatives that are not being proposed, jury testing for recognizability and acoustic profiles designed around sounds produced by ICE vehicles, are discussed in detail in Section VIII of this notice.

Under our proposal EVs and HVs would be required to produce sounds that conform to the specifications listed in S5 of the Proposed Regulatory Text (see Section XIII of this notice). Our proposal is similar to Alternative 4 described in the previously referenced NOI as it contains acoustic elements designed to enhance detection and to aid with recognition of motor vehicle operation. Through a compliance test, the agency would be able to easily measure the sound produced by an EV or HV and determine whether that sound conforms to the requirements in S5 of the proposed regulatory text. The

[81] See Section VIII. E. for a discussion of why we are not proposing to adopt the Japanese or ECE guidelines.

agency developed the acoustic specifications contained in this proposal using a loudness model and a representative urban ambient sound level to ensure that sounds fitting the specifications would be detectable in a wide range of ambient noise conditions.

The agency has included specifications for low frequency because the agency believes that the low frequency one-third octave band requirements contained in S5 will assist pedestrians in recognizing sounds that conform to the requirements as being produced by a motor vehicle. The low frequency content of the sounds produced by current ICE engines is the spectral component that pedestrians hear and associate with these sounds. While the agency believes that the specifications in S5 provide manufacturers a significant degree of flexibility to develop vehicle sounds, the specifications do place some constraints on the sounds that manufacturers are able to use as countermeasure sounds. These constraints will ensure that countermeasure sounds will be recognizable and provide the needed auditory cues to be useful to pedestrians, while avoiding unnecessary environmental impact.

The agency also developed and is seeking comment on a set of minimum sound requirements for HVs and EVs using an analysis of sounds produced by ICE vehicles. The proposed requirements include minimum sound pressure level specifications in different one-third octave bands so the frequency content of sounds produced by HVs and EVs would resemble the spectral content of ICE vehicles. Sounds that meet these proposed requirements would resemble sounds described in Alternative 3 of the NOI. Relative to the other two viable alternatives, this approach would place primary emphasis on feasibility and recognizability.

A. Acoustic Specifications Developed To Enhance Detection and Recognition

This NPRM proposes performance requirements for sounds produced by HVs and EVs so that pedestrians can detect, recognize, and locate these vehicles. While NHTSA acknowledges that many manufacturers will choose to install a speaker system to comply with the requirements of this proposal, this is a technology neutral proposal, so manufacturers would be able to choose any means of compliance they wish so long as the vehicle produces a sound that complies with the acoustic specifications in Section XIII of this notice.

The agency has sought to balance community noise impact with the safety of pedestrians in developing the acoustic specifications contained in this proposal. For people living in communities near highways and along busy streets, elevated noise levels can be annoying and diminish quality of life. The agency recognizes the contributions motor vehicles make to ambient sound levels in urban areas and near highways. The DOT's Federal Highway Administration has previously conducted studies (not part of this rulemaking) that examine noise-reducing pavements in an attempt to reduce tire noise produced by vehicles. We note the research on noise reduction that is being conducted by other operating administrations within DOT in order to emphasize that this proposal is not contrary to, and will not interfere with, noise reduction efforts. In setting a minimum requirement for sound produced by HVs and EVs, the agency has sought to ensure these sound level requirements would not contribute to transportation noise pollution. A majority of transportation noise is caused by vehicles traveling at high speed. In this proposal, the agency would set minimum sound requirements for vehicles traveling at lower speeds. The proposal would not affect vehicle noise output during the high speed scenarios that contribute to noise pollution. Furthermore, as required by the PSEA, the agency considered the maximum noise emission requirements for heavy vehicles and motorcycles issued by the Environmental Protection Agency (EPA) in setting the minimum sound requirements contained in this proposal.[82]

In developing this proposal, NHTSA sought to maintain the current situation involving ICE vehicles in which the pedestrian and the driver share responsibility for avoiding pedestrian vehicle collisions. Thus, a pedestrian must be able to hear a vehicle from the point at which the vehicle would no longer be able to safely stop if the pedestrian decided to walk into an intersection. A pedestrian must be able to initiate a street crossing with the knowledge that there are no vehicles present that would be unable to stop before colliding with the pedestrian. At distances farther than the vehicle's stopping distance, the driver would be able to respond to the presence of a pedestrian and avoid a collision. At distances within which the driver would not be able to respond to the presence of a pedestrian and stop the vehicle, the pedestrian must be able to hear the vehicle so the pedestrian can share responsibility for avoiding a crash by not stepping into the street.

B. Critical Operating Scenarios

The PSEA states that the required safety standard must allow pedestrians ''to reasonably detect a nearby electric or hybrid vehicle in critical operating scenarios including, but not limited to constant speed, accelerating, or decelerating.'' [83] The PSEA defines alert sound as ''a vehicle-emitted sound to enable pedestrians to discern vehicle presence, direction, location and operation.'' [84] Thus, in order for a vehicle to satisfy the requirement in the PSEA to provide an ''alert sound,'' the sound emitted by the vehicle must satisfy that definition. In addition to the critical operating conditions mentioned above, the agency believes that the definition of ''alert sound'' in the PSEA requires the agency to establish minimum sound requirements for when a vehicle is in a stationary but activated condition and while operating in reverse.

1. Stationary But Activated

It is NHTSA's position that the scenario in which the vehicle is stationary, but its starting system is activated [85] is a critical operating scenario because the definition of ''alert sound'' contained in the PSEA requires that a pedestrian be able to locate a nearby vehicle that is running; it is the agency's position that including this scenario satisfies that provision of the PSEA. Furthermore, sound provided by idling ICE vehicles is essential to assisting visually-impaired pedestrians in making safe travel decisions. Sounds made by vehicles that are stationary but activated address collisions between pedestrians and HVs and EVs starting from a stopped position.

The agency has concluded that the requirement in the PSEA that the alert sound required by the agency should allow pedestrians to ''discern vehicle presence, direction, location, and operation,'' [86] requires the agency to establish minimum sound requirements for the stationary but activated operating

[82] 40 CFR parts 201–211.

[83] Public Law 111–373, 124 Stat. 4086 (January 4, 2011).

[84] *Id.*

[85] This condition is commonly referred to as an ''idling'' vehicle for vehicles with internal combustion engines. However, the term ''idle'' technically refers to an engine state, not a vehicle state, and has no relevance to electric motors. The description used here ''stationary but activated'' means the vehicle is not moving, but its starting system is activated.

[86] Public Law 111–373, § 2(2), 124 Stat. 4086 (2011).

condition. As discussed in Section III of this notice, when read together the terms ''presence'' and ''operation'' in the definition of alert sound in PSEA require the agency to establish minimum sound requirements when the vehicle is stationary, but the starting system is activated.

As discussed in Section V of this notice, sound cues produced by idling ICE vehicles are critical for the safety of blind pedestrians. The sound produced by vehicles idling while waiting to pass through an intersection provides a reference to visually-impaired pedestrians so they are able to cross a street in a straight line and arrive safely at the other side. The reference provided by idling vehicles is especially important to provide auditory cues for visually-impaired pedestrians crossing streets at complex intersections where the streets intersect at non-perpendicular angles. The sound of vehicles idling on the far side of the street while waiting to pass through an intersection also provides visually-impaired pedestrians with a reference of how wide a street is so they can accurately gauge the amount of time needed to safely cross.

A sound emitted by an HV or EV when stationary but activated is analogous to the ICE vehicle idling and ensures that the responsibility to avoid a crash between a vehicle and a pedestrian is shared between the driver of the vehicle and the pedestrian by providing pedestrians with an acoustic cue that a vehicle may begin moving at any moment. While there are some scenarios in which a driver starting from stop should be able to see a pedestrian in front of the vehicle and thus avoid a crash, the driver may not always be able to be relied upon, especially in situations where the driver may have an obstructed view. A driver pulling out of a parking space in a parking lot is an example of a situation in which a driver might not be able to see a pedestrian and the pedestrian may step into the path of a vehicle just as the vehicle is beginning to move. If the pedestrian is able to hear the vehicle before it begins to move the pedestrian would be able to exercise caution and avoid a collision with the vehicle by not stepping in front of the vehicle.

In deciding to include a sound requirement for HVs and EVs at the stationary but activated condition, we also relied on the experiences of agency staff when attempting to navigate street crossings while blindfolded. NHTSA staff traveled to the national headquarters of the National Federation of the Blind in Baltimore, Maryland to receive training on white cane travel techniques used by individuals who are blind. The meeting included a class room session and a session in which the participants from NHTSA were blindfolded and trained on navigation using a white cane outside on city streets with blind and visually impaired individuals as guides. The participants from NHTSA attempted to navigate city streets and cross at non-signaled intersections while blindfolded. When approaching intersections, NHTSA staff found the sound of idling vehicles necessary for determining whether there was a vehicle present at the intersection and whether it was safe to cross.

Our October 2011 statistical report on the incidence rates of crashes between HVs and pedestrians [87] also supports stationary but activated as a critical operating scenario for pedestrians. The report shows six incidents of collisions when the vehicle was starting from a stopped position. While the difference in HV and ICE vehicle crashes with pedestrians for vehicles starting from a stopped position is not statistically significant, this can be partially attributed to the limited penetration of HVs in the fleet. There were no EV collisions with pedestrians documented in NHTSA's report because electric vehicles were not widely available in 2008, the last year for which data is available. Overall, EVs and HVs represent a small percentage of the total vehicle fleet and fully electric vehicles have yet to be introduced to the U.S. fleet in significant numbers. Therefore, the sample size of HVs represented in the State Data System, and the number of HV pedestrian collisions, remains extremely small. The limited available crash data does show that HVs have collided with pedestrians when starting from a stopped position even though the sample size is not large enough to prove a statistically significant incidence rate. The growing penetration of HVs and EVs into the vehicle fleet means that vehicle collisions with pedestrians when an HV or EV is starting from a stopped position represents a safety concern that is rising to a level of significance, for which the agency believes it is appropriate to require that vehicles provide adequate sound cues while stationary but activated. In passing the PSEA, Congress directed NHTSA to be proactive in addressing the risk to pedestrians posed by HVs and EVs. Congress did not intend for NHTSA to wait until crashes between pedestrians and HVs and EVs starting from a stop rise to the level where NHTSA has a data set that shows that a sound for the stationary but activated condition is needed.

The agency does not believe that establishing minimum sound requirements for EVs and HVs operating in the stationary but active condition will have any noticeable impact on ambient noise levels. As discussed in Section X.D, NHTSA has conducted an Environmental Assessment (EA) to analysis the environmental effects of this rulemaking. The EA shows that the difference in ambient sound levels if the agency issues minimum sound requirements for the stationary but active condition compared to if the agency did not require sound at that condition would be negligible.

The agency does not believe that there would be any incremental cost to requiring a sound at the stationary but active operating condition to a vehicle that is already equipped with an alert sound system. Rather, as with all other required operating scenarios, a vehicle with an alert sound system could be reconfigured to play a sound at the stationary but active condition through a simple software modification, which would not require any additional equipment to be installed on the vehicle.

In comments on the NOI and in meetings between representatives from various auto manufacturers and NHTSA staff, several manufacturers stated that the agency should not establish minimum sound requirements for the stationary but activated condition. These manufacturers do not believe there is a safety need for an alert sound when vehicles are stationary but activated. They were concerned that the sound of EVs and HVs standing in highway traffic and other scenarios in which pedestrians would not be expected to be present would unnecessarily contribute to increases in environmental noise impact.

Advocacy organizations for individuals who are blind or visually impaired believe that the agency should establish minimum sound requirements for the stationary but active condition. In meetings with agency rulemaking staff, representatives from NFB have stated that a sound at the stationary but active operating scenario is necessary for the safety of blind or visually impaired pedestrians in avoiding collisions with EVs and HVs operating at low speeds. Representatives from NFB stated that blind individuals exercise greater caution when they hear a nearby idling ICE vehicle because they know that the vehicle could begin moving at any moment. Representatives from NFB stated that a nearby vehicle that made no sound that could start

[87] See footnote 36.

moving at any moment presents a safety hazard to blind or visually impaired pedestrians because the vehicle could collide with a blind or visually impaired pedestrians without the pedestrian even knowing that the vehicle posed a danger to them. The agency believes that minimum sound levels for EVs and HVs operating when stationary but activated are necessary from a safety perspective for the reasons previously discussed. The agency believes that it is important to establish minimum sound requirements for the stationary but activated condition so that the sound will alert nearby pedestrians of the presence of a vehicle without unduly contributing to overall ambient noise levels. The agency believes that the safety interest in assisting pedestrians with detecting nearby vehicles and providing the visually-impaired with acoustic cues necessary to make safe travel decisions justifies establishing minimum sound level requirements for EVs and HVs operating when stationary but activated.

The agency acknowledges that with the technology under consideration today for adding sound to HVs and EVs, most vehicles that would be subject to this proposed rule (should it become final) will establish compliance by means of adding a sound generating system that includes at least one speaker. Requiring a sound at this condition may result in manufacturers adding speakers to some vehicles (for example motorcycles or some heavy vehicles) that may not otherwise need a speaker to meet the requirements of the other operating conditions in today's proposal (because the vehicle operation in those conditions makes enough sound without adding an artificial sound). However, we believe that the definition of alert sound in the PSEA requires the agency to establish minimum sound requirements for this condition. We seek comment on the number of vehicles to which this proposal would apply that would only require speakers to meet the acoustic requirements in this proposal at the stationary but active condition.

Also, the agency solicits comment on possible configurations of the alert sound that would lower or deactivate the alert sound in situations in which pedestrians would not be present. One of the methods proposed for mitigating the noise caused by stationary EVs and HVs would be to allow the vehicle to reduce or turn off its sound after the vehicle had been stationary for a period of five to ten minutes. The agency does not believe that a switch that would allow the driver to turn off the vehicle's sound is a viable option for controlling the noise impact of EVs and HVs when stationary but activated because the PSEA specifically forbids the agency from allowing the driver to deactivate the sound; in addition, the agency believes that allowing drivers to deactivate the sound would compromise pedestrian safety.

As an alternative to requiring a sound when the vehicle is activated but not moving, Mercedes-Benz USA, LLC (Mercedes) stated that the agency should instead include acoustic specifications for a ''commencing motion sound'' that would be activated as soon as the vehicle starts moving.[88] Mercedes stated that the specifications for such a sound should be the same as the specifications for the sound at 10 km/hr (6 mph). Mercedes stated that the sound pressure level of the ''commencing motion sound'' should be noticeably higher than the sound pressure level required for low speeds. Volkswagen Group of America, Inc. also stated that the agency should require a ''commencing motion sound'' instead of a sound when the vehicle is activated but stationary. We seek comment on whether requiring a ''commencing motion sound'' is as an effective approach to implementing the requirements in the PSEA that an alert sound allow pedestrians to discern the ''presence, direction, location and operation'' of the vehicle as establishing minimum sound requirements for when the vehicle is activated but stationary.

2. Reverse

The agency believes that reverse is a critical operating scenario for which the agency should issue minimum sound level requirements for HVs and EVs to provide acoustic cues to pedestrians to prevent pedestrian collisions and to satisfy the requirements of the PSEA. Requirements for the reverse operation of EVs and HVs will ensure that these vehicles provide sound cues to pedestrians so pedestrians will be able to avoid these vehicles when the vehicles are backing out of parking spaces or driveways.

Several manufacturers in meetings with NHTSA staff stated that minimum sound requirements for EVs and HVs operating in reverse were not necessary because the agency's proposed amendments to FMVSS No. 111, *Rear Visibility,* as required by the Cameron Gulbransen Kids Transportation Safety Act, would allow drivers to see pedestrians while backing and thus avoid collisions. NHTSA's proposed amendments to FMVSS No. 111, while intended to address vehicle collisions with pedestrians while backing, do not fully ensure that EVs and HVs will not experience higher rates of pedestrian collisions than ICE vehicles while backing. Establishing minimum sound level requirements for reverse operation will ensure that both the pedestrian and the driver continue to have the ability to avoid pedestrian vehicle collisions. If EVs and HVs do not produce audible sound levels during reverse operations, pedestrians, especially those who are blind and visually impaired, would not have the opportunity to avoid collisions with backing vehicles because they would not be able to tell that they are being threatened by a backing vehicle.

NHTSA's report on the incidence rates of crashes between HVs and pedestrians found 13 collisions with pedestrians when a HV is backing. The difference between the incidence rates of HVs involved in pedestrian crashes while backing and the incidence rate of ICE vehicles involved in pedestrian crashes while backing was not statistically significant. We do not believe that the lack of a statistically significant difference in incidence rates between ICE vehicles and HVs involved in pedestrian crashes while backing can be attributed to the absence of a safety problem related to a vehicle's noise level during this operating condition. As discussed above, the absence of a difference in the incidence rates in backup pedestrian crashes between ICE vehicles and HVs is, the agency believes, due to the low penetration of these vehicles into the fleet and the sample size of HVs and EVs in the State Data System. Also, backing incidents with pedestrians may tend to be underreported because they occur in parking lots, garages, and drive ways, as well as other ''off roadways'' that traditionally have not been captured by existing data collection systems.

NHTSA believes that the PSEA requires the agency to set minimum sound requirements for the backing scenario for the same reason that the agency believes that minimum sound requirements are necessary for the stationary but activated condition. The PSEA requires minimum sound level requirements promulgated by NHTSA to allow pedestrians to discern vehicle presence and operation. A vehicle moving in reverse is unquestionably operating, thus a minimum sound level is required for this condition.

The PSEA also requires that the minimum sound level requirements promulgated by NHTSA allow pedestrians to discern the direction of the vehicle. This language also indicates that the PSEA requires any standard to establish minimum sound requirements

[88] Docket No. NHTSA–2011–0148–0029.

for when the vehicle is operating in reverse.

3. Acceleration and Deceleration

Section 5 of the proposed regulatory text would ensure that sounds produced by EVs and HVs that meet the requirements of this proposal will allow pedestrians to determine when a vehicle is accelerating or decelerating. Pitch shifting is the sound characteristic that pedestrians currently associate with an accelerating vehicle based on the sounds produced by an ICE vehicle. The agency included requirements for pitch shifting in S5 to ensure that components of the sounds produced by EVs and HVs moved along the frequency spectrum in a manner similar to those of ICE vehicles as vehicle speed increases. Pitch shifting will also denote that the vehicle is decelerating. The sound pressure level in each one-third octave band required in S5 changes as speed increases, leading to an increasing overall sound pressure level that corresponds to the behavior of an ICE vehicle. Thus, in addition to the acoustic cues provided by pitch shifting, pedestrians will be able to tell if an EV or HV is accelerating or decelerating based on the increase or decrease in sound emitted from the vehicle, just as they would be able to in the case of an ICE vehicle.

The agency did not include a separate acoustic measurement procedure for acceleration and deceleration because we believe that the requirements for pitch shifting and the increase in overall sound level as the vehicle increases speed (or the decrease in sound level as the vehicle decelerates) will provide enough information so that pedestrians will be able to determine when EVs and HVs are accelerating and decelerating. The agency also decided not to include acoustic measurement procedures for acceleration and deceleration because of concerns about the feasibility of testing in these conditions. It is difficult for even an experienced test driver to repeatedly achieve and maintain a specific rate of acceleration or deceleration over the distance used in the proposed test procedure. Given the difficulty of ensuring repeatable results of an acoustic test measuring acceleration and the fact that information about changes in vehicle speed is provided by pitch shifting and increases and decreases in sound pressure level corresponding to changes in vehicle speed, NHTSA decided that the test procedure did not need to include a dynamic test for acceleration or deceleration.

4. Constant Speed

The agency is proposing to ensure that EVs and HVs produce a minimum sound level necessary for safe pedestrian detection at constant speeds by measuring vehicle sound output at 10 km/hr (6 mph), 20 km/hr (12 mph) and 30 km/hr (18 mph). The agency's proposal would ensure EVs and HVs produce sound that is sufficient to allow pedestrians to detect these vehicles at all speeds between 0 and 10 km/hr (6 mph), 10 km/hr (6 mph), 20 km/hr (12 mph), and 30 km/hr (18 mph) by requiring that the minimum sound levels be attained for all speeds between these test speeds. The proposal contains minimum acoustic requirements up to the speed of 30 km/hr (18 mph) because, for the reasons discussed in Section VII.E.3 of this notice, the agency believes that this is the appropriate cross over speed. Manufacturers have suggested in meetings with the agency that the test procedure for sound measurement should only specify a pass by test at 10 km/hr (6 mph) because, according to manufacturers, this is the speed at which the sound levels produced by ICE vehicles and EVs and HVs differ the most. The agency believes that it is necessary to include pass by tests at speeds up to and including the crossover speed to ensure that EVs and HVs meet the minimum sound level requirements for all speeds for which requirements are specified.

C. Application

1. The Definition of Hybrid Vehicle

The PSEA defines hybrid vehicle as a vehicle with more than one means of propulsion. The agency has concluded that the definition in the PSEA requires the agency to apply the standard only to hybrid vehicles that are capable of propulsion in any forward or reverse gear without the vehicle's ICE operating. Under the agency's interpretation of the definition of hybrid vehicle in the PSEA, more than one means of propulsion means more than one independent means of propulsion. This proposed definition of hybrid vehicle would exclude from the application of the proposed standard those vehicles that are equipped with an electric motor that runs in tandem with the vehicle's ICE to provide additional motive power when the vehicle is accelerating.[89]

Because the ICE is always running when these vehicles are in motion on hybrids that employ the electric engine to provide additional power when accelerating, the fact that these vehicles may not provide sufficient sound for pedestrians to detect them cannot be attributed to the vehicle's propulsion source. If a pedestrian cannot hear this type of vehicle it is because of the quietness of the vehicle's ICE. Therefore, we believe that it is most appropriate to address vehicles that are equipped with an electric motor that provides assistance to the ICE when the vehicle is accelerating in the report to Congress regarding the safety need to establish minimum sound requirements for quiet ICE vehicles required by the PSEA.

The agency would also like to note that the definition of ''hybrid vehicle'' in the PSEA is not limited to hybrid-electric vehicles. Thus, the standard would apply to hybrid vehicles that operate using hydraulic propulsion independently of the vehicle's ICE.

2. Vehicles With a GVWR Over 10,000 Pounds

NHTSA is proposing that the acoustic specifications in Section XIII apply to all hybrid and electric motor vehicles covered by the PSEA, including all hybrid and electric passenger cars, multipurpose vehicles, trucks, buses, low-speed vehicles and motorcycles.[90]

Across the entire fleet (ICE, hybrid, and electric vehicles included), heavy vehicles have a lower pedestrian crash rate than light vehicles (10,000 pounds and less). Only 0.3 percent of all heavy vehicle crashes involved pedestrians while 0.59 percent of all light vehicle crashes involve pedestrians. The pedestrian crash rate of heavy vehicles involved in low-speed maneuvers is also lower than that of light vehicles. Only 0.42 percent of all heavy vehicle crashes at low speeds involved pedestrians while 0.80 percent of all low speed light vehicle crashes involve pedestrians.

NHTSA was not able to determine a separate pedestrian crash rate for hybrid and electric heavy duty vehicles based on the data available in the State Data System. The sample of all crashes of hybrid and electric heavy vehicles in the State Data System is extremely limited and the State Data System did not, when it was examined, contain any incidents of hybrid or electric heavy vehicle pedestrian crashes. The agency

[89] The agency is aware that a vast majority of vehicles that are equipped with an electric motor to provide additional motive power when the vehicle is accelerating are equipped with idle-stop. For a discussion of why the agency has chosen not to require vehicles equipped with idle-stop that are not capable of propulsion by a means other than the vehicle's ICE to meet the minimum sound level requirements in this proposed standard see Section VII.C.5.

[90] The PSEA specifically excludes trailers from the scope of the required rulemaking.

believes that the lack of crash data on hybrid and electric heavy vehicles is due to the very low market penetration of these vehicles at the present time. Therefore, the agency attributes the lack of any hybrid or electric heavy vehicle pedestrian crashes not to the fact that these vehicles provide sufficient sounds levels to allow safe pedestrian detection but instead to the fact that these vehicles are not present in the fleet in any significant numbers. The agency believes that it is reasonable to assume that as hybrid and electric heavy vehicles achieve a higher penetration into the vehicle fleet that the difference between the crash rates for hybrid and electric heavy vehicles and ICE heavy vehicles will be similar to the difference in crash rates between light hybrid and electric vehicles and light ICE vehicles.

We note that the PSEA did not exclude vehicles with a GVWR over 10,000 pounds from the scope of the required rulemaking. We believe Congress intended the agency to be proactive in addressing the safety problem posed by quiet hybrid and electric heavy vehicles before hybrid and electric heavy vehicle pedestrian crashes begin to show up in crash data bases in significant numbers. In other words, through the passage of the PSEA, Congress has determined that there is a safety need for HVs and EVs of various sizes to produce a minimum sound level.

The agency recognizes that there are some challenges in including vehicles with GVWR over 10,000 lbs in the current rulemaking. The agency has not determined the extent to which hybrid heavy vehicles produce less sound than their traditional ICE peer vehicles. The agency also is not aware of the extent to which hybrid electric vehicles with a GVWR of over 10,000 lbs are capable of propulsion using only electric power without the ICE running.[91] Heavy vehicle manufacturers, in their comments on our NOI, stated that to the extent that heavy vehicles are not capable of propulsion solely by some means other than the vehicle's ICE, they should be exempt from the requirements of this proposal.

While the agency is today proposing to include heavy vehicles as part of this rulemaking, we note that the agency intends to conduct further research before issuing a final rule to determine the sound levels produced by heavy-duty hybrid and electric vehicles and to establish whether the sound requirements for light vehicles are also appropriate for heavy vehicles.

The agency is also aware of practical concerns about acoustic testing of heavy vehicles. The agency is aware that there are a limited number of noise pads necessary for vehicle acoustics testing that can accommodate heavy vehicles. We seek comment on whether it is necessary to test heavy vehicles on a noise pad meeting the requirements of ISO 10844, *Acoustics—Specification of test tracks for measuring noise emitted by road vehicles and their tires.* In the alternative the agency is considering specifying an acoustic testing surface for heavy vehicle testing that is based on a typical vehicle test track pavement.

The agency also has not validated whether the sound specifications that it has developed based on research conducted on light vehicles would provide appropriate countermeasure sounds for heavy-duty vehicles. We seek comment on this issue.

The agency is aware that many heavy and medium duty trucks are equipped with backup alarms to provide warning when the vehicle is backing. Because we do not want to require that these vehicles produce additional sound if they are already producing sound when backing, we would not require vehicles with a GVWR over 10,000 pounds to meet the acoustic specifications in S5.1.2 when backing. Instead, these vehicles would only be required to produce a sound with an overall sound pressure level of 52 A-weighted dB when backing. We seek comment on this issue. In addition, the agency also has yet to determine whether it is necessary from a safety perspective for pedestrians to differentiate light vehicles from heavy vehicles. The agency is aware, based on conversations with advocacy groups representing people that are visually-impaired, that a visually-impaired person may wait a longer amount of time than normal to cross a street after hearing a heavy truck pass in order to avoid colliding with a trailer that might be attached to the truck.

The agency also seeks comment regarding the appropriateness of limiting the application of this proposal to vehicles with a gross vehicle weight rating of 10,000 pounds and less.

Another regulatory option that the agency considered for heavy-duty HVs and EVs would require that these vehicles produce only a minimum sound pressure level rather than the full set of acoustic specifications in S5. Pending planned research on the sounds emitted by heavy vehicles, ICE, HV, and EV, the agency has tentatively concluded that applying the full acoustic specifications that the agency intends to apply to light vehicles to heavy vehicles would better fulfill the requirements of the PSEA.

3. Electric Motorcycles

The agency has tentatively concluded that the minimum sound level requirements in S5 proposed in this notice should apply to electric motorcycles (we are not aware of the existence of any hybrid motorcycles). Motorcycles are not specifically excluded by the PSEA. Also, the agency has yet to determine that these vehicles provide sound levels that are sufficient to allow pedestrians to detect these vehicles in time to avoid collisions.

Table 10 shows the number of collisions between motorcycles and pedestrians from 2000 until 2008. This data was obtained from the State Data System. Because the State Data System does not include any data regarding the power source used by motorcycles, the agency was not able to determine if the incidence rate of collisions between pedestrians and electric motorcycles is different between the incidence rate of collisions between pedestrians and motorcycles with ICEs.

[91] In its comments to the Notice of Intent to Prepare an Environmental Assessment (NOI) that the agency issued to solicit comments on the environmental consequence of this rulemaking, Hino Motors, Ltd. stated that it is planning on introducing a heavy-duty hybrid truck that is capable of propulsion using only the electric motor. Hino, however, stated that even when the truck is being propelled by the electric motor the ICE will remain on in order to power auxiliary systems. Comment of Hino Motors Ltd. *available at www.regulations.gov*, Docket No. NHTSA–2011–0100–0015.

TABLE 10—PRELIMINARY RESULTS OF MOTORCYCLE CRASHES

[16 States during 2000–08]

	Backing entering/exit parking spots, turning, starting, and slowing	Straight moving and other normal speeds	Total
Pedestrian crashes	55	438	493
Other crashes and missing data	20,669	90,371	111,040
Total	20,724	90,809	111,533

As with heavy-duty vehicles, there are challenges in establishing minimum sound levels for electric motorcycles in this rulemaking. The agency has not determined the extent to which electric motorcycles have a greater risk of collisions with pedestrians than motorcycles with ICEs or the extent to which electric motorcycles are quieter than ICE motorcycles of the same type. The agency has not measured any motorcycles according to the procedures contained in this proposal so the agency has yet to determine whether the measurement procedure used to measure sound emitted by 4-wheeled vehicles would be appropriate for motorcycles.

BMW of North America, LLC (BMW), in its comments on the NOI (discussed in Section VI.G. above), submitted crash data on incidents of motorcycle collisions with pedestrians. BMW stated that based on the number of crashes between motorcycles and pedestrians and the percentage of pedestrian crashes involving motorcycles, there is no safety need for minimum sound requirements for electric motorcycles. BMW cited several different sources of data to illustrate the low rates of crashes between motorcycles and pedestrians. 2009 statistics from the New York Department of Motor Vehicles show that approximately 0.4 percent of pedestrian/motor vehicle collisions involved motorcycles.[92] Data from the FARS for the period between 2005 and 2009 shows that only 0.7 percent of the pedestrian fatalities during that period involved motorcycles colliding with pedestrians. Data from the NHTSA's General Estimates System (GES) for the same time period shows that 1.07 percent of the pedestrians injured in motor vehicle crashes were injured in crashes involving motorcycles.

Both BMW and the Motorcycle Industry Council (MIC) stated that because of unique attributes of motorcycles, there is no safety need for NHTSA to establish minimum sound levels for electric motorcycles. According to MIC and BMW, motorcycle riders are able to better see and avoid pedestrians than automobile drivers because their view is unobstructed by pillars and sun visors and they are more alert because they themselves are vulnerable road users. BMW and MIC maintained that because motorcycles are unstable at low speeds, riders are required to maintain a high level of alertness, which minimizes the likelihood of collisions with pedestrians during low speed maneuvers.

Both BMW and MIC stated that adding a speaker system to a motorcycle could involve technical challenges not present for other vehicles. MIC and BMW claimed that it would be more difficult to add a speaker to a motorcycle than a passenger car because there is less space available on a motorcycle for a speaker system, the weight of the system would be a larger percentage of the vehicle's weight, which could affect low-speed stability, energy consumption by the speaker system would have a greater impact on a vehicle's range, and the price of installing the system would be higher than that for other vehicles. MIC and BMW also claimed that electric motorcycles should not be subject to the minimum sound level requirements in this proposal because electric motorcycles are not quiet.[93]

The agency acknowledges that establishing minimum sound requirements for electric motorcycles raises unique issues that are not present for other light vehicles. The agency, however, notes that because this proposal is technology neutral, it would be possible for electric motorcycles to meet the requirements of this proposal without the use of a speaker system. The agency seeks comment on whether the minimum sound level requirements in this proposal should apply to electric motorcycles. The agency seeks comment on the crash risk to pedestrians and pedalcyclists posed by electric motorcycles and the cost of the proposal as applied to these vehicles.

4. Low-Speed Vehicles

The agency has tentatively concluded that low-speed vehicles (LSVs) must meet the requirements in this proposal. While the agency expects that LSVs that run via an electric motor are extremely quiet, the agency has not conducted any acoustic measurements of these vehicles to determine the amount of sound they produce. The agency has very limited real-world data on crashes involving LSVs so the rate at which these vehicles are involved in pedestrian collisions is unknown. The agency has not yet determined the extent to which minimum sound levels developed for light vehicles would be appropriate for LSVs. The agency seeks comment on whether the requirements in this proposal should apply to LSVs.

5. Quiet ICE Vehicles

The agency does not intend to require a minimum sound level for quiet ICE vehicles in this rulemaking. The agency is aware that, similar to HVs and EVs, some ICE vehicles may pose a risk to pedestrians because of the low level of sound that they produce when operating at low speeds. The PSEA requires the agency to study and report to Congress whether there is a need for the agency to apply the minimum sound requirement established for HVs and EVs to ICE vehicles so that these vehicles can be readily detected by pedestrians. If, after the study, the agency determines that there is a safety need to apply these minimum sound requirements to quiet ICE vehicles, NHTSA is required to initiate a rulemaking to do so. The agency is also aware that many manufacturers intend

[92] BMW's comments on the NOI. *Available at, www.regulations.gov*, Docket No. NHTSA–2011–0100–0020.

[93] MIC submitted measurements of overall sound pressure level of two electric vehicle models recorded at 8 km/hr (5 mph) and 16 km/hr (10 mph) in its comments to the NOI. MIC did not provide any measurements of overall sound pressure level for ICE motorcycles as a comparison. *Available at, www.regulations.gov*, Docket No. NHTSA–2011–0100–0028.

to make idle stop technology available on ICE vehicles in the near future.[94] The agency realizes that the introduction of ICE vehicles equipped with idle stop means that there will be ICE vehicles that will be effectively silent when the vehicle is not moving. While the agency does not propose, in this rulemaking, to require that ICE vehicles equipped with idle stop produce a minimum sound level while at idle, the agency plans to consider whether vehicles equipped with idle stop have a greater risk of collision with pedestrians than vehicles that produce a sound at idle with an eye toward a rulemaking in the future to address this issue.

D. Requirements

The agency's preferred method for establishing minimum sound requirements for EVs and HVs uses a detectability model to determine the sound that the vehicle needs to produce to allow pedestrians to detect the vehicle at a given distance. The sounds that meet the minimum requirements using the detection model would be similar to those described in Alternative 4 in the NOI.

1. Acoustic Parameters Designed According to a Detectability Model

The two critical aspects of the minimum sound level requirements in this proposed approach are that the sound be detectable and recognizable. This approach addresses the detectability aspect of the minimum sound level requirements by determining the sound specifications needed for a pedestrian to detect a vehicle at a safe distance and by examining the typical ambient sound profile to determine which one-third octave bands contribute the most to a pedestrian's ability to detect vehicles.[95] This proposal addresses the pedestrian recognition aspect of the minimum sound requirements by insuring that the sound has aspects that allow pedestrians to recognize the sound as being produced by a motor vehicle and by allowing the pedestrian to recognize the mode of operation of the vehicle.

The agency developed the minimum detectability requirements for HVs and EVs by first determining the distance at which a pedestrian would need to hear a vehicle in order to make a decision about whether it was safe to cross the street. Thus, the distance at which a pedestrian would need to hear a vehicle is at least as long as the vehicle's stopping distance. At distances shorter than a vehicle's stopping distance the pedestrian must be able to hear the vehicle, otherwise a situation might develop in which the pedestrian steps off the curb (because s/he cannot hear the vehicle) and the driver of the vehicle would be unable to stop the vehicle in time to avoid a collision with the pedestrian.

The agency set the distance at which it believes that the pedestrian should be able to hear an approaching HV or EV, also referred to as the detection distance, using stopping sight distances computed from the guide on highway design[96] of the American Association of State Highway Transportation Officials (AASHTO). Stopping sight distance is the distance that enables a vehicle traveling at or near the design speed to stop before reaching an object in its path. The stopping sight distance is the sum of the *driver reaction distance* and the *braking distance.* The driver reaction distance is the distance traveled by a vehicle from the instant the object becomes visible to the driver to the instant the driver applies the brakes. The braking distance is the distance needed to stop the vehicle once the driver applies the brakes. The sight distance for a vehicle traveling at the design speed and on a level road can be computed with the following formula:

$$d = 0.278Vt + 0.039\,\frac{V^2}{a}\ (meters)$$

Where:

t = brake reaction time, s

V = design speed, km/hr

a = deceleration rate, m/s^2

Drivers typically brake at an average emergency deceleration of about 5.4 m/s^2 on dry roads. A comfortable deceleration for most drivers braking on wet surfaces is 3.4 m/s^2. Drivers' expectation plays a role in driver reaction time. Mean reaction time to unexpected, but common, events is about 1.25 seconds. Mean reaction time for surprise events, such as an object suddenly moving into the drivers' path is about 1.5 seconds. A longer reaction time, of 2.5 seconds would consider the capabilities of almost all drivers, including older drivers and distracted drivers.

The values used as the basis for this proposal are 5.4 m/s^2 for deceleration and 1.5 seconds for brake reaction time. We chose the 5.4 m/s^2 deceleration rate corresponding to dry pavement braking because most of the pedestrian crashes that the agency identified occurred in clear conditions[97] and the slower deceleration rate for wet pavement, we believe, would result in a sound profile that is unnecessarily loud for most conditions. The agency believes that 1.5 seconds is an appropriate value to use for driver reaction time (to stopped objects) because this represents the reaction time of most drivers for surprise events.[98]

Based on calculations using these values, the agency determined that the desired detection distances were 2 meters in front of the vehicle for stationary but activated, 5 m in front of the vehicle for the 10 km/hr (6 mph) pass by, 11 m for the 20 km/h (12 mph) pass-by operation, and 19 m for 30 km/h (18 mph) pass-by operation. The results of this computation were rounded up to the nearest meter. Levels were increased by 0.5 dB to provide a small safety factor and rounded to the nearest integer for simplicity. This small increase was deemed sufficient due to other conservative aspects of the estimation, *e.g.* multiple detection opportunities due to the multiple components. The agency solicits comment on the appropriateness of a 1.5 second reaction time and 5.4 m/s^2 declaration rate in determining the desired detection distances.

Due to a variety of factors that affect the manner in which sound moves through an environment, it is not practical to measure sound with the specificity that the agency desires from the distances at which pedestrians need to be able to detect the sound. Atmospheric absorption, ground conditions and divergence of sound all affect sound measurements conducted at distances greater than the two meters specified in SAE J2889–1. Acoustic measurements conducted at distances greater than two meters are not able to accurately record a sound's frequency profile at the one-third octave band level. Furthermore, because of attenuation, a sound's decibel level decreases the further a measurement is taken from the sound source. At the detection distances that the agency

[94] Vehicles equipped with an idle stop function shut down or slow the vehicle's engine when the vehicle comes to a stop. Because the vehicle's engine shuts off, the vehicle is no longer providing any acoustic cues to pedestrians to indicate its presence.

[95] The agency's research to develop the minimum specifications for alert sounds for hybrid and electric vehicles is discussed in greater detail in the agency's report ''Research on Minimum Sound Specifications for Hybrid and Electric Vehicles.''. Available at Docket No. NHTSA–2011–0148–0048.

[96] American Association of State Highway and Transportation Officials, *A Policy on Geometric Design of Highways and Streets,* Chapter 3 Elements of Design (2004).

[97] See footnote 5.

[98] Green (2000) How Long Does It Take to Stop? Methodological Analysis of Driver Perception-Brake Times.'' Transportation Human Factors 2(3) 195–216.

believes are necessary for pedestrians to be able to hear vehicles, the sound pressure level sounds produced by vehicles begin to approach the ambient. As the sound pressure level begins to approach that of the ambient sound level, it is more difficult to measure the frequency composition of the sound. Based on the factors discussed above, the agency determined that the best approach for determining the minimum sound level HVs and EVs need to produce to ensure safe detectability would be to determine what the sound level would need to be at two meters from the vehicle in order to allow the pedestrian to hear the sound at the desired detection distance.

Using the method below, it is possible to determine what the sound levels of the vehicle will need to be at a distance of two meters from the vehicle so that pedestrians will be able to detect the sound at the desired detection distance. The table below depicts how the sound produced by the vehicle attenuates when measured using the procedure in SAE J2889–1.

TABLE 11—COMPUTATION OF ADJUSTMENT OF SPL (A-WEIGHTED dB) FROM SOURCE TO SAE MICROPHONE LOCATION

Speed, km/hr	10	20	30
X source, meters	5	11	19
Y source,* meters	2	2	2
r0,** meters	2.3	2.3	2.3
r1,** meters	5.5	11.2	19.1
r doubling	1.2	2.3	3.0
Attenuation, dB	−6.0	−12.2	−16.8

* Assume effective source is at center of vehicle since propagation is forward.
** Assume Z = 1.2.

X represents the distance from the source while Y is the distance from the source to the microphones in SAE J2889–1. Z represents the height of the microphone in meters specified in SAE J2889–1. The values in the Table 11, above, were calculated using the formula below assuming a 1.2 meters value for Z.

$$r_0 = \sqrt{y^2 + z^2}$$

$$r_1 = \sqrt{x^2 + y^2 + z^2}$$

$$r_{doubling} = \log_{10} \frac{\frac{r_1}{r_0}}{\log_{10}(2)}$$

$$Attenuation = -6 \times r_{doubling}\ dB$$

A critical factor for establishing a minimum sound for pedestrians based on a desired detection distance is the ambient noise environment in which the pedestrian is attempting to detect the vehicle. The agency selected an ambient of 55 A-weighted dB to develop the minimum sound level specifications. The agency choose an ambient sound pressure level of 55 A-weighted dB because that is a level representative of a moderate suburban ambient where pedestrians would be expected to be able to detect vehicles based on hearing alone. In conversations with the agency during Phase 1 research, visually-impaired individuals indicated that in noisier suburban ambient conditions, they would not try to cross streets unassisted. The ambient levels that the agency measured during Phase 1 research for which visually-impaired pedestrians would be expected to cross using hearing alone were 49.5 A-weighted dB and 49.8 A-weighted dB.

In selecting an ambient at which the agency expects that pedestrians should be able to detect an approaching vehicle using their hearing, the agency relied on recommendations for quiet vehicle alert sound specifications developed by Danish acoustics experts.[99] In developing the recommendations the Danish researchers measured different ambient levels around Copenhagen. The ambient levels in residential areas where pedestrians would be expected to detect an approaching vehicle using their hearing was 55 A-weighted dB.

In a presentation to NHTSA staff, Honda Motor Company (Honda) stated that the ambient at which pedestrians would reasonably be able to detect vehicles using hearing alone is around 52.5 A-weighted dB.[100] Honda based this conclusion on a human factors approach in which recordings of three different ambient sound levels (quiet residential, moderate suburban, and urban) were played and participants were asked whether they would rely on hearing alone to detect an approaching vehicle. While the study did not include any visually-impaired participants, the agency agrees that pedestrians—those that are visually impaired and others that are not—could not be reasonably expected to detect approaching vehicles in ambient conditions near 60 A-weighted dB.

The agency believes that a 55 A-weighted dB ambient represents a reasonable level below the 60 A-weighted dB ambient (in which pedestrians would no longer be able to reasonably rely on hearing to detect approaching vehicles).

The spectral distribution of the ambient is another factor that affects the detectability of an alerting sound. Tonal components of an alerting sound in portions of the ambient spectrum that are not strong contribute to detectability. Using a loudness model and synthetic ambient that represent a typical urban ambient profile in which a pedestrian would be attempting to detect a vehicle, the agency developed minimum sound level requirements for selected one-third octave bands.

In order to aid pedestrian detection and recognition of sounds produced by EVs and HVs, the agency has tentatively concluded that the sound level produced by a vehicle will increase with an increase in vehicle speed. The agency has two goals in increasing the vehicle's sound level as the vehicle increases speed. First, increasing the vehicle's sound level as the vehicle increases speed will allow pedestrians to detect the vehicle from a greater distance to correspond to the vehicle's increased sight stopping distance at higher speeds and the greater distance necessary to stop the vehicle. Second, ICE vehicles produce increasing sound levels as they accelerate so the sound produced by HVs and EVs will mimic the behavior of ICE sounds to enhance recognition.

In developing the acoustic specifications in this proposal, the agency considered one-third octave bands from 160 Hz to 5000 Hz. When all one-third octave bands from 160 Hz to 5000 Hz are set to a minimum audible level, it can be demonstrated that, relative to the overall sound level, some

[99] Pedersen *et al.* White Paper on External Sounds of Electric Cars-Guidelines and Recommendations. *Available at http://media.wix.com/ugd/64a49a_43313ad70e7c40f43150cf747b2e5c44.pdf?dn=A520040+-+DSTN+-+White+paper+electric+cars+-+av122410+-+ECT+LR.pdf.*

[100] The Presentation that Honda gave at the meeting is available on regulations.gov. Docket No. NHTSA–2011–0100–0038.

bands are less efficient at providing a detectable signal. That is, bands below 315 Hz and bands from 630 to 1600 Hz increase the overall levels more for the same contribution to detection. The levels of these bands are indicated by arrows in Figure 3. The arrows in the figure point to the regions of the spectrum that are most effective for warning sounds, *i.e.,* those where the threshold is not too high and the ambient is not too high to mask sounds at the threshold.

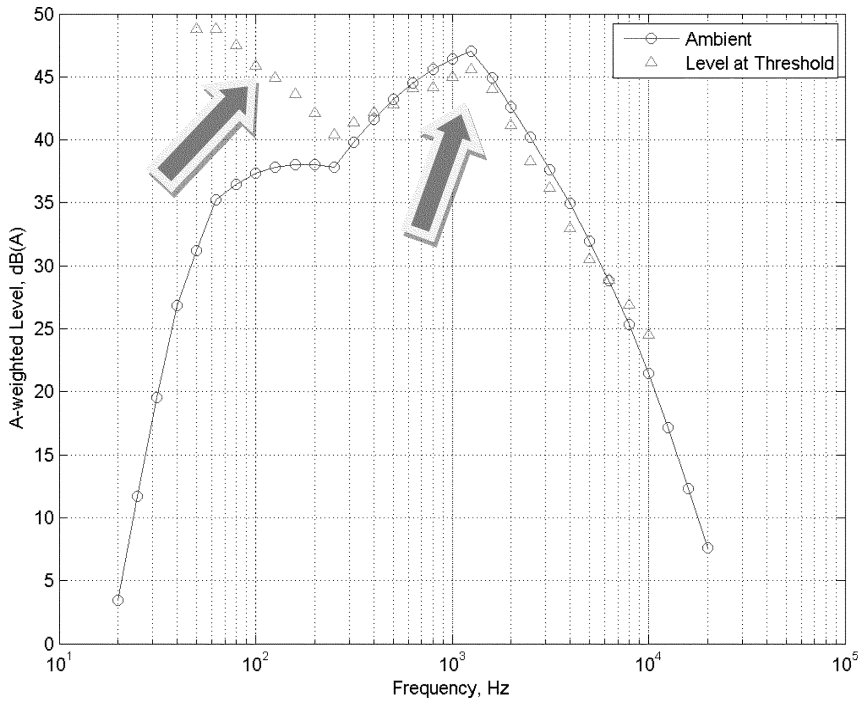

Figure 3. A-weighted Levels at Threshold

Due to masking effects of the ambient and potential hearing loss of the pedestrian, opportunities for detection will be maximized if the countermeasure signal contains detectable components over a wide frequency range; therefore, a minimum level is proposed for a set of one-third octave bands that includes mid-frequency one-third octave bands (315, 400, and 500 Hz) as well as high frequency one-third octave bands (2000, 2500, 3150, 4000, and 5000 Hz). Low frequency bands (below 315 Hz) were not considered due to the expected strong masking effects of the ambient at low frequencies. The agency chose these one-third octave bands because these bands contributed the most to detection without increasing the overall levels of the sound. Specifying minimum sound pressure level requirements for a wide range of one-third octave bands means that sounds meeting the specifications will be detected in a wider range of ambient conditions with different acoustic profiles. Specifications for the mid-range frequency bands between 315 and 500 Hz will assist pedestrians in detecting HVs and EVs in ambient noise environments such as areas near construction activity with a significant degree of high frequency signal content. Low-frequency bands (below 315 Hz) are omitted because they do not contribute to detection and the likelihood that many practical countermeasure devices may not be able to produce high level, low-frequency sounds.

In consideration of community noise impact, the agency omitted mid-frequency bands from 630 to 1600 Hz from the acoustic specifications because, for the ambient considered, these bands contributed more to the overall sound level than other bands for the same increase in detectability. By omitting minimum sound level requirements for the one-third octave bands in the 630 to 1600 Hz frequency range, the agency is able to ensure that the alert sounds allow pedestrians to safely detect nearby EVs and HVs without contributing unnecessarily to an increase in overall ambient noise levels.

Table 12 shows the one-third octave band frequency requirements for vehicle emitted sounds for all of the test conditions in S7 of the proposed regulatory text.

TABLE 12—MINIMUM SOUND LEVELS FOR DETECTION

One-third octave band center frequency, Hz	Stationary but activated	Backing	10 km/h	20 km/h	30 km/h
315	42	45	48	54	59
400	43	46	49	55	59
500	43	46	49	56	60
2000	42	45	48	54	58
2500	39	42	45	51	56

TABLE 12—MINIMUM SOUND LEVELS FOR DETECTION—Continued

One-third octave band center frequency, Hz	Stationary but activated	Backing	10 km/h	20 km/h	30 km/h
3150	37	40	43	49	53
4000	34	36	39	46	50
5000	31	34	37	43	48
Overall A-weighted SPL Measured at SAE J2889–1 PP' line	49	52	55	62	66

The agency is not including requirements for overall sound pressure level in the proposed standard. Because each one-third octave band contributes to the overall sound pressure level of a sound it is possible to determine what the sound pressure level of sounds meeting the requirements of Table 12 would be. The overall sound pressure level of sounds meeting the requirements for each one-third octave band listed in Table 12 would be 49 A-weighted dB when is in the stationary condition, 52 A-weighted dB when backing, 55 A-weighted dB at 10 km/hr (6 mph), 62 A-weighted dB at 20 km/hr (12 mph), and 66 A-weighted dB at 30 km/hr (18 mph).

The agency has tentatively concluded that the sound emitted by EVs and HVs must meet the minimum sound pressure level requirements for every one-third octave band listed in Table 12. The agency chose to require sounds emitted by EVs and HVs to meet minimum sound pressure level requirements for all of the one-third octave bands listed in Table 12 because these one-third octave bands all contribute to pedestrians' ability to detect these sounds. The agency realizes that requiring HVs and EVs to emit sounds meeting the minimum sound level requirements for every one-third octave band listed in Table 12 would make these vehicles more detectable than current ICE vehicles for some ambient noise environments. A majority of the ICE vehicles tested during the agency's Phase 2 and Phase 3 research would not meet the requirements in Table 12 for the one-third octave bands below 2000 Hz.[101] While these vehicles did not meet all of the one-third octave band specifications in Table 12, these vehicles were still considered to be detectable under the agency's detection model. The agency's detection model considers a vehicle to be detectable if it exceeds the minimum sound pressure levels listed in Table 12 for any single one-third octave band. A majority of the ICE vehicles tested by the agency were detectable in at least two one-third octave bands for the 10 km/hr (6 mph) pass by test. Even though the agency's detection model would consider a vehicle to be detectable if it meets one of the one-third octave bands levels in Table 12, requiring a sound to meet the minimum levels in more than one one-third octave band increases the likelihood that sound will be detectable in a wider range of ambient noise conditions. The agency's detection model was created using a specific ambient. While the ambient noise profile used with the agency's detection model is typical of ambient environments in which pedestrians would generally be attempting to detect HVs and EVs, requiring sounds emitted by these vehicles to meet all the one-third octave bands in Table 12 would increase the chance that these vehicles will be detectable in ambient noise environments different from the one used in the loudness model.

The fact that ICE vehicles also produce sound in one-third octave bands outside those listed in Table 12—which may contribute to the detectability of these vehicles—makes it difficult to compare sounds produced by ICE vehicles with specifications for synthetic sounds to be emitted by HVs and EVs. Because the sounds produced by ICE vehicles include signal content in a far broader range of frequencies than listed in Table 12, we believe the proposed minimum one third-octave band requirements represent a reasonable approach to ensure that HVs and EVs are at least as detectable as ICEs. The specifications in Table 12 were developed so that the synthetically generated sounds that manufacturers add to vehicles to meet the requirements of this standard would be detectable, recognizable, and would not contribute to noise pollution.

The agency believes that requiring EVs and HVs to produce sounds meeting the acoustic requirements in Table 12 will reduce the risk of crashes between EVs and HVs and pedestrians to same risk level of crashes between ICE vehicles and pedestrians. Numerous studies by motor vehicle manufacturers and academics have found that sound, or lack thereof, influences pedestrians' decisions about when to cross a street. The agency's Phase 2 research showed that sounds with certain acoustic characteristics were at least as detectable to the study participants as the sound produced by ICE vehicles. Some studies have shown that sounds designed using psychoacoustic principals are more detectable than the sounds produced by ICE vehicles.[102] To date no studies have linked the increase in the detectability of a sound to a reduction in the risk of crashes between EVs and HVs and pedestrians.

The agency believes that sounds meeting the requirements in Table 12 will be as detectable as an ICE vehicle. If the sound produced by EVs and HVs is detectable to pedestrians, they will be able to respond to the presence of a vehicle thereby avoiding a collision. The agency plans to conduct additional research before issuing a final rule to confirm that sounds meeting the requirements in Table 12 will be detectable at the distances predicted in the detection model. We seek comment to improve the specifications in Table 12 to make the sounds more detectable and to increase the effectiveness of the specifications in reducing collisions between EVs and HVs and pedestrians.

Requiring EVs and HVs to emit sound meeting the minimum levels in every one-third octave band in Table 12 will also enhance pedestrians' ability to recognize the sounds emitted by EVs and HVs because pedestrians associate low-frequency signal content with ICE vehicles.

For the reasons discussed above, as an alternative to requiring EVs and HVs to meet the minimums for every one-third octave band listed in Table 12 the agency seeks comment on requiring these vehicles to emit sounds that meet only the one-third octave band requirements for 2000 Hz and above. The one-third octave band levels in

[101] The agency notes that the acoustic specifications in Table 12 would not necessarily be an appropriate method for determining whether ICE vehicles are detectable. While the agency intends this proposal to be technology neutral, the agency recognizes that at least for vehicles that are capable of electric only propulsion, manufacturers will have to add some sound to the vehicle in order to comply with this standard.

[102] NHTSA–2011–0148–0025, *available at www.regulations.gov.*

Table 12 represent a conservative approach, from a safety perspective, to determining the sound level that an HV or EV would need to make in order to allow a pedestrian to detect the vehicle from a desired safe detection distance. Thus, it is possible that pedestrians may be able to hear these vehicles at distances farther than predicted by the agency's model. The agency plans to conduct additional research before issuing a final rule to validate the assumptions relied upon in determining the sound levels contained in Table 12. We are seeking comment on the number of bands that should contain minimum sound level requirements and what those minimum sound level requirements should be, if the agency chooses to restrict the number of one-third bands for which we would require a minimum sound pressure level. Along with comments on the specifications in Table 12, the agency is seeking recordings of sounds that manufacturers may wish to add to EV and HV vehicles. The agency plans to analyze any recordings submitted in response to this proposal along with other recordings made during further research in finalizing the acoustic performance requirements for the alert sound. For more information about submitting recordings to the agency along with comments please see the instructions for public participation in Section XII of this proposal.

The agency seeks comment of the possibility of allowing light hybrid and electric vehicles to meet the minimum sound requirements for the backing scenario with a beeping sound similar to the sound made by a backing truck. The agency has yet to determine that a backup beeping sound would be appropriate for light vehicles because this sound is normally associated with backing heavy vehicles and thus many not be recognizable as light motor vehicle. The agency also seeks comment on whether such a sound would be annoying to the public.

The agency is also seeking comment on whether we should establish a maximum sound level requirement in addition to the minimum sound level requirements contained in this proposal. The PSEA directs NHTSA to ''consider the overall community noise impact'' of the specifications contained in this proposal.[103] One way that the agency could address the overall community noise impact of this proposal would be to establish maximum sound levels for hybrid and electric vehicles. We seek comment on what the maximum levels should be were they to be included in the final rule.

The agency notes that motor vehicle manufacturers attempt to limit the noise emissions of their vehicles in response to customer preferences. The agency believes that manufacturers will limit the sound output of hybrid and electric vehicles so as not to increase the sound output of these vehicles beyond the minimum levels contained in this proposal. The agency is hesitant to establish maximum sound levels because we do not wish to increase the complexity of compliance with the standard by establish tolerances that manufacturers must meet.

In October, 2012, representatives from Nissan Motor Co., Ltd. (Nissan) presented results of the company's research to agency rulemaking staff. Nissan conducted a survey to gauge costumer acceptance of the sounds currently emitted by the Nissan Leaf. Nissan also conducted a study to evaluate the detectability of different sounds. Nissan interviewed blind pedestrians to ask them when they believed a sound at idle would and would not be useful.

In November, 2012, Ford Motor Company (Ford) met with agency rulemaking staff to present the results of human factors research conducted by the company. The experiment included both blind and sighted participants. During the experiment the participants were presented recordings of various sounds approaching either from the right or from the left. The participants were asked to identify when they heard the sound and then asked to identify the direction from which the sound was approaching. Ford compared the participants' ability to detect the sounds to the detection distances discussed in the agency's report on sound specifications for hybrid and electric vehicles.[104]

2. Recognizability Requirements

The recognizability approach analyzes the sounds produced by ICE vehicles and sets the acoustic requirements for HVs and EVs so that they would contain acoustic characteristics similar to the sounds that pedestrians associate with current ICE vehicles.

While the agency believes that the mid-range frequency specifications in Table 12 will contribute to pedestrians' ability to recognize the sounds as being produced by a motor vehicle, we believe that the requirements for low-frequency broadband and low-frequency tones in the agency's recognizability requirements adequately ensure that pedestrians will be able to recognize these sounds. Further, the low-frequency components in many ICE sounds may be masked by the ambient level chosen for our model. However, this low-frequency content contributes to recognition because it is associated with the sound perceived by the pedestrian in lower ambients and that association is remembered. Therefore, this low-frequency content does not need to be detectable in every ambient to contribute to the recognizability of a sound. Consistent with the assumption that ICE vehicles are recognizable, low frequency content of alert sounds for HVs and EVs does not need to be detectable in the 55 dB ambient to ensure that these vehicles can be recognized by pedestrians.

Recognition includes two aspects: (1) recognition that the sound is emanating from a motor vehicle that may pose a safety risk to the pedestrian, and (2) recognition of the vehicle's operating mode (acceleration, deceleration, constant speed, reverse or stationary but activated) so that the pedestrian can take appropriate measures to avoid a collision with the vehicle. Sounds that contain both broadband noise and tones can produce sounds that are recognized as vehicles. Sounds that contain only high frequencies have a synthetic (and unpleasant) character. Sounds with lower frequency tones and noise sound more like the sounds typically associated with a conventional (ICE) motor vehicle.

While the one-third octave band requirements listed in Table 12 include some requirements for lower frequency signal content for vehicle emitted sounds, low frequency tones are necessary to provide additional cues to allow pedestrians to recognize these sounds. Tones are not necessary to achieve a certain sound pressure level in a one-third octave band. A vehicle-emitted sound would be able to meet a minimum sound pressure level requirement for a one-third octave band if it contained broadband noise at a high enough level. In addition to the detectability requirements in Table 12, our proposal requires that the lowest tone of the vehicle emitted sound must have a frequency not greater than 400 Hz. Low-frequency tones are the tones that contribute the most to recognizability so tones less than 2000 Hz contribute to recognition while tones above 2000 Hz contribute to detection. ICE vehicles produce low, mid, and high-frequency tones. The lowest frequencies are related to the

[103] Public Law 111–373, § 3(b)(3), 124 Stat. 4086 (2011).

[104] *See* Hastings *et al.* (2012) ''Research on Minimum Sound Specifications for Hybrid and Electric Vehicles.'' U.S. Dept. of Transportation, Washington, DC. Available at Docket No. NHTSA–2011–0148–0048.

combustion frequency of the engine. The low frequency components contribute to the perceived power of the vehicle. Low-frequency tones in simulated sounds will contribute the most to recognition because these are closer in frequency to the low order harmonics of the engine fundamental.

The agency is also proposing a general requirement for broadband noise in the requirements designed to ensure that EV and HV emitted sounds are recognizable. Sounds produced by current ICE vehicles are broadband in nature, meaning that the sounds have some minimal signal content across a wide part of the frequency spectrum. Also, it is easier for a pedestrian to tell which direction a sound is coming from if the sound contains broadband characteristics. (Broadband sounds are also easier for pedestrians to localize than narrow band sounds.) In order for sounds emitted by EVs and HVs to provide sufficient broadband content to allow pedestrians to recognize these sounds as being produced by a motor vehicle, the agency is proposing to require these sounds to have some measurable content in each one-third octave band from 160 Hz to 5000 Hz. This means that sounds emitted by EVs and HVs are required to possess some acoustic signal content above 0 A-weighted dB at all frequencies in the one-third octave bands between 160 Hz to 5000 Hz.

In the event that the agency decides to only require minimum sound pressure levels in Table 12 for the one-third octave bands of 2000 Hz and above, the agency would retain requirements for broadband signal content in the one-third octave bands between 315 Hz and 500 Hz to ensure that the sound retained aspects that contribute to recognizability. In order to ensure that the sounds produced by EVs and HVs are recognizable to pedestrians, the agency is proposing some minimum low frequency signal content. In the event that the agency decides to limit the requirements in Table 12 to one-third octave bands above 2000 Hz, sounds produced by HVs and EVs would be required to emit a sound with a sound pressure level of 30 A-weighted dB in the one-third octave bands between 315 Hz and 500 Hz. The 30 A-weighted dB level corresponds to the one-third band levels measured for a quiet urban ambient during the agency's Phase 2 research. The agency would not expect this signal content to be detectable in the 55 dB ambient; it would only be present to assist pedestrians in recognizing the sound. The agency seeks comment on the minimum sound pressure levels of low frequency content that should be included in the agency's recognizability requirements.

The agency recognizes that the speakers that manufacturers may wish to use on EVs and HVs to meet the minimum sound requirements contained in this proposal may not be able to produce tones as low as 160 Hz. The agency believes that most of the speakers that manufacturers wish to use will be capable of producing at least some signal content in the 160 Hz one-third octave band. The agency solicits comment on the issue of whether speakers that manufacturers may wish to use to meet the requirements of this proposal are capable of producing any measurable signal content in the 160 Hz one-third octave band. The agency also solicits comment on the cost of a speaker system that is able to reproduce some measurable content at the 160 Hz one-third octave band versus a speaker system that is only capable of producing sound above 315 Hz.

Pitch shifting is also a critical element to aid in pedestrian recognition of vehicle sounds. Pitch shifting is the movement of the tones of a sound along the frequency scale. Pitch shifting mimics the behavior of an ICE vehicle as it increases speed. Based on analysis of sounds produced by ICE vehicles the agency believes that the pitch of a vehicle sound should increase with increasing vehicle speed, or decrease with decreasing vehicle speed by at least one percent per km/hr of vehicle speed.

3. Prohibition Against Modifying a Vehicle's Sound

The PSEA also requires that the FMVSS developed in this rulemaking ''prohibit manufacturers from providing any mechanism for anyone other than the manufacturer or the dealer to disable, alter, replace, or modify the sound or set of sounds, except * * * in order to remedy a defect or non-compliance.'' Our proposal extends this prohibition to any entity subject to NHTSA's authority (manufacturers, distributors, dealers, and repair businesses), allows for repair of a vehicle malfunction (in addition to the PSEA's defect and non-compliance), and also prohibits any entity subject to our authority from providing the means to defeat or change the sound emission to any other person, except for repair of a malfunction associated with the vehicle's sound emission. The goal of this section is to avoid the situation where vehicle sounds are changed, at the request of the consumer, to something individualized and no longer associated with the specific make/model of motor vehicle, or indeed even recognizable as a motor vehicle at all.

4. Phase-in Schedule

Lastly, the PSEA directs NHTSA to include a phase-in schedule for compliance with the new FMVSS. ''The Secretary shall promulgate the required motor vehicle safety standard pursuant to this subsection no later than 36 months after the date of the enactment of this Act.'' The Act further requires, at section 3(c), a phase-in period for compliance, with full compliance of all motor vehicles subject to the standard manufactured on or after the September 1 of the calendar year that begins three years after the date of the final rule. For example, if the final rule were issued on January 4, 2014, full compliance would be required for all subject motor vehicles manufactured on or after September 1, 2018. The maximum duration of the phase-in period would therefore be January 4, 2014 through September 1, 2018. Vehicle model years typically begin September 1, for example, the 2014 model year will run from September 1, 2013 to August 31, 2014. In light of this traditional production schedule, we tentatively conclude it would be unreasonable to require manufacturers to build any vehicles to the new FMVSS by September 1, 2014, for the 2015 model year, in this example. However, most manufacturers are now involved in planning some form of sound emission for vehicles they know will be affected by the new standard. Changes to any sounds provided before the final rule date will likely be made by software, not hardware, changes and manufacturers will be familiar with the test procedure through the use of the SAE J2889–1.

We therefore tentatively conclude that the following phase-in schedule is reasonable for manufacturers and allows the fastest implementation of the standard for pedestrian safety:

30 percent of the subject vehicles produced on or after September 1 of the first year of the phase in;

60 percent of the subject vehicles produced on or after September 1 of the second year of the phase in;

90 of the subject vehicles produced on or after September 1 of the third year of the phase in; and

100 percent of all vehicles produced on or after, by September 1 of the year that begins three years after the date that the final rule is issued.

Small volume manufacturers will not need to comply with the requirements of this proposal until the end of the phase-in period. We seek comment on the appropriateness of this proposed schedule.

We have not included provisions for carry-forward credits in the proposed regulatory text; however, we seek comment on allowing carry-forward credits in the phase-in schedule to give manufacturers flexibility in meeting the phase-in requirements.

E. Compliance Test Procedure

The compliance test procedure proposed in this notice is consistent with the Society of Automotive Engineers Surface Vehicle Standard J2889–1, ''Measurement of Minimum Noise Emitted by Road Vehicles,'' September 2011.[105] Several sections of the SAE Standard are incorporated by reference into our proposed FMVSS. This industry standard was developed for use by manufacturers to test their own vehicles. The compliance test procedure proposed by the agency must deviate, however, in some respects so that it can be used by a third-party testing entity with little or no detailed knowledge of all of the vehicle's systems and their development.

Some particular differences between the SAE J2889–1 and our proposed test procedure are:

- This proposal is limited to outdoor testing, while the SAE standard has an alternative for indoor testing.
- The SAE procedure contains different methods for different vehicle operating modes, and for vehicles fitted with external sound generating systems versus vehicles without. Our proposal is uniform for all vehicles and stated in technology neutral terms so that it can be applied to any new motor vehicle to which the requirements in this proposal would apply.

1. Test Condition

SAE J2889–1 paragraph 6.2 specifies the ambient weather conditions under which the acoustics testing should be conducted. The ambient weather conditions should be measured at the microphone height. SAE J2889–1 specifies an ambient temperature between 5 degrees Celsius (°C) (41 degrees Fahrenheit (°F)) and 40 °C (104 °F). The ambient weather conditions are restricted to ensure accurate repeatable measurement. SAE J2889–1 states that the ambient temperature may need to be restricted to a narrower temperature range so that all key vehicle functions can be run in their quietest state per the manufacturer's specifications.

The agency has found during the course of research conducted in support of this rulemaking that tests that occur within the temperature range specified in SAE J28889–1 can produce divergent results when a vehicle is tested at different temperatures. In high ambient temperatures, the battery cooling fan on pure electric vehicles activates intermittently while the vehicle is operating. The agency has decided to address the issue of intermittent vehicle sound caused by the vehicle's battery cooling fan by requiring that any vehicle sound measurements taken while the cooling fan is operating be discarded. While the agency believes that it has addressed repeatability issues caused by battery cooling fans, as stated in SAE J2889–1, it is possible that there are other vehicle functions that produce varying sound levels based on the ambient temperature level. Therefore, we are soliciting comment on the other vehicle functions that produce varying noise levels at different ambient noise levels. The agency is also soliciting comment on specifying a low ambient temperature for acoustics testing of between 5 °C (41 °F) and 20 °C (68 °F) to ensure that the vehicle will be in its quietest state during testing. The disadvantage of doing so is that it further limits the number of outdoor testing days available. The agency tentatively concludes that we have sufficiently controlled this situation in the test procedure by invalidating measurements in which any component of the vehicle's thermal management system (*i.e.* a cooling pump or fan) is engaged.

SAE J2889–1 test conditions specify a maximum wind speed of 5 m/s (11 mph) because wind speeds higher than this level can interfere with acoustic measurement. We have adopted this condition in our test conditions.

SAE J2889–1 specifies that the ambient noise at the test site should be measured for at least 10 seconds before and 10 seconds after a series of vehicle tests. The measurements of the minimum A-weighted sound pressure level and one-third octave band frequency content of the ambient noise level are made using the same microphones in the same locations used to measure the vehicle sound as specified in Figure 1 of SAE J2889–1.

It is important to know the background noise level during the test to get an accurate measurement of the sound made by the vehicle alone. Because we are proposing requirements on the one-third octave band basis we believe that ambient corrections should also be calculated on the one-third octave band basis. In order to ensure accurate measurements SAE J2889–1 contains a procedure for correcting the overall sound pressure level measurement to remove any ambient influences. It is important to know the background noise level during the test to get an accurate measurement of the sound made by the vehicle alone. Because we are proposing requirements on a one-third octave band basis we believe that ambient corrections should also be calculated on a one-third octave band basis. In order to ensure accurate measurements, SAE J2889–1 contains a procedure for correcting the overall sound pressure level measurement to account for ambient influences. Because the variance of a signal is greater on a one-third octave band basis than on the overall, it may be difficult to apply the ambient correction procedure in SAE J2889–1 to ambient corrections on a one-third octave band basis. SAE J2889–1 requires a peak-to-peak variation of less than two dB in order to do a valid correction. Even if the peak fluctuation of the overall sound pressure level of the ambient is less than two dB, the fluctuation in individual one-third octave bands would likely be higher. In meetings with agency rulemaking staff, manufacturers have stated that it would be difficult to apply the method for correcting for the ambient in SAE J2889–1 to one-third octave bands.

In response to these concerns we are proposing to include a procedure that allows for ambient correction if the peek-to-peek fluctuation of the ambient is less than eight dB when the signal that is being measured is more than six dB higher than the ambient in that one-third octave band or less than six dB when the signal that is being measured is more than three dB higher than the ambient in that one-third octave band. These criteria were chosen in order to provide a high degree of confidence that contamination due to an unobserved, random fluctuation will not impact the final reported level by more than one half of one decibel.

We believe that increasing the acceptable peak-to-peak variability in the ambient correction procedure will allow for testing to be conducted in ambient sound environments in which the agency would expect to be able to make accurate measurements. We believe that this approach will increase flexibility in the locations and times when outdoor testing can be conducted without significantly compromising the accuracy of measurements.

In October of 2012, members of the SAE VSP committee presented research to the agency regarding the use of the test procedures in SAE 2889–1 and issues related to correcting for the influence of the ambient in measurements on the one-third octave band basis. The VSP committee also

[105] The agency recognizes that SAE published an updated version of J2889–1 in May 2012. We have not yet evaluated this new version, but intend to do so before publishing a final rule.

raised issues regarding measuring pitch shifting and the influence of ambient noise and tire noise on pitch shifting measurements. Members of the VSP committee stated that analyzing pitch shifting measurements will require a narrowband analysis. The VSP committee stated that the procedure for correcting measurements of the overall sound pressure level of a signal for the influence of ambient should not be applied to measurements of individual one-third octave bands. The VSP committee stated that outdoor testing raised issues regarding interference with measurements by the ambient. Members of the VSP committee also expressed concern that manufacturers would not be able to sufficiently attenuate the low frequency tones discussed in the agency's research to prevent those tones from intruding into the occupant compartment. Members of the VSP committee stated that pass-by measurements at 20 km/h (12 mph) and 30 km/h (18 mph) are influenced by tire noise. Members of the VSP committee believe that issues related to the influence of ambient noise on measurements of the vehicle and issues related to measuring pitch shifting can be solved by the use of indoor testing to measure regulatory compliance. We seek comment on the points raised by the VSP Committee.

The agency is considering whether the procedures for analyzing the frequency spectrum in SAE J2889–1 are sufficient to ensure that the results of the acoustic measurements are recorded in a consistent manner. The agency has the following questions about the measurement correction procedure and the recording of results of acoustic measurements:

- What roll-off rates have been used?
- Have entities conducting research on minimum sound emitted by quiet vehicles completed the ⅓ octave band analysis of their measurements in the frequency domain or the time domain?
- Volpe staff have been using an exponential window (to be consistent with SAE procedures for the measurement of overall levels) when conducting frequency analysis. In the presentation by VSP committee a committee member discussed using a Hanning window for the analysis. Does the agency need to provide additional procedures for conducting the one-third octave band analysis?

The agency has tentatively concluded that outdoor acoustics testing is preferable to indoor testing in hemi-anechoic chambers. Outdoor testing is more representative of real world vehicle-to-pedestrian interactions. Also, the agency is concerned about both the availability of repeatable specifications for all aspects of indoor testing and the availability of hemi-anechoic chambers in which to conduct compliance testing.

Outdoor tests, especially pass-by tests at speed, transmit to the pedestrian not just vehicle-generated sounds (*e.g.,* engine-powertrain and pedestrian alert system), but also sounds from the vehicle body's interaction with the atmosphere (wind noise) and road test surface (tire noise). These complete sound profiles are transmitted to the pedestrian over some level of ''outdoor ambient'' background noise and with Doppler shift when the vehicle is moving relative to the pedestrian. Pass-by tests allow a recording of vehicle sound parameters (levels, content, phase, etc.) against a trace of time and distance from the pedestrian's location.

Conversely, when a vehicle is tested on an indoor dynamometer in a hemi-anechoic chamber, the body of the vehicle is static and does not produce aerodynamic noise. It is unclear how representative the tire noise generated during rotation on the curved dynamometer test wheels is of actual tire-road noise. The vehicle approach and passing of the microphones can be simulated by phasing a row of microphones next to the vehicle, and interior tire noise can be digitally replaced with exterior tire noise recordings. However, the agency has not determined the fidelity of such methods.[106]

The agency also believes that specifications for outdoor testing have a more detailed history of objective and repeatable performance than specifications for indoor testing. A substantial amount of development and refinement has gone into the test procedures and facilities used for outdoor vehicle noise testing. For instance, outdoor tests such as the ISO 362 ''Acoustics Measurement of noise emitted by accelerating road vehicles—Engineering method'' [107] have been in use since its issuance in 1994 for measurement of maximum vehicle noise. One key to achieving repeatable test results with ISO 362 at multiple testing locations was the standardization of a common road test surface. The 1994 and subsequent versions of ISO 10844 ''Acoustics—Specification of test tracks for measuring noise emitted by road vehicles and their tyres'' [108] specify test surface materials, absorption, texture, and compaction to allow comparable test results from different outdoor noise test pads.

SAE J2889–1 contains specifications on the cut-off frequency of the indoor hemi-anechoic test facility and requirements to meet ISO 3745 ''Acoustics—Determination of sound power levels of noise sources using sound pressure—Precision methods for anechoic and hemi-anechoic rooms,'' or ISO 26101 ''Acoustics—Test methods for the qualification of free-field environments.'' However, the agency is not aware of specifications for dynamometer drum surface textures, materials, diameters, road loads coefficients (*i.e.,* to produce appropriate engine RPMs), etc. to allow comparable results between different indoor dynamometers.

The agency intends to specify performance requirements for vehicle-emitted sounds that are detectable and recognizable to a pedestrian as a motor vehicle in operation. Therefore, all components of the vehicles' sound profile that convey the signature of a motor vehicle in operation (including aerodynamic and tire noise) up to the cross-over speed are important facets of the vehicle's sound performance.

The agency is concerned that hemi-anechoic chambers that have four-wheel dynamometer drive capabilities are not widely available for commercial testing. The agency was able to locate a large number of outdoor 10844 noise pads in the U.S., most of which were available for paid use by outside parties. One vehicle manufacturer stated that it has nine noise pads throughout its global operations and we believe the standardized outdoor noise pads have widespread commercial availability.

The agency found limited availability of indoor hemi-anechoic chambers that had four-wheel dynamometer drive capabilities. Additionally, the availability of indoor hemi-anechoic dynamometer chambers that can accommodate all motor vehicles covered by the PSEA, such as motorcycles, trucks, buses, etc., was found to be far more limited. While indoor testing does not have the seasonal downtimes of some outdoor test facilities, and may be more predictable and time efficient, we believe the cost of test time at indoor test facilities will be higher than at outdoor proving ground noise pads. There may also be difficulties locating

[106] *http://www.bksv.com/Products/PULSEAnalyzerPlatform/PULSESolutionsOverview/AcousticApplications/PassbyNoiseTesting/IndoorPassbyNoiseTesting.aspx.*

[107] *http://www.iso.org/iso/iso_catalogue/catalogue_ics/catalogue_detail_ics.htm?csnumber=25971.*

[108] *http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=45358.*

and scheduling indoor facilities large enough to accommodate the heavy vehicles subject to this rule.

In addition to conducting indoor testing in a hemi-anechoic chamber using a dynamometer to simulate vehicle motion, it is possible to conduct pass-by testing in an indoor hemi-anechoic chamber. Indoor pass-by testing in a hemi-anechoic chamber would capture elements of the vehicle sound profile (including aerodynamic and tire noise) that contribute to the recognizability of the vehicle's sound signature until the vehicle reaches the cross over speed. Therefore, indoor pass-by testing in a hemi-anechoic chamber is able to record all aspects of the vehicle's sound profile while still achieving the convenience and efficiency advantages of indoor testing. An indoor pass-by procedure would be the same as the pass-by procedure contained in Section 7.3.2.2 of SAE J2889–1 SEP2011 except that 50 meter radius free of reflecting objects around the test track would not apply. The provision in SAE J2889–1 SEP2011 that the hemi-anechoic chamber used for indoor pass-by testing comply with ISO 3745 or ISO 26101 would ensure that reflection from the test would not interfere with the vehicle's sound measurement.

The agency is not aware of the availability of hemi-anechoic chambers that are large enough to accommodate indoor pass-by tests. The agency believes that the existence of such facilities is limited. The agency seeks comment on the availability of hemi-anechoic facilities that could accommodate indoor pass-by testing and the desirability of including a test procedure for indoor pass-by testing in this standard.

The agency realizes that there are some advantages to testing indoors. Testing in an indoor hemi-anechoic chamber would not be influenced by weather conditions or high ambient noise levels that can affect outdoor pass-by testing. It is possible that indoor testing could be more predictable and time efficient than outdoor pass-by testing because testing time would not be limited by weather and noise conditions at the test site. The agency seeks comment on including a test procedure for indoor hemi-anechoic chamber acoustics measurement in this standard.

The agency's test procedure specifies that the acoustic measurements for all test conditions shall be conducted on a test surface that meets the requirements of ISO 10844:2011 which specifies, among other things, a very particular type of pavement to be used so as to minimize the contribution of tire noise to the sound measured as coming from the vehicle. Doing so helps to minimize test variability between repeat tests of the same vehicle at the same facility and variations in measurements taken at different facilities.

Instruments used to make the acoustical measurements required under our proposal must meet the requirements of paragraph 5.1 of SAE J2889–1. This paragraph also describes procedures for calibration of the acoustical equipment. Use of such instruments and calibration procedures will ensure that test measurements can be duplicated repeatedly on the same vehicle at one facility, or at different test facilities. Manufacturers, in meetings with agency rulemaking staff, have stated that the filter roll-off rate can affect the results of acoustic measurement at the one-third octave band level. Paragraph 7.1.6.2 of SAE J2889–1 requires conformance with ANSI S1.11, which specifies a wide range for filter roll-off rates. (See ANSI S1.11 Table1, Figure 1, and Annex B.) Filters with roll-off rates at the two extremes of the range could produce different results. The agency seeks comment on whether the test procedure in this proposal should specify a maximum roll-off rate that is not infinite.

The test site envisioned by our proposal must be established per the requirements of S6.1.1 of SAE J2889–1, including Figure 1, ''Test Site Dimensions'' with the definitions of the abbreviations in Figure 1 as given in Table 1, S4 of SAE J2889–1. All references to microphone line PP′ and vehicle centerline CC′ are per Figure 1 of SAE J2889–1. Microphones are to be set on the PP′ line on both sides of the vehicle, two meters from the vehicle centerline (CC′). Use of the test set up described in the SAE's Figure 1 will ensure repeatable test measurements from run to run, vehicle to vehicle, and among various test facilities.

2. Vehicle Condition

The agency's goal in measuring the vehicle's sound level in the test procedure is to measure the vehicle at its quiet state. The test procedure in the agency's proposal contains a specification for vehicle condition to ensure that there is no variability in the results of the acoustics testing and that the vehicle will be tested at its quietest state. The vehicle condition specifications state that the tires should be pressurized per the tire placard and conditioned by driving, clockwise and counterclockwise, around a circle 30 meters (100 feet) in diameter at a speed that produces a lateral acceleration of approximately 0.5 to 0.6 g. This removes mold sheen from new tires. The SAE J2889–1 test procedure used in our research has a further requirement that tires have at least 80 percent of their tread depth. NHTSA has not included such a requirement because we are proposing that only new vehicles with less than 100 miles on their odometers at the start of testing be used. This is the normal agency protocol for compliance testing in general. The vehicle condition specifications also state that the tire treads should be free of debris, because pebbles and other objects in the vehicle's tire tread can produce a clicking sound that can increase the vehicle's sound level and interfere with acoustics measurements during pass by testing.

The vehicle test condition states that all doors should be shut and locked before commencement of testing. This step is included in the proposed vehicle condition specifications because some vehicles are equipped with automatic locks that lock the vehicle once the vehicle reaches a certain speed. The sound produced by the locking doors can introduce variability into the test results.

The proposed vehicle test condition specifies that all the accessory equipment on the vehicle should be turned off. This step is included because the vehicle's air conditioning system, heating system, and windshield wipers can all produce sound when activated that can introduce variability into the acoustic measurements in S7 of the proposed regulatory text.

The agency wishes to measure the sound produced by the vehicle with the ICE off because we are attempting to measure the sound of HVs and EVs in those vehicles' quietest states. This proposal is designed to ensure that these vehicles emit a minimum level of sound in situations in which the vehicle is operating in electric mode because in that mode the vehicle did not provide sufficient sound cues for pedestrians. Therefore, we propose to control the situation in which an ICE engine does start operating during a test by invalidating test measurements that are taken when a vehicle's ICE is operating. The proposed test procedure states when testing a hybrid vehicle with an ICE that runs intermittently, measurements that contain sounds emitted by the ICE are not considered valid.

As discussed below, the agency is not requiring that HVs meet the requirements of this proposal for a given operating condition if they are not capable of operating in EV only mode in

that condition. The agency's method for determining whether a vehicle is incapable of operating in EV mode above a certain speed requires that the batteries on the vehicle be fully charged at the beginning of the test sequence; otherwise the vehicle may be improperly exempted from meeting the requirements for a given condition. The agency believes that the hybrid vehicles to which this proposal would apply are equipped with an indicator that provides information on the state of charge of the propulsion batteries. The agency is also considering adding a vehicle charging procedure to charge the vehicle's propulsion batteries prior to each test sequence. This procedure would involve a set of vehicle maneuvers designed to charge the vehicle propulsion batteries. The agency seeks comment on whether there are HVs to which this proposal would apply that do not visually indicate their propulsion batteries state of charge to the driver. The agency also seeks comment on whether a battery charging procedure should added to the test procedure.

3. Test Procedure

The agency proposal contains steps for measuring the sound of the vehicle at startup, stationary but activated, reverse, 10 km/h (6 mph) pass by, 20 km/h (12 mph) pass by and 30 km/h (18 mph) pass by. The agency has tentatively concluded that EVs and HVs should produce a minimum sound at least until they reach a speed of 30 km/h (18 mph). The PSEA defines crossover speed as the ''speed at which tire noise, wind resistance, or other factors eliminate the need for a separate alert sound.'' [109] Because we intend for the proposed standard to be technology neutral, we are not including a requirement for when an alert sound added to a vehicle must be active in the regulatory text. Instead, the proposed standard includes required minimum sound pressure levels that vehicles subject to the standard are required to meet at different test speeds so that these vehicles will make sufficient sound to allow pedestrians to detect them.

The agency established the proposed top crossover of 30 km/hr (18 mph) by examining the speed at which EVs and HVs produce a similar amount of sound to their peer ICE vehicles. In comparing the sound produced by HVs and EVs to the sound produced by ICE vehicles, the agency sought to determine the speed at which the ICE was no longer the dominant sound source of the vehicle and tire and wind noise were the main source of vehicle sound output. We also examined the crash statistics from the State Data System to determine if there was a speed at which the rate of pedestrian crashes for HVs and ICE vehicles were the same.

NHTSA's research indicates that the speed at which the sound levels produced by HVs and EVs and the sound levels produced by those vehicles' ICE peers become indistinguishable differs depending on make and model. The difference in sound pressure level between sounds is not distinguishable to humans over time if the sounds are within 3 A-weighted dB of each other.[110] The sound level of three of the HVs tested during the agency's Phase 1 research were within 3 A-weighted dB of their ICE peer vehicles at 16 km/h (10 mph) with the sound levels for all HVs meeting those of their peer ICE vehicles at 32 km/h (20 mph).

During the agency's Phase 3 research, an EV (Nissan Leaf) and three HVs with prototype sound systems and their ICE peer vehicles were tested to compare the sound levels of HVs and EVs and their ICE peers when stationary but activated, 10 km/h (6 mph), 20 km/h (12 mph), and 30 km/h (18 mph).[111] Only one of the HVs tested during the Phase 3 research was within 3 A-weighted dB of its ICE peer at 20 km/h (12 mph), the same hybrid produced a sound level 3.5 A-weighted dB above its ICE peer at 30 km/h (18 mph). The sound level produced by the Nissan Leaf was 5 A-weighted dB lower than its ICE peer, the Nissan Versa, at 20 km/h (12 mph) and 4 A-weighted dB lower than the Versa at 30 km/h (18 mph) with its sound generation system turned off. The other HV tested was 5 A-weighted dB lower than its ICE peer at 20 km/h (12 mph) and 4 A-weighted dB lower than its ICE peer vehicle at 30 km/h (18 mph). The sound levels produced by the Nissan Leaf and the HVs were not as high as the overall levels of sounds that would meet the proposed requirements for every one-third octave band listed in Table 12 at 20 km/h (12 mph) (see Table 12). Both HVs produced sound levels as high as sounds meeting the requirements for every one-third octave band in Table 12 at 30 km/h (18 mph) and the Nissan Leaf produced a sound only 2 A-weighted dB lower.

The acoustic measurements for the agency's Phase 3 research were conducted on a test surface conforming to ISO 10844 (1998) and acoustic measurements conducted during Phase 1 research were taken on the VRTC test track which does not conform to ISO 10844 (1998). Even though the Phase 1 and Phase 3 measurements were taken on different surfaces the direct comparison between the EV or HV and its ICE peer remains valid, as EVs and HVs were measured on the same test surface as their respective ICE peer vehicles.

Our research data from Phase 1 and Phase 3 shows that the sound level gap between HVs or EVs and their ICE peer vehicles still exists at 20 km/hr (12 mph) and becomes much smaller or negligible in some tests at 30 km/hr (18 mph). Also, the EVs and HVs tested in Phase 3 research did not meet our minimum sound pressure level detectability requirements at 20 km/hr (12 mph). For these reasons, NHTSA tentatively concludes that ensuring EVs and HVs produce a minimum sound level until they reach a speed of 30 km/hr (18 mph) will ensure that these vehicles produce sufficient sound to allow pedestrians to detect them. The agency believes that the minimum sound level requirements will ensure that these vehicles produce sufficient sound to allow for safe pedestrian detection at this speed. Thus, the requirements in this proposal, if made final, would require that EVs or HVs that do not currently produce enough sound for pedestrians to detect them while traveling at 30 km/hr (18 mph) would have to increase their sound output. The agency solicits comments on the determination of 30 km/hr (18 mph) as the appropriate upper limit for light EVs/HVs and additional data on similar tests performed on the same type of vehicles.

At speeds greater than 30 km/hr (18 mph), the agency has tentatively concluded that EVs and HVs produce sufficient sound for safe pedestrian detection. The agency believes that vehicles that will require a countermeasure sound to meet the minimum sound requirements at 30 km/hr (18 mph) will continue to produce those countermeasure sounds at higher speeds so that the added sound will phase out at speeds greater than the crossover speed. The agency believes that manufacturers are likely to gradually phase the countermeasure sound off at speeds above the crossover

[109] Public Law 111–373, § 2(3), 124 Stat. 4086 (2011).

[110] Springer Handbook of Acoustics, Thomas D. Rossing (Ed.), Springer Science and Media LLC, New York, 2007, page 472.

[111] One of the HVs tested during the Phase 3 research was excluded from the crossover speed analysis because the agency was not able to deactivate the vehicle's sound alert system. Because the sound alert system on that vehicle remained active the agency was not able to compare the sound level of the vehicle while operating in electric mode to sound level emitted by the vehicle's ICE peer.

speed to avoid annoyance caused by a sharp drop in sound level if the countermeasure was terminated exactly at 30 km/hr (18 mph).

The crashes used in our statistical analysis discussed earlier came from areas where the posted speed limit was less than or equal to 35 mph. As discussed previously, this analysis indicated that the odds ratio of an HV being involved in a crash with a pedestrian was 1.38 when the vehicle in question completed a low speed maneuver immediately prior to the crash.[112] This means that HVs and EVs were 38 percent more likely to be involved in an incident with a pedestrian than an ICE vehicle under these circumstances. Low-speed maneuvers include making a turn, slowing or stopping, backing, entering or leaving a parking space or driveway, and starting in traffic. The agency also tentatively concludes that a crossover speed of 30 km/hr (18 mph) will ensure that EVs and HVs will produce sufficient sound to allow pedestrians to safely detect them during low-speed maneuvers in which these vehicles would otherwise pose a risk to pedestrians because of the low sound level they produce. The odds ratio of a HV being involved in a pedestrian crash while going straight is 0.96. This means that HVs are no more likely to be involved in pedestrian crashes when going straight than ICE vehicles.

The agency does not believe that establishing a crossover speed of 30 km/h will have any noticeable impact on ambient noise levels. As discussed in Section X.D, NHTSA has conducted an EA to analysis the environmental effects of this rulemaking. The EA shows that the difference in ambient sound levels if the agency were to establish a crossover speed of 30 km/h compared to a crossover speed of 20 km/h would be negligible. A single EV or HV travelling at 30 km/h that produced sound meeting the requirements of this proposal would not be noticeable to a person standing 7.5 meters from the roadway in a 55 A-weighted dB ambient environment representative of urban areas.

The guidance document developed by UNECE recommends that EVs and HVs emit pedestrian alert sounds beginning when the vehicle starts moving and continuing until the speed of the vehicle reaches 20 km/hr (12 mph). The Alliance of Automobile Manufacturers also suggested 20 km/hr (12 mph) as the crossover speed.[113]

During QRTV's eighth meeting, the Japan Automobile Standards Internationalization Center (JASIC) presented its research on crossover speed.[114] It determined the crossover speed by measuring when the tire noise was dominant over engine noise for several vehicles. JASIC concluded that the tire noise was dominant for every ICE vehicle and HV they tested at speeds that exceeded 20 km/h (12 mph). It also concluded that the difference between sound levels of HVs and ICEs occurred at speeds below 20 km/h (12 mph). The agency solicits comments on whether 20 km/h (12 mph) should be considered the crossover speed, as an alternative to the 30 km/h (18 mph) crossover speed as well as additional research data that support this speed.

In the absence of more detailed analysis supporting another crossover speed, the agency tentatively concludes that a crossover speed of 30 km/hr (18 mph) will ensure that pedestrians will be able to safely detect EVs and HVs in situations in which these vehicles pose an increased risk to pedestrians because of their quiet nature while also minimizing community noise impact by ensuring that the sound is not active when it is no longer necessary.

In order to ensure that HVs and EVs produce a minimum level of sound to be detectable by pedestrians until the crossover speed, the agency is proposing to measure the minimum sound of the vehicle at 30 km/hr (18 mph). Because the agency's proposal is technology neutral, a manufacturer can choose how to comply with the minimum level sound requirements at the 30 km/hr (18 mph) pass by. Thus, no countermeasure sound would be required if a vehicle subject to the requirements of this standard produces sound sufficient to meet the requirements in section S5 of our proposed regulatory text at 30 km/hr (18 mph).

For all operating conditions, our proposed test procedure (and that of SAE J2889–1) specifies that four consecutive valid measurements be within 2 A-weighted dB. This repetition and decibel level restriction are to ensure repeatability of vehicle sounds without the presence of unwanted ambient spikes, other non-vehicle sounds, or intermittent sounds the vehicle may happen to make that are not associated with its normal operating sound.

The test procedure also specifies that test runs in which the vehicle's ICE, (for HVs), or battery cooling system activate must be discarded. As stated earlier, it is the agency's goal to measure the minimum sound levels of vehicles subject to this standard in their quietest state. It is because these vehicles are capable of very quiet operation that the agency is requiring a minimum sound level to ensure pedestrians can detect them.

The agency also found that a hybrid vehicle's ICE engine turning on during the test can introduce variability into the test results. The agency has no preference in how manufacturers choose to comply with the minimum sound level requirements in this standard. If the agency could rely on battery cooling fans on pure electric vehicles or the ICE engines on hybrid vehicles to be activated whenever the vehicle is turned on or moving this would be a satisfactory manner for a manufacturer to comply with the minimum sound level requirements. The fact that both the battery cooling fans and the ICEs on hybrid-electrics are only running intermittently means that sounds produced by these vehicle functions cannot be relied on to provide sound to pedestrians under all conditions. While the specifications requiring four valid measurements with 2 A-weighted dB would to some extent address repeatability issues caused by intermittent vehicle noise, the agency wants to guard against a situation in which measurements are accepted with the battery cooling fans active on an EV or the ICE engaged on a hybrid-electric.

The agency realizes that it may be possible that not all the HVs to which this proposal would apply are designed to be operated in EV only mode for every operating condition for which this proposal would specify requirements. Because the agency would be testing HVs in their quietest state, the test procedure and requirements in this proposal are not designed to test a vehicle that is producing added sound while its ICE is operating. Therefore, the agency would not require that HVs meet the requirements of this proposal for a given operating condition if they are not capable of operating in EV only mode in that condition. For example, if a vehicle is not designed to operate in EV only mode above 25 km/h it would not be required to meet the requirements in this proposal at any speed above that (*e.g.* at the typical 30 km/h crossover speed).

The test procedure in S7 calls for 4 valid consecutive measurements and tests in which the vehicle's ICE is running are not considered valid. Thus, according to these test procedure, it would not be possible to test vehicles that do not operate in EV only mode in one of the conditions for which we are

[112] See footnote 36.

[113] *http://www.regulations.gov/#!documentDetail;D=NHTSA-2011-0148-0022.*

[114] *http://www.unece.org/trans/main/wp29/wp29wgs/wp29grb/qrtv_8.html.*

proposing minimum sound requirements. Therefore, we have included a provision in the proposal that excludes an HV from meeting the minimum sound requirement for a given operating condition after 10 consecutive tests during which the vehicle's ICE is on for the entire test.

a. Start-Up

The proposed regulatory text in Section XIII of this notice would require that the vehicle's stationary but activated sound commence within 500 milliseconds of when the vehicle's starting system engages. The proposal does not currently contain specifications for a separate ''start-up'' sound. The requirement that the stationary but activated sound commence within 500 milliseconds of when the vehicle's starting system engages establishes how soon the vehicle must meet the requirements of the proposal after it is turned on. The agency believes it is important for the pedestrian to be aware of a vehicle as soon as its starting system is activated. We believe 500 milliseconds is adequate time for the vehicle's starting system to engage after the driver has initialized the process by whatever method is used on that vehicle (*i.e.,* turning a key or pressing a button) and for the staring system to communicate with other vehicle systems. We seek comment on whether 500 milliseconds is a sufficient amount of time for the alert sound to activate after the vehicle's starting system is engaged. We also seek comment on whether 500 milliseconds is an appropriate amount of for the alert sound to activate after the vehicle's staring system is engaged from a safety prospective.

While the agency has not included separate acoustic requirements in Section XIII to signal that the driver has turned on the vehicle, the agency is considering whether we should include such requirements in the final rule. If the agency decides to include a different acoustic cue to signal that the driver started the vehicle, we would require that the sound start within 500 milliseconds of the driver initializing the starting process and continue for two seconds. The sound pressure levels that the agency measured for vehicle starting sounds during the Phase 2 research were between 65 A-weighted dB and 75 A-weighted dB. The startup sounds that the agency measured during the Phase 2 research were 11 A-weighted dB to 15 A-weighted dB louder than the sound produced by those vehicles when stationary but activated. The agency recognizes that a start-up sound of 75 A-weighted dB is probably higher than necessary to alert pedestrians to the presence of a starting vehicle. Were the agency to require a different start-up sound, the agency would want the difference between the start-up sound and the sound produced by the vehicle when stationary but activated to mirror the difference in sound pressure levels between stationary but activated and start-up in ICE vehicles so that a pedestrian would be able to differentiate between the two operating conditions. Thus, a start-up sound for HVs and EVs would be 11 to 15 A-weighted dB higher than the requirements proposed for stationary but activated in Section XIII (see Table 1, S5.1.1 of the proposed regulatory text). The agency solicits comments on whether a start-up sound should be included as an operating condition for which the agency should establish minimum sound requirements as well as the acoustic requirements that are different from the requirements for the stationary but activated sound.

The microphone position for the start-up sound test is the same as the microphone position for the stationary but activated condition test described below.

b. Stationary But Activated and Directivity

The test procedure used to measure the compliance of the vehicle to the startup, stationary but activated, and directivity requirements of Section 5 of the proposed regulatory text is based on the ''stopped condition'' test of paragraph 7.3.2.1 of SAE J2889–1. The front plane of the vehicle is positioned at the microphone line (PP'), the vehicle is stationary and four consecutive 10 second measurements are taken. Measurements are considered invalid if they contain sounds emitted by any component of the vehicle's battery thermal management system (cooling fans or pumps), or they come from an ICE on an HV equipped with an ICE that runs intermittently. These provisions help to ensure that the vehicle is measured in its quietest state. The pass/fail requirements for this test, as for all the tests, are a set of sound pressure level measurements in each of eight one-third octave bands, which were chosen for their ability to contribute to detectability without unnecessarily adding to the overall sound pressure level of the vehicle in that condition.

The agency is proposing that the vehicle be tested for minimum sound level at the stationary but activated operating condition with the vehicle's gear selection in park (for vehicles fitted with a park position). The agency has decided to test at the stationary but activated condition while the vehicle is first turned on and while the vehicle is in park instead of testing while the vehicle's gear selection is in drive because the agency believes that the vehicle must produce a sound level while at park that is sufficient to allow pedestrians to avoid collisions with vehicles pulling out of parking spaces and driveways. The agency believes that the alert sound activating when the vehicle is shifted into drive will provide insufficient warning of the presence of a vehicle that is about to pull out of a parking space or a driveway. It is likely that drivers will shift into drive and commence vehicle motion with minimal delay. In this situation, an alert sound that activated when the vehicle was shifted into drive would provide little to no warning that there was a nearby vehicle. The agency believes that testing the vehicle's minimum sound level while in drive would reduce the effectiveness of the requirement of a sound when stationary but activated and testing the vehicle's sound level while the vehicle is in park will decrease the number of collisions between EVs and HVs and pedestrians caused by the vehicle's quietness.

In an email to the Director of the Office Crash Avoidance Standards the NFB expressed concern that establish minimum sound requirements for when the vehicle's gear selection was in drive but not in park would mean that blind and visually impaired pedestrians would not be able to detect the presence of nearby vehicles that had just been turned on in ''a parking space, driveway, or other location.'' [115] Representatives from motor vehicle manufacturers have urged the agency to establish minimum sound requirements for the stationary but active scenario when the vehicle's gear selection is in drive.

The agency realizes that a sound in park may not be necessary for safety in situations in which a vehicle is stationary for long periods of time. This includes situations in which the vehicle is in park but still ''on'' while the driver is preparing to exit the vehicle or while the driver is waiting for someone. In these situations, the vehicle is unlikely to commence movement at a moment's notice, which lessens the need for the vehicle to emit some minimum sound level. The agency solicits comment on approaches that could be adopted to ensure that the vehicle is not producing sounds in situations in which the sound is not needed for pedestrian safety. One of the approaches that the agency is considering for mitigating noise caused

[115] NHTSA–2011–0148–0031.

by idling vehicles would be to allow the countermeasure sound to deactivate when the vehicles is shifted from drive into park. Another option would be for the sound to deactivate after the vehicle has been in park for some amount time such as two or five minutes. We seek comment on how to mitigate unnecessary noise from vehicles idling for long periods of time, while preserving the stationary but activated sound when needed for pedestrians' safe navigation.

Our proposal contains a requirement and a test procedure for measuring the directivity of the sound emitted by the vehicle because the stationary but activated and pass by tests measure the sound at two microphones two meters on either side of the vehicle's centerline. The pedestrian, however, will be passing in front of the vehicle. We want to ensure that there is no drop off in sound level from the side of the vehicle where the measurement is taken to the front of the vehicle, where the pedestrian hears the sound. The directivity measurement involves placing a third microphone at the vehicle's centerline, two meters in front of the vehicle. This measurement is done when stationary but activated and the sound that is measured by the center microphone must meet the same sound pressure level requirements in the same one-third octave bands as the sound measured by the side microphones.

c. Reverse

Our proposal contains a requirement and a test procedure for sound while the vehicle is backing because this is one of the critical operating scenarios we have identified in our research and statistical studies. The requirement is limited to vehicles capable of rearward self-propulsion. This means that motorcycles (and other motor vehicles, possibly low speed vehicles) constructed without a reverse gear, such that they cannot move rearward under their own power will not be required to make a sound when moving backward (presumably by being pushed). For all other vehicles, whenever the gear selection control is in reverse, the vehicle must emit a sound meeting the specified sound pressure level in each of eight one-third octave bands. These sound pressure level requirements are greater than those when stationary but activated, but less than those for the 10 km/hr (6 mph) pass by test, because, while we know the vehicle will be moving while backing, we know it will almost always move at less than 10 km/hr. The test for backing is done when stationary but activated with the rear plane of the vehicle on the microphone line because it is very difficult for a test driver to reliably and repeatedly back a vehicle through the test area at any constant speed.

d. Constant Speed Tests

Constant speed pass by tests are required at 10 km/hr (6 mph), 20 km/hr (12 mph), and 30 km/hr (18 mph). The vehicle passes through the measurement area specified in SAE J2889–1 at a constant speed and the sound profile is captured at the microphone line. Four consecutive valid measurements are required and must be within 2 A-weighted dB of each other. As in the stationary but activated test, invalid measurements are those that contain sounds emitted by any component of a vehicle's battery thermal management system, or that come from the ICE on a hybrid vehicle with an ICE that runs intermittently. The requirement is stated as a set of sound pressure levels in each of eight one-third octave bands, at any speed greater than or equal to10 km/hr (6 mph), but less than 20 km/hr (12 mph). The constant speed pass by tests at 20km/hr (12 mph) and 30 km/hr (18 mph) are conducted in the same manner as the 10km/hr (6 mph) test but each have their own set of required sound pressure levels. Requirements are in the same eight one-third octave bands, but sound pressure levels are higher than the 10km/hr (6 mph) test, because the pedestrian needs a longer detection distance to avoid a faster moving vehicle. As discussed above, an HV would not be required to meet the requirements for a given test speed if it was not capable of operating in EV only mode at that speed.

e. Pitch Shifting

Our proposal contains a requirement for pitch shifting to signify acceleration and deceleration. Sounds to alert pedestrians to acceleration and deceleration are required by the language of the PSEA. Pitch shifting gives the pedestrian information about the acceleration or deceleration of an approaching vehicle. This information is important to the pedestrian in making a decision about whether or not to cross in front of a vehicle. An accelerating vehicle does not intend to stop. A decelerating vehicle on a path parallel to the pedestrian may be slowing to make a right turn into the pedestrian's path if she or he were to cross the street. The proposed requirement is that the fundamental frequency of the sound emitted by the vehicle increase with speed by at least one percent per km/hr between 0 and 30 km/hr (18 mph). There is no test procedure associated with this requirement. Pitch shifting is verified by comparing the fundamental frequency from the stationary but activated, 10 km/hr (6 mph), 20 km/hr (12 mph), and 30 km/hr (18 mph) tests.

The agency is aware that the pitch of the sound produced by a traditional ICE vehicle does not increase linearly because as a vehicle transitions to a higher gear, the revolutions per minute of the engine drop, and therefore so does the frequency of the sound produced by the engine. The agency notes that it is possible that the sound produced by an HV or EV may not increase linearly in pitch because the sound output may change as the vehicle transitions from a lower gear to a higher gear. The agency does not believe that this phenomenon will have a significant impact on the agency's method for measuring pitch shifting because a majority of the electric motors on vehicles subject to this proposed standard have single gear transmissions.

While the pitch shifting requirement contained in this proposal does not exactly mimic the sound produced by a traditional ICE vehicle, increasing pitch is a characteristic that pedestrians associate with an accelerating vehicle based on experience. Because the pitch shifting requirement only applies while the vehicle is traveling at speeds between 0 km/hr and 30 km/hr (18 mph), the sound produced by a vehicle meeting the requirements of this proposal will be similar to the sounds produced by a traditional ICE vehicle. The agency believes that the pitch shifting requirement contained in this proposal will approximate the acoustic behavior of traditional ICE vehicles closely enough to provide pedestrians with valuable information about a vehicle's change in speed.

Manufacturers and their representatives, in meetings with NHTSA staff, have expressed concerns that it is difficult to measure the change in pitch of a sound produced by a vehicle on a vehicle level during a pass by test. Manufacturers have requested that the agency measure pitch shifting using a component level test.

The agency is hesitant to include a component level test because we want the standard to be technology neutral and because we do not wish to limit technological innovation. Further, the agency is aware that manufacturers plan to use different technologies to comply with this standard so defining the component subject to the component level test could prove difficult. The agency is aware that some sounds produced by a vehicle do not necessarily shift in pitch as the vehicle increases speed. However, the agency

believes that it is possible using the test procedures in S7 to accurately measure the change in pitch of a sound added to a vehicle for purposes of complying with this proposed standard.

The agency seeks comment on including a component level test to measure pitch shifting in the test procedure. If the agency included a component level test in the final rule, it would apply to devices added to a vehicle to generate sound for purposes of complying with this proposed standard. A sound generation device would be defined as a device that is not connected to the vehicle's propulsion source or drive train that is installed on a vehicle for the purposes of generating sound. Under such a test the agency would place a microphone one meter in front of the sound generating device mounted 0.5 m above the floor. The agency would then input into the device a signal corresponding to the vehicle speeds 0 km/hr, 10 km/hr (6 mph), 20 km/hr (12 mph), and 30 km/hr (18 mph) and make 5 second recording of the output of the sound generating device at each speed. The measurement would have to be conducted under the conditions in S6.1 with the instruments specified in S6.3.1. The performance requirements for a component level pitch shifting measurement would be the same as the proposed requirements in S5.1.6.

The agency's proposed method for measuring pitch shifting depends on the presence of a strong tone in the sound. The pitch of a sound is verified by tracking this tone as it increases in frequency for each pass by test as the vehicle increases speed. It is difficult to verify a sound's increase in pitch if the sound does not have any strong tones.

The agency has some concerns about identifying the tone of a sound and tracking this tone as the vehicle increases speed. The agency plans to conduct further research to verify that it is possible to track a tone's increase in frequency as the vehicle increases speed. If it is not possible to identify a tone to track in order to verify the increase in a sound's pitch, the agency may use a different method to verify the increase in a sound's pitch. Possible methods to quantify pitch shifting include in-situ and bench tests of constant speed or accelerating pass-by events. A method to track tonal components is needed. Additional measurements, not currently being collected in the compliance test procedure, such as engine RPM may be required in order to apply the verification procedure for pitch shifting to spectrally complex sounds. We request comments on this issue.

f. Recognizability

The PSEA also requires that our new standard have performance requirements that ensure the sound emitted by an HV or EV is one that is recognizable as a motor vehicle. Our proposal includes requirements to address recognizability. The sound emitted by the vehicle to meet requirements for each of the critical operating scenarios must contain at least one tone, and at least one tone no higher than 400 Hz. A component is defined as a tone if the total sound level in a critical band centered about the tone is 6 dB greater than the noise level in the band. The criteria set for determining the appropriate tone-to-noise ratio could be refined. Possible refinements to the tone-to-noise ratio criteria to better suit the current application include a) reduction in the bandwidth, or b) inclusion of all tones within the band for the tone-to-noise calculation, and c) possibility of changing the 6 dB criterion.

The sound must also have broadband content in each one-third octave band from 160 Hz to 5000 Hz. Broadband components are those that have energy at all frequencies within a one-third octave band. This broadband component requirement could be met, for example, by Gaussian distributed random noise, a set of damped sine waves whose damping and spacing covers a one-third octave band, or a combination of tones and noise.

g. Vehicles of the Same Make and Model Emitting the Same Sound

Pursuant to the PSEA, NHTSA is required to ensure that vehicles of the same make and model emit the same sound or set of sounds. We interpret a vehicle model as a specific grouping of similar vehicles within a vehicle line. 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard,* defines line as ''a name which a manufacturer applies to a group of vehicles of the same make that have the same body or chassis, or otherwise are similar in construction or design.'' If a manufacturer calls a group of vehicles by the same general name as it applies to another group, but adds a further description to that name (*e.g.,* Ford Fusion Hybrid, or Toyota Prius Three), the further description indicates a unique model within that line.

The proposed standard would require vehicles of the same make and model to emit the same sound or set of sounds for a particular model year. Thus a 2012 Prius Two could have a different sound than a 2012 Prius Four. A 2012 Prius Two could also have a different sound than a 2013 Prius Two. All Prius Twos from the 2012 model year would be required to emit the same sound or set of sounds.

We are only proposing to require that only sounds added to vehicles for the purpose of complying with this proposed standard be the same. The requirement that sounds emitted by vehicles of the same make and model be the same does not apply to sounds generated by a vehicle's tires or body design or sounds generated by the mechanical functions of the vehicle. Because NHTSA intends only to test whether sounds added to a vehicle for purposes of complying with this standard are the same, we propose to test for this requirement at the stationary condition. Testing at the stationary condition will ensure that the agency is able to test sound added to the vehicle without interference from other sources of vehicle noise. We seek comment on testing to ensure that sound produced by two different vehicles of the same make and model is same at additional test scenarios other than idle. We also seek comment on the extent to which changing a vehicle's tires or body design would affect the vehicle's sound profile.

The agency proposes to consider the sounds produced by two vehicles to be the same if, when tested according to S7.2, the sound emitted by the two vehicles has a sound pressure level within 3 A-weighted dB for every one-third octave band between 315 Hz and 5000 Hz. The agency seeks comment on this method for determining if two sounds are the ''same.''

VIII. Alternatives Considered But Not Proposed

As discussed below, the reason that the agency did not propose many of the alternatives described in this section was because of difficulties in compliance testing. These alternative methods for developing sounds could be used so long as the resulting sounds meet the requirements of the proposal. The agency believes that allowing multiple compliance alternatives would make compliance testing unduly complicated. The agency seeks comment on modifications to the acoustic specifications contained in Section XII of this proposal. To the extent that the suggested modifications allow for increased flexibility without a decrease in safety, the agency will consider adopting the comments in the final rule.

A. Requiring Vehicle Sound To Be Playback of an ICE Recording

The agency considered specifying that the alert sound used on EVs and HVs be a recording of an ICE peer vehicle. After further consideration and based on comments on the NOI, the agency concludes that a recording based on an ICE vehicle is not a viable regulatory option for ensuring that EVs and HVs produce sound levels sufficient to allow pedestrians to safely detect them. The agency believes that it is not practical to require that the alert sound be a recording of an ICE vehicle because of concerns about enforcing such a standard, because the recording of an ICE engine might not be as detectable as the sounds that the agency is proposing, and because of the expense of creating and replaying the recording. In addition manufacturers have expressed a desire for flexibility in developing pedestrian alert sounds and this approach is unnecessarily limiting in that aspect.

The agency believes that requiring an alert sound based on a recording of an ICE vehicle would unnecessarily complicate the agency's compliance testing. Under the compliance test that the agency was considering for an alert sound based on a recording of an ICE vehicle, manufacturers would be required to report to the agency which vehicle the alert sound was recorded from. The agency would then test both the vehicle the alert sound was recorded from and the EV or HV on which the alert sound was installed and compare the acoustic profiles of the two sounds. Testing two vehicles would double the time and expense of conducting compliance testing. While the agency does not require manufacturers to conduct any testing to certify their vehicles, the agency recognizes that many manufacturers choose to follow the test procedure in the agency's standards to be assured of compliance. Thus, increasing the amount of vehicles tested would also increase manufacturers' testing costs.

The agency does not believe that the recording of an ICE would be as detectable as the sounds meeting the specifications in S5 of this proposal. Most of the frequency content produced by an ICE is in the lower frequency part of the spectrum where the ambient is highest. Because ICE sounds have a significant amount of low frequency signal content, they are more likely to be masked by the ambient than sounds with higher frequency tones or high frequency broad band. The agency's Phase 2 research indicated that sounds that contain only elements produced by the fundamental combustion of the ICE are relatively ineffective in providing adequate detection. An alert sound that was based on a recording of an ICE vehicle would not allow manufacturers to use sounds that had tones in frequencies for which the ambient is not very strong and that might be more detectable than a recording of an ICE.

In their comments on the NOI, manufacturers have stated that it can be more expensive to create and replay an alert sound based on a recording of an ICE vehicle than to create and replay a synthetic sound. Manufacturers have stated that they would have to conduct recordings at several vehicle speeds and then process the sound so that when played through a speaker system mounted on the vehicle it would produce a smooth sound that mimics the sound produced by the ICE vehicle on which the recording was based.

Creating the recording at several different speeds adds an additional expense in creating the sound that is not present in synthetic sounds. The recordings would have to be captured by multiple vehicle pass bys or through recordings conducted indoors in hemi-anechoic dynamometer chambers, both of which would entail significant cost.

Playing back the sound so that it sounded like an ICE vehicle would likely require costly high performance signal processing. High performance signal processing is necessary for systems to be able to accurately reproduce sounds for acceleration and deceleration. One commenter also stated that the vehicle on which the alert sound was installed would have to have a larger data storage capacity to replay an alert sound recorded from an ICE vehicle. The commenter stated that the vehicle would require this additional storage capacity because the system would have to retain a recording of the ICE at each speed below the crossover speed in order to reproduce the recording. This additional storage would lead to additional expense for the alert sound system.

Commenters also stated that a recording of an ICE played back over a speaker mounted on an EV or HV would not sound exactly like the recorded vehicle because speaker systems that manufacturers would be using cannot reproduce sound with that level of accuracy. The inability of speakers mounted on vehicles to reproduce the sound of the recorded vehicle at a high level would diminish the advantages in the level of pedestrian recognition of the alert sound that the agency had hoped to gain in requiring that the alert sound be a recording of an ICE vehicle.

In comments on the NOI and in meetings with NHTSA staff, manufacturers have stated that they wish to have a certain degree of flexibility to develop sounds that pedestrians will find recognizable and detectable but will also be pleasing to the driver. Given the other difficulties present in requiring an alert sound based on a recording of an ICE vehicle, the agency does not believe that the benefit gained from requiring an alert sound based on a recording of an ICE vehicle justifies restricting manufacturer choice regarding the sounds that can be used as alert sounds especially since some of the sounds that manufacturers may wish to use could be more detectable than recordings of ICE vehicles.

Given that alert sounds based on recordings of ICE sounds would be more expensive to test, create, and replay than the sounds fitting the parameters in Section XIII and the marginal benefit to pedestrians in recognizing ICE sounds that might be gained from using a recording of an ICE as an alert sound, the agency believes that the specifications in Section XIII present a more feasible approach to establishing minimum sound levels for EVs and HVs.

B. Requiring That the Alert Sound Adapt to the Ambient

The agency considered requiring that the sound level of the alert sound vary based on the ambient noise level in the environment surrounding the vehicle. The agency is aware that technology is available for back-up alarms for heavy vehicles and construction equipment that vary the sound pressure level of the alert sound based on the sound pressure level of the ambient.

The agency decided not to pursue this approach because it was not justified based on safety need, because of concerns about the impact of environmental noise, and because of concerns about the sophistication of this technology. Based on conversations with the groups representing the visually-impaired community and a review of literature describing navigation by visually-impaired individuals, we have tentatively concluded that pedestrians who are visually impaired are taught not to attempt to cross intersections using hearing alone in urban environments with a high ambient noise levels.[116] The agency believes that sounds meeting the specifications in Section XIII will provide adequate detectability for pedestrians in ambient environments in which sound cues are necessary to assist pedestrians in avoiding collisions with

[116] See footnote 8.

vehicles. The agency is concerned that an alert sound that reacts to the ambient noise level could contribute to an increase in the overall ambient noise level and contribute to noise pollution. An alert sound that would be detectable over a high urban ambient sound level would raise the overall ambient level simply by its presence. Multiple vehicles with variable noise alert devices would contribute to noise pollution by driving the ambient sound pressure level higher and higher by reacting to the sound being produced by other vehicles. The agency is concerned that this technology is not at a stage where it can avoid the feedback effect of two equipped vehicles reacting to each other and thereby increasing the overall noise level.

Because an alert sound that adapted to the ambient environment would provide little additional safety benefit and could lead to increases in noise pollution, the agency decided that such a device should not be required in this rulemaking.

C. Acoustic Profile Designed Around Sounds Produced by ICE Vehicles

The agency is hesitant to set the minimum sound level requirements for quiet vehicles to mean levels produced by ICE vehicles. Setting the minimum sound requirements for HVs and EVs at the mean levels produced by ICE vehicles could have the effect of cutting off efforts by manufacturers to reduce vehicle noise emissions. This would also serve to increase the overall levels of vehicle noise emissions because vehicles that had been quieter would now be required to produce sound at the mean sound level of ICE vehicles.

Acoustic requirements based on the sound level of ICE vehicles also include a pitch shifting requirement, as we have proposed in this notice.

The agency is also hesitant to set the minimum sound levels for HVs and EVs at 3 (or 2) standard deviations below the mean sound level produced by ICE vehicles because then sound levels may not be high enough to allow pedestrians to detect these vehicles. The agency has yet to determine whether all ICE vehicles produce sound levels that are sufficient enough to allow pedestrians to readily detect them. Because the PSEA requires the agency to study whether quiet ICE vehicles pose an increased risk of collisions with pedestrians, the agency does not believe that it is in a position to assume that very quiet ICE vehicles are easily detectable by pedestrians.

As discussed in Section VI.C of this notice, in our Phase 3 research we developed a set of minimum sound level criteria for HVs and EVs based on the sounds produced by current ICE vehicles. While we are not proposing acoustic specifications based on the sound profile of ICE vehicles at this time we seek comment on the acoustic specifications below.

As discussed in section VII.D.1, the following one-third octave bands were identified as critical for vehicle detectability: 315, 400, 500, 2000, 2500, 3150, 4000, and 5000 Hz. A total of 152 measurements of stationary but activated and 10 km/hr (6 mph) forward pass-by events were analyzed to determine levels for these two operations. Data came from three different sources (the International Organization of Motor Vehicles Manufacturers (OICA), Phase 2 as described above, and Phase 3 research). Sound levels for backing were derived from the 10 km/hr (6 mph) forward levels but adjusted downward by 3 dB to account for directivity. In particular, the sound pressure level in the rear of an ICE vehicle is about 3 dB lower than what is measured at the SAE 2889–1 microphones. Two versions of potential requirements based on measured ICE levels are provided below. Table 13 shows minimum A-weighted sound levels based on the mean levels of ICE vehicles in the dataset. Table 14 shows minimum A-weighted sound levels based on the mean levels minus one standard deviation. Mean levels minus two standard deviations were also considered, however, these levels are not expected to be sufficiently detectable in many cases.

TABLE 13—MINIMUM A-WEIGHTED SOUND LEVELS BASED ON ICE MEAN LEVELS

One-third octave band center frequency, Hz	Stationary but activated	Backing	10 km/hr	20 km/hr	30 km/hr
315	40	42	45	52	55
400	41	44	47	53	57
500	43	45	48	54	59
2000	44	46	49	55	59
2500	44	46	49	53	56
3150	43	44	47	52	54
4000	41	42	45	49	51
5000	37	40	43	45	48
Overall A-weighted SPL Measured at SAE J2889–1 PP'line	52	54	57	62	66

TABLE 14—MINIMUM A-WEIGHTED SOUND LEVELS BASED ON ICE MEAN LEVELS MINUS ONE STANDARD DEVIATION

One-third octave band center frequency, Hz	Stationary but activated	Backing	10 km/hr	20 km/hr	30 km/hr
315	34	37	40	48	52
400	35	40	43	49	53
500	37	42	45	51	56
2000	39	42	45	50	54
2500	39	41	44	49	51
3150	39	40	43	47	49
4000	36	37	40	42	44
5000	29	34	37	38	40
Overall A-weighted SPL Measured at SAE J2889–1 PP'line	46	49	52	58	61

Note, neither the mean nor the mean minus one standard deviation have levels that are as high as those for our proposed requirement specification (Table 12) at the low frequencies. This does not indicate a disagreement between the two approaches, but rather indicates that low frequencies of typical ICEs are not as detectable in the ambient used in the modeling as typical ICE high-frequency components. Finally, Table 14 has levels that are as high as Table 12 for stationary but activated only at 3150 and 4000 Hz. Again, this does not mean that vehicles with levels below the mean will never be detectable, but rather that they will not likely be detectable for the ambient that was used in the modeling.

D. Acoustic Profiles Suggested by Manufacturers

The Alliance of Automotive Manufacturers (the ''Alliance'') submitted acoustic specifications that could serve as minimum sound requirements for HVs and EVs.[117] The Alliance proposed that the agency specify that HVs and EVs emit a sound with frequency content between 150 Hz and 3000 Hz. The Alliance proposal would require that sound emitted by HVs and EVs have at least two one-third octave bands with a sound pressure level of 44 A-weighted dB within this frequency range with one of the one-third octave bands being above 500 Hz and an overall sound pressure level of 48 A-weighted dB.

The agency believes that specifications for sound levels in only two one-third octave bands would not guarantee that sounds produced by HVs and EVs would be detectable in the range of ambient conditions in which the agency believes that pedestrians would need to detect them. If a sound has a greater number of one-third octave bands, it is more likely to be detectable at a given ambient. Sounds containing only one or two one-third octave bands with elevated sound pressure levels would be masked by ambient sound with strong spectral content in the same one-third octave bands which would hinder the ability of pedestrians to detect the sound. If a sound has elevated sound pressure levels at a wide range of one-third octave bands, it is less likely that an ambient will mask all of the bands that would increase the likelihood that the sound would be detectable.

We do not believe that the suggestion submitted by the Alliance specifies the one-third octave bands for which a minimum sound level is required in enough detail. The placement of one-third octave bands in the frequency spectrum influences the detectability of a sound. While the Alliance's suggestion would require one of the one-third octave bands to be at a frequency band above 500 Hz, the agency does not believe that this specification would ensure that the sounds would be loud enough for pedestrians to detect them at speeds above 0 km/hr. Based on the agency's detection model, a one-third octave band with a sound pressure level of 44 A-weighted dB would not be detectable at 10 km/hr (6 mph) if the frequency of the one-third octave band was below 3150 Hz. A sound with two one-third octave bands with a sound pressure level of 44 A-weighted dB would be masked by the ambient if those one-third octave bands were both positioned in mid-range frequencies for which the ambient level is highest.

We believe that the agency's proposal would better ensure that sounds produced by HVs and EVs would be recognizable to pedestrians as a motor vehicle in operation. The Alliance's suggestion does not include requirements for broadband, low frequency sound that contributes to recognizability.

These suggestions have been considered, but they do not meet either the requirements of the PSEA or the safety need because the suggestions are not specific enough about the placement of required one-third octave bands in the frequency spectrum to adequately ensure the detectability of the sound and they do not contain specifications for recognition. However, we will consider any further comments from the Alliance and all other commenters to this proposal with regard to the sound that should be made and, to the extent those comments are persuasive, they will be useful in creating the final rule. The agency seeks comment on the acoustic profile of the minimum sound requirements, as well as on the number of one-third octave bands for which the agency should establish requirements.

In its comments on the NOI, Nissan described the acoustic profile of the sound that is emitted by the Nissan Leaf. Nissan described the Leaf sound as having two peaks in sound pressure level with one peak near 2500 Hz and one peak near 600 Hz. Nissan stated that it included the 2500 Hz peak in sound pressure level to provide enhanced detection for pedestrians with normal hearing and the 600 Hz in sound pressure level to provide detection for pedestrians with age related hearing loss. The Leaf sound does not include mid-range one-third octave bands so that sound does not contribute to overall increases in ambient noise.

As discussed above, the agency believes that sound should be present in multiple high frequency one-bands to increase the likelihood that a pedestrian will be able to detect the sound in multiple ambients with differing acoustic profiles. Like the Leaf sound, the acoustic specifications in this proposal do not contain requirements for the one-third octave bands that would contribute to the greatest increase in overall levels. The one-third octave band levels in Table 12 would ensure that pedestrians with age related hearing loss would be able to detect the sounds meeting these requirements. They would have a significant amount of detectable content below 2000 Hz which, according to Nissan, is the threshold for age related hearing loss.

The agency believes that the acoustic specifications for minimum sound level requirements for HVs and EVs in the agency's proposal will provide manufacturers flexibility to develop alerts that are detectable and recognizable to pedestrians and pleasing to drivers. While the specifications described in the agency's proposal are more detailed than those contained in proposals that the agency received from manufacturers and their representatives, the agency believes that the specifications in its proposal place a greater emphasis on recognizability than specifications submitted by manufacturers. The agency's specifications will also ensure that sounds produced by HVs and EVs will be detectable in a wider range of ambient sounds than would be the case in suggestions submitted by manufacturers because specifications for a wider range of one-third octave bands increases the likelihood that the sound pressure level in any one one-third octave band will exceed the ambient for that frequency.

E. International Guidelines for Vehicle Alert Sounds

As discussed in Section VI.D above, the Japanese government issued voluntary guidelines for manufacturers to use when installing alert sounds on HVs and EVs. The ECE has also adopted these guidelines for use on a voluntary basis. In their comments on the NOI, several manufacturers stated that the agency should use these guidelines as a basis for ensuring that HVs and EVs produce sound levels sufficient to allow pedestrians to detect these vehicles.

[117] A presentation given at a meeting with NHTSA staff with the details of the proposal is available in the rulemaking docket accessible through regulations.gov. NHTSA–2011–0148–0022.

The agency does not believe that these guidelines have the level of detail necessary to serve as the basis for an FMVSS. The guidelines do not contain objective minimum requirements that manufacturers would be required to meet. The guidelines state that levels of sounds produced by HVs and EVs should not exceed the levels produced by ICE vehicles of the same class. The agency does not believe that this description of the sound levels would adequately ensure that these vehicles will be detectable by pedestrians or provide manufacturers with a set of requirements that they would be expected to meet.

The guidelines also do not contain an objective description of the acoustic characteristics that the sound should possess. Rather, the guidelines list what the sounds should not sound like. The guidelines state that vehicle emitted sounds should not sound like ''siren[s], chime[s], bells, melody, horn[] sounds, animals, insects, [or] sound[s] of natural phenomenon such as wave[s], wind, [or] river current[s].'' We do not believe that we would be able to tell whether a sound fell within one of the exclusions by means of an objective acoustic measurement because these descriptions do not contain any measurable values.

F. Suggestions in Comments to the NOI That Did Not Satisfy the Statement of Purpose and Need for the Rulemaking

Several of the commenters to the NOI suggested that the agency either take no action or address HV and EV collisions with pedestrians by other means. The PSEA requires the agency to establish an FMVSS that sets minimum sound requirements for HVs and EVs so taking no action was not a viable alternative.

One commenter suggested that the agency use advanced pedestrian crash avoidance technologies as a means of addressing collisions between HVs and EVs and pedestrians. While these technologies offer a promising means of preventing collisions between pedestrians and all vehicles, they are not yet mature or widespread enough for the agency to be able to consider making these devices a mandatory piece of safety equipment on a vehicle at this time. Furthermore, requiring advanced pedestrian crash avoidance devices on HVs and EVs would not meet the requirements of the PSEA.

G. Possible Jury Testing for Recognizability of a Synthetic Sound

The PSEA requires the agency to develop performance requirements to determine whether pedestrian alert sounds required by the standard are recognizable as being emitted by a motor vehicle in operation. The agency has tentatively decided that a compliance test for recognizability based solely on acoustic measurements over spectral distribution detailed above is the best way to ensure recognizability while, at the same time, allowing manufacturers the flexibility to design sounds representative of each make/model of vehicle. While the agency believes that sounds that fall within the agency's acoustic parameters will be recognizable to the public as a motor vehicle in operation, it is possible that manufacturers may wish to use sounds that would be equally as recognizable as those sounds meeting the agency's proposed specifications but would fail to satisfy the requirements proposed.

Notwithstanding the agency's tentative decision to use a set of sound parameters to achieve recognizability, we solicit comment on the possibility of allowing another compliance procedure designed to ensure that pedestrian alert sounds are recognizable and detectable. We are considering, but not proposing, allowing compliance through jury testing of sounds that would not meet the agency's acoustic specifications for recognizability. Allowing jury testing of sounds may give manufacturers greater flexibility in meeting the requirements of the standard. We specifically are soliciting comment on the desirability and the feasibility of a jury testing procedure for ensuring that sounds would be recognizable as a motor vehicle.

While the agency believes that human subject testing could provide an accurate evaluation of the recognizability of the pedestrian alert sound, the agency recognizes jury testing poses its own challenges. While the agency has tentatively concluded that jury testing is objective and repeatable as required by the Motor Vehicle Safety Act, manufacturers have expressed technical concerns about compliance testing by the agency using human subjects.

Under the jury testing framework envisioned by the agency, manufacturers would be required to submit information to NHTSA demonstrating that the sounds emitted by their vehicles are recognizable as a motor vehicle in operation. Under this framework, manufacturers would conduct a jury test according to procedures established by NHTSA and then submit to NHTSA documentation of the results of the jury and a certification that the jury test was conducted according to the procedures established by the agency.

After NHTSA received documentation of the manufacturer's jury test, the agency would examine the documents to ensure that the test was conducted properly. The agency would also include the same performance test for detectability in the standard as is proposed today.

While the agency believes that a compliance test using jury testing is objective and repeatable, manufacturers have expressed concerns in discussions with the agency about being subjected to a jury based performance standard. We recognize that automobile manufacturers face significant penalties in the event that they are determined to be noncompliant with a FMVSS. In an effort to provide manufacturers with regulatory certainty and in acknowledging that the agency does not currently specify any jury-based compliance testing, we have concluded that the most feasible approach to jury testing at this time would be for the agency to require manufacturers to conduct the jury tests themselves and submit their results to NHTSA as part of their vehicle certification. Thus, the manufacturers' records that the jury test was conducted properly with the jury determining that the sound was recognizable would constitute the manufacturers' certification.

The agency believes that a certification procedure outlined above would be objective and repeatable, as required by the Motor Vehicle Safety Act. While recognizability may be described as a subjective concept, the procedure envisioned by the agency for determining whether a sound is recognizable as a motor vehicle would be stated in objective terms. The standard would specify the composition of the jury, the jury size, how to conduct the jury test, and pass fail criteria. The jury procedure would be repeatable because the underlying statistics dictate that if the required percentage of jurors finds the ICE control sound and non-ICE sound recognizable as a motor vehicle, a different jury would make the same determination of whether the non-ICE sound is recognizable or not. In conducting a compliance test to determine if the sound complied with the standard, NHTSA would not conduct its own jury testing; instead the agency would review the manufacturer's documentation of its jury process to ensure the testing performed by the manufacturer was conducted according to the standard. Thus, a manufacturer would not be subject to the possibility that a jury test done by NHTSA would come to a different conclusion about the sound than the jury test conducted by the manufacturer.

The jury testing procedure envisioned by the agency would provide an

objective, repeatable method for determining compliance as required under the United States Court of Appeals for the District of Columbia Circuit's interpretation of the Motor Vehicle Safety Act in *Chrysler* v. *Department of Transportation.*[118] As discussed above, this jury test procedure would not subject the manufacturer to any subjective determination regarding compliance. Manufacturers would be assured of compliance if they conducted their jury test according to the agency's procedure and properly documented the process and results.

The jury of human subjects would be comprised of a sample size to make the jury results as repeatable as possible across multiple juries. Under the jury testing framework that the agency would mandate, the jury members would be exposed to two different sounds, a control sound and the sound that the manufacturer wished to use to meet the requirements of this standard.

The jury members would be asked to identify whether each sound was a regular and detectable vehicle sound or not. The jury size that the agency would require under this alternative certification procedure would depend on the statistical power the agency wished to achieve, the recognition rate of the ICE-like control sound, and recognition rate that the agency would specify for non-ICE sounds.

Assuming a 90 percent statistical power, a 90 percent ICE recognition rate and a minimum candidate sound recognition rate of 65 percent, (that is, 65 percent of the jury would have to find the candidate sound recognizable and detectable for the manufacturer to certify the vehicle with the candidate sound) the jury sample size would need to be at least 28 people to provide results that would be repeatable. If the statistical power and ICE recognition rate were 90 percent and the minimum candidate sound recognition rate was changed to 75 percent, the size of the jury would increase to 54 people. If the ICE recognition rate was lowered to 85 percent and the statistical power was maintained at 90 percent, a minimum recognition rate of 65 percent for the candidate sound would require a jury of 45 people. A minimum recognition rate of 75 percent for the candidate sound under the same circumstances would require a jury of 140 people. Thus, the size of the jury increases as the gap between ICE recognition rate and the candidate sound recognition rate closes.

In the event that the agency were to adopt a jury based approach in the pedestrian alert sound standard for determining recognizability, the jury size would be determined based on the agency's decision of the statistical power, ICE-recognition rate, and minimum candidate sound recognition that the agency believes will ensure that pedestrians will be able to safely recognize the vehicle equipped with the candidate alert sound. We have tentatively concluded that jury testing to determine the recognizability of sounds should be conducted at a 90 percent statistical power. The agency seeks comment on the general approach to jury testing that the agency is considering as discussed above. Specifically, the agency would like comment on the appropriate size of the jury for testing to determine whether sounds are recognizable as a motor vehicle, the statistical power that should be used for the test, the reference ICE recognition rate that should be required, and the minimum candidate sound recognition rate that should be required.

If the agency were to specify a jury test for recognizability, the agency would specify the specific demographic composition of the jury to ensure that the jury testing results would be repeatable across all segments of the public. The standard would require the jury to be composed of adults between the ages of 18 and 69 years old, with equal numbers of male and female participants.[119] Subjects from the 18–29 year-old, 30–49 year-old age, and 50–69 year-old age groups would each make up one-third of the jury. Subjects would be required to be willing to be screened for hearing threshold shift in the 500 Hz to 8,000 Hz frequency range. Subjects with an estimated hearing loss of 20 dB or more above the normal range for the 500 Hz to 8,000 Hz range would be excluded from the study. Jury subjects would also be prohibited from being employees of the manufacturer conducting the testing or otherwise interested in the outcome of the test.

A jury test for recognizability of pedestrian alert sounds specified by the agency would be conducted using headphones in an audiometric test room. The jury test procedure would specify a maximum acceptable ambient for the audiometric test room in which the jury test would be conducted similar to the acceptable ambient for audio testing described in ANSI S3.1–1991, *Maximum Permissible Ambient Noise Levels for Audiometric Test Rooms,* American National Standard. NHTSA would also require that jury testing be conducted with high quality head phones. NHTSA has concluded that headphones are preferable to a test utilizing loudspeakers. Headphones allow for greater flexibility in the setup of the jury room. Further, jury members listening to the sounds via headphones would not be influenced by their seating position or the room's acoustics.

The manufacturer conducting the jury test would be required to use a vehicle of the same make to create the ICE control sound used in the jury testing and would be required to submit that sound to NHTSA as part of its certification documentation. The audio file played for the subjects would be required to include synthetic urban noise, filtered according to a specification developed by Torben Pedersen in ''White Paper on External Sounds of Electric Cars,'' [120] as background to simulate ambient that pedestrians would encounter when attempting to detect an EV or HV in the everyday environment. The audio file used for jury testing should be created using a binaural recording technique that accurately reproduces the qualities of a moving sound source. This is ordinarily accomplished by making recordings of actual vehicle pass-bys. The agency believes that the operating scenario under which the vehicle was recorded will influence whether the jury members will think the sound is recognizable. The agency believes that the sound used for the jury evaluation should be recorded while the vehicle is accelerating. The sound of a vehicle accelerating provides many of the sound cues that the agency is addressing through the acoustic specifications for recognizability The agency included specifications for pitch shifting in today's proposal so that when the vehicle is accelerating the vehicle is providing acoustic cues about its changing speed The agency also believes that pitch shifting contributes to recognizability. Because the sounds that manufacturers may want to evaluate using this alternative framework should continue to provide pedestrians with cues that the vehicle is changing speed and because information provided by the sound that a vehicle makes while it is accelerating contributes to recognizability, the agency believes that the jury should evaluate the sound produced by the vehicle while it is accelerating, in addition to constant speed pass-by.

[118] 472 F.2d 659 (D.C. Cir. 1972).

[119] The jury composition requirements would allow for a slight deviation from the requirement that the jury be composing of equal numbers males in females in the event that the jury consisted of an odd number of subjects.

[120] Available at *http://media.wix.com/ugd/64a49a_43313ad70e7c40f43150cf747b2e5c44.pdf?dn=A520040+-+DSTN+-+White+paper+electric+cars+-+av122410+-+ECT+LR.pdf.*

The sample of the pedestrian alert sound played to the jury should be 10 seconds in length for both the ICE control sound and the candidate sound the manufacturer is attempting to certify. The control sound and the candidate sound the manufacturer is seeking to evaluate would be played in a random sequence for each jury member. Thus, some members of the jury would hear the control sound first while others would hear the candidate sound first. The agency would specify the loudness at which the sound would be played for the jurors as well as the level of the synthetic ambient noise.

Responses would be recorded using bubble-in survey forms with the bubbles representing yes or no for each sound for both the ICE control sound and the sound the manufacturer is seeking to certify. These forms would require minimal training for jury members as most jury members would likely be familiar with these forms. The jury instructions would consist of the following statement:

In this evaluation you will be presented a pair of sounds. You are asked to indicate whether you believe that each of the sounds is recognizable as a motor vehicle sound or not. Select the response listed on the form that corresponds with your view of that sound. If you think that sound A is recognizable as a motor vehicle sound select yes, if you do not think that sound A is recognizable as a motor vehicle select no. After you have made your selection for sound A, evaluate sound B and check the box that corresponds with your view on whether Sound B is recognizable as a motor vehicle sound. If you think that sound B is recognizable as a motor vehicle sound select yes, if you do not think that sound B is recognizable as a motor vehicle select no. Since the objective of the experiment is to understand the individual's reaction to the sounds, there are no right or wrong answers.

The agency seeks comment on the jury instructions outlined above. The agency is specifically interested in instructions that result in a yes or no answer and that would not lead members of the jury to prejudge the sound. The agency recognizes that asking whether the sound is a regular and detectable vehicle sound may influence the jury to a certain degree. However, in order for the results of the jury test to be repeatable, jury responses would need to come in the form of yes or no answers.

The validity of the jury test would be dependent on the jury members identifying the ICE control sound at the percentage required by the standard. If the jury members do not recognize the ICE control sound with the specificity required in the standard, the jury results must be discarded and the test invalidated. If the required percentage of jurors found both the candidate sound and ICE control sound to be recognizable as a motor vehicle in operation at the required recognition rates, the manufacturer would be able to certify the vehicle to the pedestrian alert standard.

IX. NHTSA's Role in the Development of a Global Technical Regulation

On June 25, 1998, the United States signed the 1998 Global Agreement, which entered into force on August 25, 2000. This agreement was negotiated under the auspices of the United Nations Economic Commission for Europe (UN/ECE) under the leadership of the U.S., the European Community (EC) and Japan. The 1998 Agreement provides for the establishment of Global Technical Regulations (GTRs) regarding the safety, emissions, energy conservation and theft prevention of wheeled vehicles, equipment and parts. By establishing GTRs under the 1998 Agreement, the Contracting Parties seek to pursue harmonization in motor vehicle regulations not only at the national and regional levels, but worldwide as well.

As a general matter, governments, vehicle manufacturers, and ultimately, consumers, both here and abroad, can expect to achieve cost savings through the formal harmonization of differing sets of standards when the contracting parties to the 1998 Global Agreement implement new GTRs. Formal harmonization also improves safety by assisting us in identifying and adopting best safety practices from around the world, and reducing diverging and unwarranted regulatory requirements. The harmonization process also allows manufacturers to focus their compliance and safety resources on regulatory requirements whose differences government experts have worked to converge as narrowly as possible. Compliance with a single standard will enhance design flexibility and allow manufacturers to design vehicles that better meet safety standards, resulting in safer vehicles. Further, we support the harmonization process because it allows the agency to leverage scarce resources by consulting with other governing bodies and international experts to share data and knowledge in developing modernized testing and performance standards that enhance safety.

Under the 1998 Agreement, countries voting in favor of establishing a GTR, agree in principle to begin their internal implementation processes for adopting the provisions of the GTR, *e.g.,* in the US, to issue an NPRM or Advanced NPRM, within one year. The ultimate decision whether or not to adopt the GTR is at each contracting party's discretion, however, based on its determination that the GTR meets or does not meet its safety needs. The UN/ECE World Forum for Harmonization of Vehicle Regulations (WP.29) administers the 1998 Agreement. Four committees coordinate the activities of WP.29: AC.2 manages the coordination of work of WP.29, while AC.3 is the ''Executive Committee'' for the 1998 Agreement. There are also six permanent subsidiary bodies of WP.29, known as GRs (Groups of Rapporteurs) that assist WP.29 in researching, analyzing and developing technical regulations.

At its March 2011 session, WP.29 determined that vehicles propelled in whole or in part by electric means, present a danger to pedestrians and consequently adopted Guidelines covering alert sounds for electric and hybrid vehicles that are closely based on the Japanese Government's guidelines. The Guidelines were published as an annex to the UNECE Consolidated Resolution on the Construction of Vehicles (R.E.3). Considering the international interest and work in this new area of safety, the US has decided to lead the efforts on the new GTR, with Japan as co-sponsor, and develop harmonized pedestrian alert sound requirements for electric and hybrid-electric vehicles under the 1998 Global Agreement. Development of the GTR for pedestrian alert sound has been assigned to the Group of Experts on Noise (GRB), the group most experienced with vehicle sound emissions. GRB is in the process of assessing the safety, environmental and technological concerns to develop a GTR that leverages expertise and research from around the world and feedback from consumer groups. The US, along with Japan, is the co-chair of the informal working group assigned to develop the GTR and, therefore, will guide the informal working group's development of the GTR. GRB will meet regularly and report to WP.29 until the expected establishment of the new GTR in November 2014.

Prime Minister Stephen Harper and President Barack Obama created the U.S.-Canada Regulatory Cooperation Council (RCC) on February 4, 2011 to increase regulatory cooperation between the United States and Canada. One of the action items of the RCC is to work to develop joint plans to address hybrid and electric vehicles and pedestrian safety. Pursuant to the RCC, the agency has been collaborating with Transport Canada on areas of research of mutual

interest regarding sound produced by hybrid and electric vehicles.

X. Analysis of Costs, Benefits, and Environmental Effects

A. Benefits

As stated above in the discussion of the statistical analysis of safety need done for this rulemaking (see Section V), the use of data from 16 states cannot be used to directly estimate the national problem size and, an analysis of pedestrian fatalities is not appropriate for this rulemaking. The target population analysis will therefore focus on injuries only.

The PSEA directs NHTSA to establish minimum sound requirements for EVs and HVs as a means of addressing the increased rate of pedestrian crashes for these vehicles. In calculating the benefits of this rulemaking we have assumed that adding sound to EVs and HVs will bring the pedestrian crash rates for these vehicles in line with the pedestrian crash rates for ICE vehicles because the minimum sound requirements in the proposed rule would ensure that EVs and HVs are at least as detectable to pedestrians as ICE vehicles. This approach assumes that EVs and HVs have higher pedestrian crash rates than ICE vehicles because of the differences in sound levels produced by these vehicles. Therefore, the target population for this rulemaking is the number of crashes that would be avoided if the crash rate for hybrid and electric vehicles was the same as the crash rate for ICE vehicles. No quantifiable benefits are estimated for EVs because we assume that EV manufacturers would have added alert sounds to their cars in the absence of this proposed rule and the PSEA.

First, injury estimates from the 2006–2010 National Automotive Sampling System—General Estimates System (NASS–GES) and 2007 Not in Traffic Surveillance (NiTS) were used to provide an average estimate for combined in-traffic and relevant not-in-traffic crashes. In order to combine the GES and NiTS data in a meaningful way, it was assumed that the ratio of GES-to-NiTS will be constant for all years 2006 to 2010.

Because both the GES and NiTS databases rely on police reported crashes, these databases do not accurately reflect all vehicle crashes involving pedestrians because many of these crashes are not reported to the police. The agency estimates that the number of unreported crashes for pedestrians is equal to 100.8 percent of the reported crashes. That is to say, for every 100 police reported pedestrian crashes, there exist 100.8 additional unreported pedestrian crashes, for a total of 200.8 crashes.

Table 15 shows the reported and unreported crashes by injury severity. Only injury counts will be examined for the purpose of benefits calculations, and as such fatalities and uninjured (MAIS 0) counts are not included.

TABLE 15—QUIET CARS TARGET POPULATION INJURIES REPORTED (GES, NiTS) AND UNREPORTED PEDESTRIANS AND PEDALCYCLISTS, BY VEHICLE

MAIS level	1	2	3	4	5	Total 1–5
Reported (GES+NiTS) and Unreported Injured Pedestrians						
Passenger Car (PC)	75,401	12,490	2,561	613	248	91,313
Light Trucks & Vans (LTV)	51,761	8,627	1,771	423	171	62,753
Total Light Vehicles (PC+LTV)	127,163	21,116	4,332	1,037	419	154,067
Reported (GES+NiTS) and Unreported Injured Pedalcyclists						
Passenger Car (PC)	43,795	6,329	1,105	247	88	51,564
Light Trucks & Vans (LTV)	28,840	4,184	730	162	58	33,974
Total Light Vehicles (PC+LTV)	72,635	10,513	1,835	409	146	85,538

The estimates in Table 15 are based on the current make-up of the fleet for all propulsion types. This means that the total target population described above across 2006 to 2010 is not only the result of 100% of the combined sales of all vehicle propulsion types, but also it is assumed to be equal to 100.67% of the injuries resulting from a fleet comprised of only ICE vehicles (due to the increased rate of these incidents for EVs and HVs). The estimated injuries in Table 16 are created by combining the percentage of annual sales of hybrid and electric vehicles with the odds ratio of 1.19, representing the increased risk of an HV being involved in a pedestrian crash, and the odds ratio of 1.44, representing the increased risk of an HV being involved in a pedalcyclist crash.[121] Thus, when considering pedestrians injured by MY2016 vehicles and assuming these pedestrian and pedalcyclist crashes occurred because the pedestrians and pedalcyclists failed to detect these vehicles by hearing, the rulemaking is responsible for the 1,223 injury difference between that theoretical ICE-only fleet (153,271 injuries) and the estimated lifetime injuries from the MY2016 fleet (154,494). When considering pedalcyclists injured by MY2016 vehicles, the rulemaking is responsible for the 1,567 injury difference between that theoretical fleet (84,516 injuries) and the estimated lifetime injuries from the MY2016 fleet (86,084). The rule would also reduce 5 pedestrian injuries over the lifetime of the MY 2016 fleet of LSVs and 5 pedalcyclist injuries over the lifetime of the MY 2016 fleet of LSVs.

[121] See footnote 42.

TABLE 16—ENHANCED INJURY RATE (EIR) FOR PEDESTRIANS FOR 2016 MODEL YEAR [122]

	Mild hybrids (percent)	Strong hybrids (percent)	EVs + fuel cell (percent)	ICEs (percent)	Total (percent)	Injuries assuming 100% ICE fleet	Injuries assuming predicted fleet	Benefits
Passenger Car	4.46	5.79	0.50	90.18	100.92	90,706	91,545	839
Light Trucks & Vans	5.62	3.85	0.04	91.11	100.61	62,565	62,949	384
Total						153,271	154,494	1,223

ENHANCED INJURY RATE (EIR) FOR PEDESTRIANS FOR 2016 MODEL YEAR [123]

	Mild hybrids (percent)	Strong hybrids (percent)	EVs + fuel cell (percent)	ICEs (percent)	Total (percent)	Injuries assuming 100% ICE fleet	Injuries assuming predicted fleet	Benefits
Passenger Car	4.46	7.01	0.50	90.18	102.14	50,777	51,865	1,087
Light Trucks & Vans	5.62	4.66	0.04	91.11	101.42	33,739	34,219	480
Total						84,516	86,084	1,567

The agency has not estimated the benefits associated with applying the requirements of this proposal to hybrid and electric vehicles with a GVWR over 4,536 kg (10,000 pounds), and electric motorcycles because the agency was unable to determine separate pedestrian collision rates for these vehicle types. The agency is unsure whether using the difference in rates between light ICE vehicle pedestrian crashes and light HV and EV pedestrian crashes would be an appropriate means of calculating the benefits of applying the requirements of this proposal to these other classes of vehicles. As discussed in the Preliminary Regulatory Impact Analysis (PRIA), MAIS injury levels are converted to dollar amounts. The benefit of reducing 2,800 pedestrian and pedalcyclist injuries, or 35 equivalent lives saved, is estimated to be $ 178.7M at the 3 percent discount rate and $146.3M at the 7 percent discount rate for the light vehicle and LSV fleet.

The agency calculated the benefits of this proposal by calculating the ''injury differences'' between ICE vehicles and HVs. The ''injury differences'' assume that the difference between crash rates for ICEs and non-ICEs is explained wholly by the difference in sounds produced by these two vehicle types of vehicles and the failure of pedestrians and pedalcyclists to detect these vehicles by hearing. It is possible that there are other factors responsible for some of the difference in crash rates, which would mean that adding sound to hybrid and electric vehicles would not reduce pedestrian and pedalcyclist crash rates for hybrids to that of ICE vehicles. NHTSA also assumes the sound added to hybrid and electric vehicles will be as effective in providing warning to pedestrians as the sound produced by a vehicle's ICE. NHTSA seeks comment on the underlying assumptions used in calculating the benefits of this proposal.

In addition to the benefits in injury reduction due to this proposal there is also the benefit to blind individuals of continued independent mobility. The increase in navigational ability resulting from this proposal is hard to quantify and thus this benefit is mentioned but not assigned a specific productivity or quality of life monetization. By requiring alert sounds on hybrid and electric vehicles, blind pedestrians will be able to navigate roads as safely and effectively as if the fleet were entirely ICE vehicles. The benefit of independent navigation leads to the ability to travel independently and will, therefore, also lead to increased employment and the ability to live independently.

B. Costs

Based on Ward's Automotive Yearbook, 2011 there were 306,882 hybrid engine installations in light vehicles (74% were in passenger cars and 26% were in light trucks) in MY 2010 (these were 2.8% of sales in 2010 of 10,796,533). There were a small number of electric vehicles (an estimated 852 from NHTSA's data not Ward's) sold in 2010, the larger sellers (GM Volt and Nissan Leaf) were introduced later. The Annual Energy Outlook (AEO) for 2011 provides estimates of the fleet by year for hybrid and electric vehicles.[124] The number of vehicles that the agency projects will be required to meet the standard is shown in TABLE 17.

TABLE 17—ESTIMATED/PREDICTED HYBRID AND ELECTRIC VEHICLE SALES PROPOSED TO BE REQUIRED TO PROVIDE AN ALERT SOUND

	Estimated 2010 sales	Predicted 2016 sales	2016 sales for costing purposes
Low-Speed Vehicles	1,500	2,500	2,500
Light Vehicles Electric	852	46,200	
Fuel Cells	0	2,900	
Light Vehicles Hybrid	289,282	671,300	671,300

[122] Table values may be off by one due to rounding.

[123] Table values may be off by one due to rounding.

[124] In calculating the costs of this proposal the agency only included those vehicles that can operate solely via the vehicle's electric motor. The agency did not included ''micro hybrids'' whose ICE is always running when the vehicle is motion when calculating the costs of this proposal.

TABLE 17—ESTIMATED/PREDICTED HYBRID AND ELECTRIC VEHICLE SALES PROPOSED TO BE REQUIRED TO PROVIDE AN ALERT SOUND—Continued

	Estimated 2010 sales	Predicted 2016 sales	2016 sales for costing purposes
Light Vehicles Total	290,143	720,400	.....
Medium and Heavy Truck	2,000	21,500	21,500
Buses	3,000	5,000	5,000
Motorcycles	1,500	5,000	5,000
Total Sales	298,143	754,400	705,300

The Nissan Leaf and other fully electric vehicles come equipped with an alert sound system. Based on what manufacturers have voluntarily provided in their fully electric vehicles, the agency assumes that fully electric vehicles and hydrogen fuel cell vehicles would have provided an alert sound system on their own and, therefore, for costing purposes we assumed that this is not a cost of the proposal. However, those vehicles' alert sounds may not meet the proposed standard and, the rulemaking may force a change in a manufacturer's sound alert. We assume that manufacturers would incur no incremental cost for that change, as it is anticipated to be a simple software modification. Thus, the incremental number of light vehicles that have to add an alert sound system for costing purposes for MY 2016 is 720,400-46,200–2,900 = 671,300.

Based on informal discussions with suppliers and industry experts, the agency estimates that the total consumer cost for a system that produces sounds meeting the requirement of this proposal is around $30 per vehicle. This estimate includes the cost of a dynamic range speaker system that is protected from the elements and attached with mounting hardware and wiring to both power the speaker and receive signal inputs and a digital signal processor that receives information from the vehicle regarding vehicle operating status (to produce sounds dependent upon vehicle status). We seek comment of the cost of a speaker system used to produce sounds meeting the requirements contained in this proposal. We assume there will be no other structural changes or installation costs associated with complying with the rule's requirements and seek comment on this assumption. We believe the same system can be used for both low-speed vehicles and light vehicles. We estimate that the added weight of the system would increase fuel costs for light vehicles around $5 over the life time of the vehicle.

TABLE 18—TOTAL COSTS

	3% Discount rate	7% Discount rate
Passenger Cars Per Vehicle	$34.73	$33.83.
Light Trucks Per Vehicle	$35.33	$34.23.
All Passenger Cars	$15.27 Million	$14.87 Million.
All Light Trucks	$8.19 Million	$7.93 Million.
Total for Light Vehicles	$23.45 Million	$22.80 Million.
Low-speed Vehicles Per Vehicle	$30.24	$30.24.
Low-speed Vehicles Total Cost	$0.08	$0.08.
Partial Costs for All Medium/Heavy Trucks, Buses, and Motorcycles	$1.48 Million	$1.48 Million.
Total	$25.00 Million	$24.36 Million.

In addition to the quantifiable costs discussed above, there may be a cost of adding sound to quiet vehicles to owners who value quiet. NHTSA does not know how to put a value on quiet for a driver's own vehicle. We are also unsure of the extent to which the added sound will reach the passenger compartment of the vehicle and request comment on this issue. Nor does the agency know how to put a value or a cost on the increase in noise that the alert sound from other vehicles would produce.

As explained further in the Draft Environmental Assessment (Draft EA) that the agency has analyzed the potential environmental effects of this rulemaking, we expect that the increase in noise from the alert sound will be no louder than that from an average ICE vehicle and that there will not be an appreciable aggregate sound from these vehicles. Given the low increase in overall noise caused by this rule, we expect that any costs that may exist due to added sound will be minimal. Nevertheless, we ask commenters whether the increase in noise brought about by this proposal has any cost and how to value it. NHTSA also seeks comment on whether manufacturers are taking any actions beyond adding speakers and typical noise reduction efforts in response to adding sound to quiet vehicles and the cost of such actions. NHTSA has not found any way to value the increase in noise, and, thus it is a non-quantified cost.

C. Comparison of Costs and Benefits

Because we have calculated the costs of this rule to all applicable hybrid and electric vehicles, but not calculated the benefits of applying this proposal to the medium and heavy duty trucks and buses and electric motorcycles the comparison of costs and benefits only takes into account light vehicles and low-speed vehicles. Comparison of costs and benefits expected due to this rule provides a cost of $0.83 to $0.99 million per equivalent life saved across the 3 and 7 percent discount levels. This falls under NHTSA's value of a statistical life of $6.3M, and therefore this rulemaking is assumed to be cost beneficial. Since the lifetime benefits of MY2016 light vehicles is expected to be between $145.8M and $178M, the net impact of the rule is a positive one, even with the

estimated $20.1M required to install speakers [125] and $3M in lifetime fuel costs.

TABLE 19—DISCOUNTED BENEFITS MY 2016, 2010$

3% Discount	Total monetized benefits	Total ELS
TOTAL PED + CYC		
(PC)	$122,747,591	19.41
(LTV)	55,265,495	8.74
Total	178,013,086	28.15
7% Discount	Total monetized benefits	Total ELS
TOTAL PED + CYC		
(PC)	$102,366,052	16.19
(LTV)	43,422,889	6.87
Total	145,788,941	23.06

TABLE 20—TOTAL COSTS 2010$

3% Discount	Total cost/veh	Total costs
(PC)	$34.70	$15,253,618
(LTV)	35.30	8,178,471
Total	34.91	23,432,088
7% Discount	Total cost/veh	Total costs
(PC)	$33.80	$14,857,991
(LTV)	34.20	7,923,618
Total	33.94	22,781,608

TABLE 21—NET IMPACTS 2010$

3% Discount	Net impact/veh	Net impact	Net costs/ELS (in $M)
(PC)	$244.53	$107,493,974	0.79
(LTV)	203.24	47,087,024	0.94
Total	230.28	154,580,998	0.83
7% Discount	Net impact/veh	Net impact	Net costs/ELS (in $M)
(PC)	$199.07	$87,508,062	0.92
(LTV)	153.22	35,499,271	1.15
Total	183.25	123,007,333	0.99

The net impact of this proposal to LSVs is also expected to be positive. The net benefits of the minimum sound requirements for these vehicles is $662,971 at the 3 percent discount rate and $542,959 at the 7 percent discount rate. Thus, the total net impact of the rule considering both the MY2016 light vehicle and LSV fleet is positive.

TABLE 22—COSTS AND SCALED BENEFITS FOR LSVS, MY2016 [126]

Discount rate	Sales ratio LSV to light vehicle	Sales	Scaled costs	Scaled injuries (undisc.)	Scaled ELS	Scaled benefits	Scaled benefits minus scaled costs
3%	0.37%	2,500	$87,268	10.39	0.1049	$662,971	$575,703
7%	0.37%	2,500	84,845	10.39	0.0859	542,959	458,114

D. Environmental Effects

The agency has prepared a Draft Environmental Assessment (Draft EA) to analyze and disclose the potential environmental impacts of a reasonable range of potential minimum sound requirements for HVs and EVs, including a preferred alternative. The alternatives the agency analyzed include a No Action Alterative, under which the agency would not establish any minimum sound requirements for EVs/HVs, and two action alternatives. Under Alternative 2, which is the Preferred Alternative and is equivalent to the agency's proposal, the agency would require a sound addition at speeds at or below 30 km/h and would require that covered vehicles produce sound at the stationary but active operating condition. Under Alternative 3, the agency would require a minimum sound pressure level of 48 A-weighted dB for speeds at or below 20 km/h; there would be no sound requirement when the vehicle is stationary.

In the Draft EA, NHTSA separately analyzed the projected environmental impacts of each of the three alternatives in both urban and non-urban environments because differences in population, vehicle speeds, and deployment of EVs/HVs in these areas could affect the potential environmental impacts. National Household Travel Survey data for 2009 shows that non-urban households account for 31 percent of all vehicle miles traveled (VMT) but just 14 percent of VMT associated with trips at an average speed of less than 20 km/h, indicating that these households spend a much smaller percent of travel time at slow speeds associated with congested traffic than do households in urban areas. The Draft EA estimates the direct and indirect impacts of the alternatives in both urban and non-urban areas by taking into

[125] Based on the assumption in this analysis that manufacturers will install speakers to meet the proposal.

[126] Scaled benefits and costs for low speed vehicles are estimated directly proportional to light vehicles based on sales. Scaled costs include both installation costs for the system and fuel costs.

account the higher percentage of total VMT that takes place in non-urban areas, the lower percentage of VMT traveled at slow speeds in non-urban areas, and the lower percentage of EV/HV sales expected in non-urban areas.

In the Draft EA, NHTSA estimated the amount of total annual U.S. passenger vehicle driving time spent in the stationary but active operating condition, at speeds up to 20 km/h, and at speeds between 20 and 30 km/h. Using forecasts of EV/HV deployment levels in 2035, NHTSA projected the percentage of total U.S. light duty driving hours that would be impacted by the standards (*e.g.,* vehicles driven at speeds that would enable the alert sound). Based on these assumptions, NHTSA projects that under Alternative 2 (the Preferred Alternative), 2.3 percent of all urban and 0.3 percent of all non-urban light vehicle travel hours would be affected by the minimum sound requirements in 2035. Under Alternative 3, 0.9 percent of all urban and 0.1 percent of all non-urban light vehicle travel hours would be affected by the minimum sound requirements in 2035.

The agency's analysis also shows that in either urban or non-urban environments, assuming EV/HV deployment levels of either 10 percent and 20 percent, the agency's Preferred Alternative would have negligible to minimal effects on overall community noise levels. Under the Preferred Alternative, in a simulated high-traffic condition, the agency found a difference in sound level of no greater than 0.3 dB(A), as measured by a receiver 7.5 meters from a roadway, at all speeds and under all conditions compared to the No Action Alternative. Even if EVs/HVs were to reach 50 percent deployment, Alternative 2 is projected to amount to a maximum difference of 0.9 dB above the sound level under the No Action Alternative in non-urban environments and 0.7 dB in urban environments. Because differences in sound pressure of less than 3 dB are generally not noticeable by humans, the environmental impacts of this proposal are expected to be negligible. Although sound level differences are greater for single vehicle pass-by events the difference would be similar to the existing variation that results from differences between ICE vehicle models. Thus, although the individual event may be noticeable, overall the noticeable noise levels in the case of single-car pass-by are considered to cause only a minor impact.

XI. Regulatory Notices and Analyses

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

The agency has considered the impact of this rulemaking action under E.O. 12866, E.O. 13563, and the Department of Transportation's regulatory policies and procedures. This action was reviewed by the Office of Management and Budget under E.O. 12866. This action is ''significant'' under the Department of Transportation's regulatory policies and procedures (44 FR 11034; February 26, 1979).

This action is significant because it is the subject of congressional interest and because it is a mandate under the PSEA. The agency has prepared and placed in the docket a PRIA.

We estimate the total fuel and installation costs of this proposal to the light EV, HV and LSV fleet to be $23.5M at the 3 percent discount rate and $22.9M at the 7 percent discount rate. The estimated total installation cost for hybrid and electric heavy and medium duty trucks and buses and electric motorcycles is $1.48M meaning that the total costs for this rule are between $25 and $24.36 million, depending on the discount rate. We have only calculated the benefits of this proposal for light EVs, HVs and LSVs because we do not have crash rates for hybrid and electric heavy and medium duty trucks and buses and electric motorcycles. We estimate that the impact of this proposal in pedestrian and pedacyclist injury reduction will be 28.15 equivalent lives saved at the 3 percent discount rate and 23.06 equivalent lives saved at the 7 percent discount rate. The benefits of this proposal for the light EV and HV and LSV fleet are $178.7M at the 3 percent discount rate and $146.3M at the 7 percent discount rate. Thus, this action is also significant because it has an annual economic impact greater than $100 million.

Executive Order 13609: Promoting International Regulatory Cooperation

The policy statement in section 1 of Executive Order 13609 provides, in part:

> The regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues. In some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

NHTSA requests public comment on whether (a) ''regulatory approaches taken by foreign governments'' concerning the subject matter of this rulemaking and (b) the above policy statement have any implications for this rulemaking.

National Environmental Policy Act

Concurrently with this NPRM, NHTSA is releasing a Draft EA, pursuant to the National Environmental Policy Act, 42 U.S.C. 4321–4347, and implementing regulations issued by the Council on Environmental Quality (CEQ), 40 CFR part 1500, and NHTSA, 49 CFR part 520. NHTSA prepared the Draft EA to analyze and disclose the potential environmental impacts of the proposed minimum sound requirements for HVs and EVs and a range of alternatives. The Draft EA analyzes direct, indirect, and cumulative impacts and analyzes impacts in proportion to their significance.

Because this proposal would increase the amount of sound produced by a certain segment of the vehicle fleet, the Draft EA considers the possible impacts of increased ambient noise levels on both urban and rural environments. The Draft EA also describes potential environmental impacts to a variety of resources. The resources that may be affected by the proposed action and alternatives include biological resources, noise, and environmental justice.

The agency's analysis in the Draft EA shows that in either urban or non-urban environments, assuming EV/HV deployment levels of either 10 percent and 20 percent, the agency's Preferred Alternative would have negligible to minimal effects on overall community noise levels. Even if EVs/HVs were to reach 50 percent deployment, the agency's Preferred Alternative is projected to amount to a maximum difference of 0.9 dB above the sound level under the No Action Alternative in non-urban environments and 0.7 dB in urban environments. Because differences in sound pressure of less than 3 dB are generally not noticeable by humans, the environmental impacts of this proposal are expected to be negligible.

For additional information on NHTSA's NEPA analysis, please see the Draft EA.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' [127] No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a proposal will not have a significant economic impact on a substantial number of small entities.

I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. We believe that the rulemaking would not have a significant economic impact on the small vehicle manufacturers because the systems are not technically difficult to develop or install and the cost of the systems ($30) is small in proportion to the overall vehicle cost for most small vehicle manufacturers.

This proposal would directly affect motor vehicle manufacturers and final-stage manufacturers. The majority of motor vehicle manufacturers will not qualify as a small business. There are five manufacturers of light hybrid and electric vehicles that would be subject to the requirements of this proposal that are small businesses.[128] Similarly, there are several manufacturers of low-speed vehicles[129] and electric motorcycles that are small businesses.

We believe there are very few manufacturers of heavy trucks in the United States which can be considered small businesses. The agency is aware that many manufacturers of medium duty trucks are small businesses. The agency is aware of at least two small manufacturers who are producing electric trucks with a GVWR over 10,000 lb.[130] In addition to the two manufacturers of medium duty electric vehicles identified by the agency, we believe that there may be other small manufacturers who are currently producing these vehicles.

NHTSA believes there are approximately 37 bus manufacturers in the United States. Of these, 27 bus manufacturers are large business and 10 are small businesses. Three of these small manufacturers produce electric buses—E-bus Inc., Enova Systems, and Gillig Corporation.

Because the PSEA applies to all motor vehicles (except trailers) in its mandate to reduce quiet vehicle collisions with pedestrians, all of these small manufacturers that produce hybrid or electric vehicles are affected by the requirements in today's final rule. However, the economic impact upon these entities will not be significant for the following reasons.

(1) The cost of the systems ($30) is a small proportion of the overall vehicle cost for even the least expensive electric vehicles.

(2) This proposal would provide a three year lead-time and would allow small volume manufacturers the option of waiting until the end of the phase-in (September 1, 2018) to meet the minimum sound requirements.

Executive Order 13132 (Federalism)

NHTSA has examined today's proposed rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposed rule would 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.''

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. § 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' (49 U.S.C. § 30103(e)). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules, even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See Geier v. American Honda Motor Co., 529 U.S. 861 (2000).

Pursuant to Executive Order 13132 and 12988, NHTSA has considered whether this proposed rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the agency has examined the nature (*e.g.,* the language and

[127] 13 CFR 121.105(a).

[128] CODA, Fisker Automotive Inc., Via, Phoenix, and Tesla. However, it is our view that the manufacturers of electric vehicles would face little costs due to this rule because they would have installed alert sounds in their vehicles without this proposed rule.

[129] In the low-speed vehicle group there are Columbia ParCar Corp., Club Car, LLC, Miles Electric Vehicles LLC, STAR Electric Car Sales, Tomberlin, Wheego Electric Cars, Inc., Wildfire, GTT Electric and others.

[130] Boulder Electric Vehicle and Smith Electric Vehicles are producing or have plans to produce electric vehicles with a GVWR over 10,000 lb.

structure of the regulatory text) and objectives of today's proposed rule and finds that this proposed rule, like many NHTSA rules, would prescribe only a minimum safety standard. As such, NHTSA does not intend that this proposed rule would preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by today's proposed rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard proposed here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729; Feb. 7, 1996), requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) specifies whether administrative proceedings are to be required before parties file suit in court; (6) adequately defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The issue of preemption is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for 2010 results in $136 million (110.659/81.536 = 1.36).

As noted previously, the agency has prepared a detailed economic assessment in the PRE. We estimate the annual total fuel and installation costs of this proposal to the light EV, HV and LSV fleet to be $23.5M at the 3 percent discount rate and $22.9M at the 7 percent discount rate. The estimated total installation cost for hybrid and electric heavy and medium duty trucks and buses and electric motorcycles is $1.48M. Therefore, this proposal is not expected to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $136M annually.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. The NPRM contains reporting requirements so that the agency can determine if manufacturers comply with the phase in schedule.

In compliance with the PRA, this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to OMB for review and comment. The ICR describes the nature of the information collections and their expected burden. This is a request for new collection.

Agency: National Highway Traffic Safety Administration (NHTSA).

Title: 49 CFR Part 575.141, Minimum Sound Requirements for Hybrid and Electric Vehicles.

Type of Request: New collection.

OMB Clearance Number: Not assigned.

Form Number: The collection of this information will not use any standard forms.

Requested Expiration Date of Approval: Three years from the date of approval.

Summary of the Collection of Information

This collection would require manufacturers of passenger cars, multipurpose passenger vehicles, trucks, buses, motorcycles and low speed vehicles subject to the phase-in schedule to provide motor vehicle production data for the following three years: September 1, 2015 to August 31, 2016; September 1, 2016 to August 31, 2017; and September 1, 2017 to August 31, 2018.

Description of the Need for the Information and Use of the Information

The purpose of the reporting requirements will be to aid NHTSA in determining whether a manufacturer has complied with the requirements of Federal Motor Vehicle Safety Standard No. 141, *Minimum Sound for Hybrid and Electric Vehicles,* during the phase-in of those requirements.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)

The respondents are manufacturers of hybrid and electric passenger cars, multipurpose passenger vehicles, trucks, buses, motorcycles and low-speed vehicles. The agency estimates that there are about 73 such manufacturers. The proposed collection would occur one per year.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information

NHTSA estimates that the total annual burden is 146 hours (2 hours per manufacturer per year).

Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility.
- Whether the Department's estimate for the burden of the information collection is accurate.
- 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.

A comment to OMB is most effective if OMB receives it within 30 days of publication. Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attn: NHTSA Desk Officer. PRA comments are due within 30 days following publication of this document in the **Federal Register**.

The agency recognizes that the collection of information contained in today's final rule may be subject to revision in response to public comments and the OMB review.

The procedure for the evaluation of vehicle sounds by human subjects contained in Section VIII.G of this proposal would also constitute a collection of information for the purposes of the PRA. If the agency decides to adopt the procedure described in Section VIII.G in the final rule then agency would submit an ICR to OMB before the final rule is issued in compliance with the PRA.

Executive Order 13045

Executive Order 13045 [131] applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the proposed rule on children, and explain why the proposed regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This proposed rule would not pose such a risk for children. The primary effects of this proposal are to ensure that hybrid and electric vehicles produce enough sound so that pedestrians can detect them. We expect this rule to reduce the risk of injuries to children and other pedestrians.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.,* the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical.

Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specification and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

The agency uses certain parts of voluntary consensus standard SAE J2889–1, *Measurement of Minimum Noise Emitted by Road Vehicles,* in the test procedure contained in this proposal. SAE J2889–1 only contains measurement procedures and does not contain any minimum performance requirements. The agency did not use any voluntary consensus standards for the minimum acoustic requirements contained in this proposal because no such voluntary consensus standards exist. The agency added additional test scenarios other than those contained in SAE J2889–1 because those additional test scenarios address aspects of performance not covered in that standard. As discussed in Section VII.E.1, the proposal does not include a procedure for indoor testing because of the limited availability of indoor test facilities and because test surfaces for indoor testing are not sufficiently specified.

Executive Order 13211

Executive Order 13211 [132] applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If the regulatory action meets either criterion, we must evaluate the adverse energy effects of the proposed rule and explain why the proposed regulation is preferable to other potentially effective and reasonably feasible alternatives considered by NHTSA.

The proposed rule seeks to ensure that hybrid and electric vehicles are detectable by pedestrians. The average weight gain for a light vehicle is estimated to be 1.5 pounds (based upon a similar waterproof speaker used for marine purposes), resulting in 2.3 more gallons of fuel being used over the lifetime of a passenger car and 2.5 more gallons of fuel being used over the lifetime of a light truck. When divided by the life time of the vehicle (26 years for passenger cars and 36 years for light trucks) the yearly increase in fuel consumption attributed to this proposed rule would be negligible. Therefore, this proposed rule would not have a significant adverse effect on the use of energy. Accordingly, this proposed rulemaking action is not designated as a significant energy action.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an organization, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.dot.gov/privacy.html.*

Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long.[133] We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit your comments by any of the following methods:

[131] 62 FR 19885 (Apr. 23, 1997).

[132] 66 FR 28355 (May 18, 2001).

[133] *See* 49 CFR § 553.21.

• *Federal eRulemaking Portal:* go to *http://www.regulations.gov.* Follow the instructions for submitting comments on the electronic docket site by clicking on ''Help'' or ''FAQ.''

• *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

• *Fax:* (202) 493–2251.

If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[134]

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf.*

How can I be sure that my comments were received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit acoustic recordings?

If you wish to submit acoustic recordings along with your comments please sent the recordings to NHTSA at the address given above under **FOR FURTHER INFORMATION CONTACT**. If you wish to request confidential treatment of the records please follow the instructions listed below.

In order to be of use to the agency, NHTSA is requesting that any recordings submitted to the agency be 16-bit with a sampling frequency of 44.1 kHz or better and made with a stationary binaural head facing perpendicular to the vehicle's trajectory. As well as any recording made using a binaural head, it would be useful to the agency, if possible, for recordings submitted to include a recording from a monaural microphone made according to SAE J2889–1. The agency requests that a Calibration Tone be included in each set of recordings. The agency also requests that the level and frequency of the Calibration Tone be indicated, *e.g.* 94 dB at 1000 Hz.

In order to be of use in the agency's analysis, we request that idle recordings be at least 30 seconds long and preferably 60 seconds long. Constant speed pass-by recordings should include at least 15 seconds of approach towards the microphone and at least 5 seconds departing from the microphone. Ideally the recording will start before the vehicle is audible. We are requesting the recording of time after departure so that we have additional data for analysis of tone-to-noise ratio, Doppler shifts, and Head-Related Transfer Function (HRTF) effects, but do not need recordings up until the point at which the vehicle is no longer audible. The agency requests that commenters identify the distance of vehicle from microphone at start of recording as well as the distance between the microphone and the vehicle center line. The agency requests that commenters identify the operating scenario of the vehicle when the recording was made.

In order to help us with our analysis, we request that commenters submit information about the make, model and year of the vehicle being recorded along with the recording. We also request that commenters identify whether the recording is of an ICE vehicle or an EV/HV equipped with an alert sound. The agency requests that commenters submit the minimum A-weighted level and maximum A-weighted level while using a fast (125 ms exponential) time weighting of the sound produced by the vehicle along with the recording.

In order to assist the agency in analyzing recordings submitted in response to the NPRM we request that commenters inform the agency whether the recording was conducted on an ISO noise pad, in a semi-anechoic chamber or on a test bench. For outdoor testing it would be useful for commenters to provide measurements of the air and pavement temperature, and wind speed at the time of the recording as well as photographs of the test site if available. For more information about how the agency collected data for its research please see Chapter 4.1.5, Data Collection Protocol, in the agency's Phase I research report.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation.[135]

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth above.

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments received after that date. Therefore, if interested persons believe that any new information the agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rule.

If a comment is received too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (*e.g.,* the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

List of Subjects

49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

[134] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

[135] *See* 49 CFR § 512.

49 CFR Part 585

Motor vehicle safety, Reporting and recordkeeping requirements.

Proposed Regulatory Text

For reasons discussed in the preamble, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

■ 2. In § 571.5, paragraphs (i)(2) and (l)(50) are added to read as follows:

§ 571.5 Matter incorporated by reference.

* * * * *

(i) * * *

(2) ISO 10844:2011 ''Acoustics—Test Surface for Road Vehicle Noise Measurements,'' into § 571.141.

* * * * *

(l) * * *

(50) SAE Standard J2889–1 SEP2011, ''Measurement of Minimum Noise Emitted by Road Vehicles,'' the following sections only into § 571.141: S4, Table 1, S5.1, S5.3, S6.1.1, S6.4, S6.5, S7.1.

* * * * *

■ 3. Section 571.141 is added to read as follows:

§ 571.141 Standard No. 141; Minimum Sound Requirements for Hybrid and Electric Vehicles.

S1. *Scope.* This standard establishes performance for pedestrian alert sounds from motor vehicles.

S2. *Purpose.* The purpose of this standard is to reduce the number of deaths and injuries that result from electric and hybrid vehicles crashes with pedestrians by providing a sound level and sound characteristics necessary for these vehicles to be detected and recognized by pedestrians.

S3. *Application.* This standard applies to—

(a) Electric vehicle passenger cars, multipurpose passenger vehicles, trucks, buses, motorcycles, and low-speed vehicles;

(b) Passenger cars, multi-purpose passenger vehicles, trucks, buses, and low-speed vehicles with more than one means of propulsion for which the vehicle's propulsion system can propel the vehicle in the normal travel mode in reverse and at least one forward drive gear without the internal combustion engine operating and;

(c) Motorcycles with more than one means of propulsion for which the vehicle's propulsion system can propel the vehicle in the normal travel mode in at least one forward drive gear without the internal combustion engine operating.

S4. *Definitions.*

Broadband content means a measureable acoustic signal (greater than 0 A-weighted dB) at all frequencies within a one-third octave band.

Electric vehicle means a motor vehicle with an electric motor as its sole means of propulsion.

Front plane of the vehicle means a vertical plane tangent to the leading edge of the vehicle during forward operation.

Fundamental frequency means, for purposes of this regulation, the lowest frequency of a valid measurement taken in S7.

Rear plane means a vertical plane tangent to the leading edge of the vehicle when the vehicle is in a condition in which it is capable of reverse self-mobility.

S5. *Requirements.* Subject to the phase-in set forth in S9 of this standard, each vehicle must meet the requirements specified in S5 under the test conditions specified in S6 and the test procedures specified in S7 of this standard.

S5.1 *Performance Requirements for critical operating scenarios.* The vehicle must satisfy the requirements of this section when tested under the test conditions of S6 and the test procedures of S7.

S5.1.1 *Start up and stationary but activated.* When measured according to the test conditions of S6 and the test procedure of S7.2, the vehicle must, within 500msec of activation of its starting system, emit a sound having at least the A-weighted sound pressure level in each of the one-third octave bands according to Table 1. The vehicle must also emit a sound meeting these requirements whenever moving at less than 10 km/h.

(a) Directivity. When measured according to the test conditions of S6 and test procedure of S7.2, the sound measured at the microphone on the line CC' must have at least the A-weighted sound pressure level in each of the one-third octave bands according to Table 1.

TABLE 1—ONE-THIRD OCTAVE BAND MIN. SPL REQUIREMENTS FOR SOUND WHEN STATIONARY BUT ACTIVATED

One-third octave band center frequency, Hz	Min SPL, A-weighted dB
315	42
400	43

TABLE 1—ONE-THIRD OCTAVE BAND MIN. SPL REQUIREMENTS FOR SOUND WHEN STATIONARY BUT ACTIVATED—Continued

One-third octave band center frequency, Hz	Min SPL, A-weighted dB
500	43
2000	42
2500	39
3150	37
4000	34
5000	31

S5.1.2 *Backing.* For vehicles capable of rearward self-propulsion, whenever the vehicle's gear selection control is in the reverse position, the vehicle must emit a sound having at least the A-weighted sound pressure level in each of the one-third octave bands according to Table 2 as measured according to the test conditions of S6 and the test procedure of S7.3.

TABLE 2—ONE-THIRD OCTAVE BAND MIN. SPL REQUIREMENTS FOR SOUND WHILE BACKING

One-third octave band center frequency, Hz	Min SPL, A-weighted dB
315	45
400	46
500	46
2000	45
2500	42
3150	40
4000	36
5000	34

S5.1.3 *Constant 10 km/h pass by.* When tested under the conditions of S6 and the procedures of S7.4, the vehicle must emit a sound having at least the A-weighted sound pressure level in each of the one-third octave bands according to Table 3 at any speed greater than or equal to 10 km/h, but less than 20 km/h.

S5.1.3.1 If after a vehicle to which this standard applies according to paragraph S3(b) or S3(c) is tested in accordance with paragraphs S7.4, for ten consecutive times without recording a valid measurement because the vehicle's ICE remains active for the entire duration of the test, the vehicle is not required to meet the requirements in S5.1.3.

TABLE 3—ONE-THIRD OCTAVE BAND MIN. SPL REQUIREMENTS FOR 10 KM/H PASS-BY

One-third octave band center frequency, Hz	Min SPL, A-weighted dB
315	48
400	49

TABLE 3—ONE-THIRD OCTAVE BAND MIN. SPL REQUIREMENTS FOR 10 KM/H PASS-BY—Continued

One-third octave band center frequency, Hz	Min SPL, A-weighted dB
500	49
2000	48
2500	45
3150	43
4000	39
5000	37

S5.1.4 *Constant 20km/h pass by.* When tested under the conditions of S6 and the procedures of S7.5, the vehicle must emit a sound having at least the A-weighted sound pressure level in each of the one-third octave bands according to Table 4 at any speed greater than or equal to 20 km/h but less than 30 km/h.

S5.1.4.1 If after a vehicle to which this standard applies according to paragraph S3(b) or S3(c) is tested in accordance with paragraphs S7.5, for ten consecutive times without recording a valid measurement because the vehicle's ICE remains active for the entire duration of the test, the vehicle is not required to meet the requirements in S5.1.4.

TABLE 4—ONE-THIRD OCTAVE BAND MIN. SPL REQUIREMENTS FOR 20 KM/H PASS-BY

One-third octave band center frequency, Hz	Min SPL, A-weighted dB
315	54
400	55
500	56
2000	54
2500	51
3150	49
4000	46
5000	43

S5.1.5 *Constant 30km/h pass by.* When tested under the conditions of S6 and the procedures of S7.6, the vehicle must emit a sound having at least the A-weighted sound pressure level in each of the one-third octave bands according to Table 5 at 30 km/h.

S5.1.5.1 If after a vehicle to which this standard applies according to paragraph S3(b) or S3(c) is tested in accordance with paragraphs S7.6, for ten consecutive times without recording a valid measurement because the vehicle's ICE remains active for the entire duration of the test, the vehicle is not required to meet the requirements in S5.1.5.

TABLE 5—ONE-THIRD OCTAVE BAND MIN. SPL REQUIREMENTS FOR 30 KM/H PASS-BY

One-third octave band center frequency, Hz	Min SPL, A-weighted dB
315	59
400	59
500	60
2000	58
2500	56
3150	53
4000	50
5000	48

S5.1.6 *Pitch shifting to signify acceleration and deceleration.* The fundamental frequency of the sound emitted by the vehicle must vary with speed by at least one percent per km/h between 0 and 30 km/h.

S5.2 *Performance requirements for recognition as a motor vehicle.*

S5.2.1 The sound emitted by the vehicle to meet the requirements in S5.1.1 must contain at least one tone. A component is defined as a tone if the total sound level in a critical band centered about the tone is 6 dB greater than the noise level in the band.

S5.2.2. The sound emitted by the vehicle to meet the requirements in S5.1.1 must have at least one tone no higher than 400 Hz.

S5.2.3 The sound emitted by the vehicle to meet the requirements in S5.1.1 must have broadband content in each one-third octave band from 160 Hz to 5000 Hz.

S5.3 Any two vehicles of the same make, model, and model year (as those terms are defined at 49 CFR 565.12) must emit the same sound as measured by the test required in S5.1.1 within 3 A-weighted dB in each one-third octave band from 160 Hz to 5000 Hz

S6. *Test Conditions.*

S6.1 *Weather conditions.* The ambient conditions required by this section must be met at all times during the tests described in S7. Conditions must be measured with the accuracy required in S6.3.3 at the microphone height required in S6.4 +/− 2.54 cm.

S6.1.1 The ambient temperature will be between 5 °C (41 °F) and 40 °C (104 °F).

S6.1.2 The maximum wind speed at the microphone height is no greater than 5 m/s (11 mph), including gusts.

S6.1.3 No precipitation and the test surface is dry.

S6.1.4 *Background noise level.* The background noise level must be measured and reported as in S6.4 of SAEJ2889–1 (incorporated by reference, see § 571.5).

S6.2 *Test surface.* Test surface shall meet the requirements of ISO 10844:2011 (incorporated by reference, see § 571.5).

S6.3 *Instrumentation.*

S6.3.1 *Acoustical measurement.* Instruments for acoustical measurement must meet the requirements of S5.1 of SAE J2889–1 (incorporated by reference, see § 571.5).

S6.3.2 *Vehicle speed measurement.* Instruments used to measure vehicle speed during S7.4 and S7.5 of this standard must be capable of continuous measurement within ± 1.0 km/h over the entire test distance in S7.4 and S7.5.

S6.3.3 *Meteorological instrumentation.* Instruments used to measure ambient conditions at the test site must meet the requirements of S5.3 of SAE J2889–1 (incorporated by reference, see § 571.5).

S6.4 *Test site.* The test site must be established per the requirements of S6.1.1 of SAE J2889–1 (incorporated by reference, see § 571.5), including Figure 1, ''Test Site Dimensions'' with the definitions of the abbreviations in Figure 1 as given in Table 1, S4 of SAE J2889–1 (incorporated by reference, see § 571.5). Microphone positions must meet the requirements of S7.1 of SAE J2889–1 (incorporated by reference, see § 571.5).

S6.5 *Test set up for directivity measurement* must be as per S6.4 with the addition of one microphone meeting the requirements of S6.3.1 placed on the line CC', 2m forward of the line PP' at a height of 1.2m above ground level.

S6.6 *Vehicle condition*

(a) Tires will be fitted and pressurized per the vehicle's tire placard. Tire tread will be free of all debris. Tires will be conditioned according to the following procedure:

(1) Drive the test vehicle around a circle 30 meters (100 feet) in diameter at a speed that produces a lateral acceleration of approximately 0.5 to 0.6 g for three clockwise laps, followed by three counterclockwise laps.

(b) The vehicle's doors are shut and locked and windows are shut.

(c) All accessory equipment (air conditioner, wipers, heat, HVAC fan, audio/video systems, etc.) will be off. Propulsion battery cooling fans and pumps and other components of the vehicle's propulsion battery thermal management system are not considered accessory equipment.

(d) Test weight of the vehicle will be the curb weight (as defined in 571.3) plus 125 kilograms. Equipment, driver and ballast should be evenly distributed between the left and right side of the vehicle. Do not exceed the GVWR or GAWRs of the vehicle.

(e) Vehicle's electric propulsion batteries, if any, are fully charged.

S6.7 *Ambient correction*

S6.7.1 Measure the background noise for at least 30 seconds before and after a series of vehicle tests.

S6.7.2 A 10-second sample taken from these measurements will be used to calculate the reported background noise.

S6.7.3 The 10-second sample selected will include background levels that are representative of the background levels that will occur during the vehicle measurement.

S6.7.4 The minimum A-weighted SPL in the selected 10-second sample as the overall background noise level, L_{bgn} will be reported. The average A-weighted SPL in the same 10-second sample will also be noted.

S6.7.5 The minimum A-weighted ⅓ octave band levels (OBLs) (per ANSI S1.11, Class 1) in the selected 10-second sample will be reported as the ⅓ octave band background noise level, $OBL_{bgn,\ fc}$. The average A-weighted ⅓ octave band level in the same 10-second sample for each ⅓ octave band will also be noted.

S6.7.6 each ⅓ octave band of the measured jth test result within a test condition $OBL_{test,j,fc}$, will be corrected according to Table 6 to obtain the noise-corrected level $OBL_{testcorr,\ j,\ fc}$ which is the $OBL_{test,\ j,\ fc}$ minus the correction factor, L_{corr}.

TABLE 6—CORRECTIONS FOR BACKGROUND NOISE

⅓ Octave band noise level $OBL_{bgn,fc}$	* Peak-to-Peak ⅓ octave band background noise level $OBL_{bgn,fc,p\text{-}p}$	⅓ Octave band level of jth test result, ith frequency, minus ⅓ octave band noise level DL = $OBL_{test,j,fc} - OBL_{bgn,fc}$	Correction L_{corr}
≥ 25 dB(A)	**	> 10 dB	0 dB.
	< 8 dB	> 8–10 dB	0.5 dB.
		> 6–8 dB	1.0 dB.
	< 6 dB	> 4.5–6 dB	1.5 dB.
		> 3–4.5 dB	2.5 dB.
		≤ 3 dB	Do not correct, but report $OBL_{testcorr,j} < OBL_{testj}$.
< 25 dB(A)		≤10 dB	Do not correct, but report: $OBL_{testcorr,j} < OBL_{testj}$.
	**	> 10 dB	0 dB.

* Ensure that maximum allowable peak-to-peak variation occurs in not more than one measurement for each operation during the portion of the measurement that will be reported, *e.g.* within the second prior to pass-by or during an entire active but stationary measurement.

** Ensure that the background level is at least 10 dB below the measurement during any portion of the measurement that will be reported, *e.g.* within the second prior to pass-by or during an entire active but stationary measurement.

S7. Test Procedure.

S7.1 *Vehicle stationary but activated*

S7.1.1 Position the vehicle stationary with the front plane at the line PP', the centerline on the line CC' and the starting system deactivated.

For vehicles equipped with a Park position, place the vehicle's gear selection control in ''Park''. For vehicles not equipped with a Park position, place the vehicle's gear selection control in ''Neutral'' and engage the parking brake. Activate the starting system to energize the vehicle's starting system.

S7.1.2. The vehicle minimum sound pressure level shall be measured per S7.3.2.1 and S7.4.1 of SAE J2889–1 (incorporated by reference, see § 571.5) and corrected for the ambient sound level in each ⅓ octave band according to the procedure in S6.7 and the correction criteria given in Table 6.

S7.1.3.1 Four consecutive valid measurements must be within 2 A-weighted dB Measurements that contain sounds emitted by any component of a vehicle's battery thermal management system are not considered valid. When testing a hybrid vehicle with an internal combustion engine that runs intermittently, measurements that contain sounds emitted by the ICE are not considered valid.

S7.2 *Backing.* Test the vehicle per S7.1, except that the rear plane of the vehicle is placed on line PP'.

S7.3 *Pass-By test at 10km/h*

(a) Measure the sound emitted by the vehicle at a constant 10 km/h (+/− 1 km/h) throughout the measurement zone specified in S6.4 between lines AA' and PP'. The test result shall be the lowest value (average of the two microphones) of the four valid pass-bys. The test result shall be reported to the first significant digit after the decimal place.

(b) Four consecutive valid measurements must be within 2 A-weighted dB. Measurements that contain sounds emitted by any component of a vehicle's battery thermal management system are not considered valid. When testing a hybrid vehicle with an ICE that runs intermittently, measurements that contain sounds emitted by the ICE are not considered valid. The test result shall be corrected for the ambient sound level in each ⅓ octave band according to the procedure in S6.7 and the correction criteria given in Table 6 and reported to the first significant digit after the decimal place.

S7.4 *Pass by test at 20 km/h.* Repeat the test of S7.3 at 20 km/h.

S7.5 *Pass by test at 30 km/h.* Repeat the test of S7.3 at 30 km/h.

S8 *Prohibition on altering the sound of a vehicle subject to this standard.* No entity subject to the authority of the National Highway Traffic Safety Administration may:

(a) disable, alter, replace or modify any element of a vehicle installed as original equipment for purposes of complying with this Standard, except in connection with a repair of a vehicle malfunction related to its sound emission or to remedy a defect or non-compliance with this standard; or

(b) provide any person with any mechanism, equipment, process or device intended to disable, alter, replace or modify the sound emitting capability of a vehicle subject to this standard, except in connection with a repair of vehicle malfunction related to its sound emission or to remedy a defect or non-compliance with this standard.

S9 *Phase-in schedule*

S9.1 *Vehicles manufactured on or after September 1, 2015, and before September 1, 2016.* For vehicles manufactured on or after September 1, 2015, and before September 1, 2016 the number of vehicles complying with this standard must not be less than 30 percent of:

(a) The manufacturer's average annual production of vehicles manufactured on or after September 1, 2012, and before September 1, 2015; or

(b) The manufacturer's production on or after September 1, 2015, and before September 1, 2016.

S9.2 *Vehicles manufactured on or after September 1, 2016, and before September 1, 2017.* For vehicles manufactured on or after September 1, 2016, and before September 1, 2017, the number of vehicles complying with this standard must not be less than 60 percent of:

(a) The manufacturer's average annual production of vehicles manufactured on or after September 1, 2013, and before September 1, 2016; or

(b) The manufacturer's production on or after September 1, 2016, and before September 1, 2017.

S9.3 *Vehicles manufactured on or after September 1, 2017, and before September 1, 2018.* For vehicles manufactured on or after September 1, 2017, and before September 1, 2018, the number of vehicles complying with this standard must not be less than 90 percent of:

(a) The manufacturer's average annual production of vehicles manufactured on or after September 1, 2014, and before September 1, 2017; or

(b) The manufacturer's production on or after September 1, 2017, and before September 1, 2018.

S9.4 *Vehicles manufactured on or after September 1, 2018.* All vehicles manufactured on or after September 1, 2018 must comply with this standard.

S9.5 *Vehicles produced by more than one manufacturer.*

S9.5.1 For the purpose of calculating average annual production of vehicles for each manufacturer and the number of vehicles manufactured by each manufacturer under S9.1 through S9.3, a vehicle produced by more than one manufacturer must be attributed to a single manufacturer as follows, subject to S9.6.2:

(a) A vehicle that is imported must be attributed to the importer.

(b) A vehicle manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, must be attributed to the manufacturer that markets the vehicle.

S9.5.2 A vehicle produced by more than one manufacturer must be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR Part 585, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S9.6.1.

S9.6 *Small volume manufacturers.* Vehicles manufactured during any of the three years of the September 1, 2015 through August 31, 2018 phase-in by a manufacturer that produces fewer than 5,000 vehicles for sale in the United States during that year are not subject to the requirements of S9.1, S9.2,S9.3 and S9.5.

S9.7 *Final-stage manufacturers and alterers.* Vehicles that are manufactured in two or more stages or that are altered (within the meaning of 49 CFR 567.7) after having previously been certified in accordance with Part 567 of this chapter are not subject to the requirements of S9.1 through S9.5. Instead, all vehicles produced by these manufacturers on or after September 1, 2018 must comply with this standard.

PART 585—PHASE–IN REPORTING REQUIREMENTS

■ 4. The authority citation for part 585 is revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

■ 5. Add subpart N to read as follows:

Subpart N— Minimum Sound Requirements for Hybrid and Electric Vehicles Reporting Requirements

Sec.

585.128 Scope.
585.129 Purpose.
585.130 Applicability.
585.131 Definitions.
585.132 Response to inquiries.
585.133 Reporting requirements.
585.134 Records.

Subpart N—Minimum Sound Requirements for Hybrid and Electric Vehicles Reporting Requirements

§ 585.128 Scope.

This subpart establishes requirements for manufacturers of hybrid and electric passenger cars, trucks, buses, multipurpose passenger vehicles, low-speed vehicles, and motorcycles to submit a report, and maintain records related to the report, concerning the number of such vehicles that meet minimum sound requirements of Standard No. 141, Minimum Sound Requirements for Hybrid and Electric Vehicles (49 CFR 571.141).

§ 585.129 Purpose.

The purpose of these reporting requirements is to assist the National Highway Traffic Safety Administration in determining whether a manufacturer has complied with the minimum sound requirements of Standard No. 141, Minimum Sound for Hybrid and Electric Vehicles (49 CFR 571.141).

§ 585.130 Applicability.

This subpart applies to manufacturers of hybrid and electric passenger cars, trucks, buses, multipurpose passenger vehicles, low-speed vehicles, and motorcycles.

§ 585.131 Definitions.

(a) All terms defined in 49 U.S.C. 30102 are used in their statutory meaning.

(b) *Bus, gross vehicle weight rating or GVWR, low-speed vehicle, multipurpose passenger vehicle, passenger car, truck, and motorcycle* are used as defined in § 571.3 of this chapter.

(c) *Production year* means the 12-month period between September 1 of one year and August 31 of the following year, inclusive.

(d) *Electric Vehicle* is used as defined in § 571.141 of this chapter.

§ 585.132 Response to inquiries.

At any time during the production years ending August 31, 2016, August 31, 2017, and August 31, 2018 each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information identifying the vehicles (by make, model and vehicle identification number) that have been certified as complying with the requirements of Standard No. 141, Minimum Sound Requirements for Hybrid and Electric Vehicles (49 CFR 571.141). The manufacturer's designation of a vehicle as a certified vehicle is irrevocable.

§ 585.133 Reporting requirements.

(a) *Phase-in reporting requirements.* Within 60 days after the end of each of the production years ending August 31, 2016, August 31, 2017, and August 31, 2018, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with the requirements of Standard No. 141 Minimum Sound Requirements for Hybrid and Electric Vehicles (49 CFR 571.141) for its vehicles produced in that year. Each report shall provide the information specified in paragraph (d) of this section and in § 585.2 of this part.

(b) *Phase-in report content*—(1) *Basis for phase-in production goals.* Each manufacturer shall provide the number of vehicles manufactured in the current production year, or, at the manufacturer's option, in each of the three previous production years. A manufacturer that is, for the first time, manufacturing vehicles for sale in the United States must report the number of vehicles manufactured during the current production year.

(2) *Production of complying vehicles.* Each manufacturer shall report for the

production year being reported on, and each preceding production year, to the extent that vehicles produced during the preceding years are treated under Standard No. 141 as having been produced during the production year being reported on, information on the number of vehicles that meet the requirements of Standard No. 141, Minimum Sound Requirements for Hybrid and Electric Vehicles (49 CFR 571.141).

§ 585.134 Records.

Each manufacturer shall maintain records of the Vehicle Identification Number for each vehicle for which information is reported under § 585.133 until December 31, 2023.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix A—Glossary of Sound Engineering Terms

Acoustic Pressure: A pressure variation about a medium's mean pressure caused by a sound wave.

Acoustic Wave: A wave that propagates acoustic pressure through a medium, such as air.

Ambient (also called ambient noise or background noise): Relating to the immediate environment or surroundings. Generally refers to unwanted sounds. In an acoustic measurement, after the main sound being studied is suppressed or removed, this is the remaining sum of sounds taken from the environment of the measurement.

Amplitude: The value of the sound pressure at any instant.

Amplitude Modulation: When the amplitude of a sound changes as a function of time.

Attenuation: A decrease in the intensity of a sound.

Auditory Filter: A measure of the auditory systems frequency selectivity. An auditory filter is a band pass filter that closely approximates the shape of a rounded exponential filter or, to a lesser degree, a one-third octave band filter.

Auditory Flutter/Flicker: Auditory sensation produced when a continuous sound is disturbed at a slow, intermittent rate.

Auditory Fusion: Series of short successive sounds that are perceived as one continuous sound.

A-weighting: A filter that attenuates low and high frequencies and amplifies some mid-range frequencies. The A-weighting curve approximates the equal loudness contour at 40 dB.

Bandwidth: Range of frequencies. For example, a speaker may have an effective bandwidth from 150 to 5000 Hz. Alternatively, it is the minimum frequency subtracted from the maximum frequency. For the above example, this would be 5000—150 or 4850 Hz.

Band-Pass Filter: A type of filter that only allows a specific range of frequencies to pass through while attenuating all other frequencies. For example, a one-third octave band filter centered at 1000 Hz would pass sounds with frequencies from about 890 to 1120 Hz while attenuating frequencies outside this range.

Band Pressure Level: The pressure level of a sound wholly contained within a particular frequency band.

Band-Stop Filter: A type of filter that attenuates a particular range of frequencies while allowing frequencies outside the band to pass through.

Basilar Membrane: A membrane inside the cochlea that supports the organ of corti and vibrates as a response to sound.

Broadband: Signal with a spectrum that covers a broad range of frequencies.

Broadband levels: Levels regarding signal quantities that cover a wide range of frequencies.

Cochlea: A small snail shell-shaped tube within the inner ear that houses the receptor organs responsible for converting mechanical vibration into electro-chemical signals for the brain to process.

Condenser: Type of microphone that uses acoustic pressure to change the distance between two plates of a capacitor. The changing distance between the two plates causes the voltage across the capacitor to change.

Consonant: Auditory experience where sounds are harmonic.

Dichotic: Event in which sounds heard by both ears are different.

Diffraction: The bending of waves as they travel around an object or across an impedance change.

Digital Recorder: A device that converts acoustic waves into electric signals and stores them in its memory to be replayed back.

Dipole: Usually constructed with two monopoles with equal but opposing strengths.

Directivity: The relative proportions of acoustical energy that are emitted from a source as a function of direction, typically expressed in polar coordinates.

Dissonant: An auditory experience where sounds are in-harmonic, usually referred to as noise.

Divergence: The physical spreading of the sound waves over an area. Divergence attenuates a sound as a function of distance. See also ''Line Source'' and ''Point Source''.

Decibel (dB): Ten times the logarithmic ratio of a physical quantity to a reference value. For example,

Sound Pressure Level = $10 \log_{10}(P^2/P_{ref}^2)$

where P is the acoustic pressure and P_{ref} is equal to 20 □Pa for air.

Doppler Effect: Change in the frequency of a sound wave due to the relative velocity between the source and the observer. As the sound source approaches the observer, the frequency is perceived to be higher and as it moves away it is perceived to be lower.

Dull: A semitone less than the natural pitch of a given tone. Sound composed of a greater proportion of low frequencies.

Dynamic Microphone: Type of microphone that uses a small metal coil positioned to be within a particular magnetic field attached to a diaphragm. Acoustic pressure causes the diaphragm to move the coil through the magnetic field and a current is generated.

Equivalent Rectangular Bandwidth (ERB): An idealized rectangular filter with a bandwidth defined such that it passes the same energy as an associated auditory filter. A set of contiguous ERB filters can be used to represent the frequency scale in a psychoacoustic sense. For example, an auditory filter centered at 1000 Hz has an equivalent rectangular bandwidth of 132 Hz and it takes 15.6 contiguous equivalent rectangular bandwidths to cover the auditory range below 1000 Hz. An auditory filter centered at 4000 Hz has an equivalent rectangular bandwidth of 456 Hz and it takes 27.1 contiguous equivalent rectangular bandwidths to cover the auditory range below 4000 Hz.

Equal Loudness Contour: A contour of levels (y-axis) versus frequency (x-axis) such that tones of different frequency and different level are judged to be equally loud.

Equal Loudness Principle: Mid-range frequencies (approx. 320—5120 Hz) are perceived with greater intensity than lower (20 to 320 Hz) or higher frequencies (5000 to 20,000 Hz).

Filter: A system that selectively passes some elements and attenuates others as a function of frequency.

Flat Response: A flat frequency-response curve, *i.e.* a response that does not change with frequency, sometimes referred to as Z or un-weighted.

Free Field: A sound field without boundaries such that sound is not reflected or scattered.

Frequency: Number of times a particle in a medium contracts and expands (cycles) per unit of time. Typically expressed in Hertz (Hz); one cycle per second is equal to 1 Hz. Humans can detect sound waves with a wide range of frequencies, nominally ranging between 20 to 20,000 Hz.

Frequency Response: The response of a system to an input as a function of frequency. The response can be characterized by including both the magnitude as a function of frequency and the phase as a function of frequency. The magnitude describes the amplitude of the output relative to the input while the phase describes the time delay between the input and output of the system.

Frequency Modulation: Changing frequency as a function of time.

Fundamental Frequency: The lowest frequency of a waveform.

Hair Cells: Sensory receptors found in the organ or corti on the basilar membrane in the cochlea that have hair-like structures (stereocilia). Hair cells transform sound waves into nerve impulses.

Half-power Point: Frequency at which the power output of an amplifier reduces to half of its mid-band level.

Harmonics: Components of a sound that are integer multiples of a fundamental frequency in the sound.

Harmonic Distortion: The ratio (normally expressed as a percentage) of the sum of the acoustic power of all of the harmonics generated by the device under test to the power of the fundamental, pure tone being produced. Harmonic distortion increases rapidly as a device is driven close to its maximum output capability or when a speaker is driven at frequencies outside its intended range.

Head-Related-Transfer-Function (HRTF): Essentially a frequency response that is also a function of angle. It accounts for how a sound changes to an observer due to the relative position of the source and the head, pinna, and torso of the observer.

Hertz (Hz): The unit associated with frequency. One cycle per second equals one Hertz.

In-harmonic: A frequency component that is not an integer multiple of another frequency.

Inner Ear: The innermost portion of the ear located behind the middle ear. It contains the cochlea and the vestibular system.

Line Source: A sound source that geometrically forms a line. Line sources attenuate at 3 dB per distance doubling perpendicular to the source. One example is roadway noise; another is a stack of speakers at a concert.

Longitudinal waves: Waves moving in the same direction as it is being propagated.

Loud: Producing much noise, being easily audible.

Loudness: Attribute of an auditory sensation that humans can use to judge sound intensity. Loudness is used to rank sounds on a scale from quiet to loud.

Malleus: One of the three ossicles (bones) in the middle ear, it is attached to the tympanic membrane (ear drum) and the body of the incus (anvil).

Masking: Phenomenon when the perception of a sound is diminished by the presence of another sound.

Microphone: A device that converts acoustic waves into electrical signals.

Middle Ear: Air cavity behind the tympanic membrane (ear drum) and before the inner ear.

Minimum Audible Field: the threshold for detecting sound in a sound field.

Minimum Audible Threshold: Also known as the absolute threshold of hearing, it refers to the minimum sound level of a pure tone that the average ear with normal hearing can hear without any other sound in its environment.

Modulation: A change in the dimension of a stimulus. For example see ''Amplitude Modulation'' or ''Frequency Modulation''.

Monopole: A single point in space that is an acoustic source.

Narrow band: A limited range of frequency, as opposed to a wide band, which tends to include frequencies from the low to high end, a narrow band focuses in on a particular range.

Natural Frequency: Frequency at which a system has maximum, or near maximum, response.

Noise: Sound wave(s) that is made up of random sounds. Sound wave(s) that is viewed as an undesirable sound.

Octave (also called octave band): Interval between two frequencies that have a ratio of 2:1. The range of human hearing covers approximately 10 octaves. For example, if the first octave is 20 to 40 Hz the next octave is 40 to 80 Hz, the next is 80 to 160 Hz, etc.

One-third Octave Band: Frequency band that is one-third of an octave band or whose lower and upper limits are 2⅓ times the center frequency apart, as defined by their half-power points. For example a one-third octave band centered at 1000 Hz has upper and lower cutoff frequencies at about 890 and 1120 Hz and a bandwidth of 230 Hz. A one-third octave band centered at 4000 Hz has upper and lower cutoff frequencies at about 3560 and 4490 Hz and a bandwidth of 930 Hz.

Organ of Corti: Also known as the spiral organ, it is located in the inner ear and contains hair cells, which act as receptors to sound waves.

Outer Ear: The visible outer part of the ear that directs sound waves through the canal within the temporal bone and delivers them to the tympanic membrane (ear drum).

Pascal: Unit used to measure pressure; it is equal to 9.8692×10^{-6} atm.

Period: The time interval in which successive occurrences of a recurring or cyclic phenomenon occur. The reciprocal of frequency.

Phase: The time relationship between two or more sounds reaching a receiver. The sounds are in phase when their amplitudes add. The sounds are out-of-phase when their amplitudes subtract.

Phon: A unit used to measure the loudness level of a sound in dB.

Pink Noise: A random noise whose amplitude is inversely proportional to frequency. Pink Noise sounds more natural than white noise.

Pinna: External part of the human ear, also known as the auricle.

Pitch: The sensation of a frequency. Attribute of an auditory sensation that humans can use to order sounds on a musical scale. A high pitch sound corresponds to a high frequency sound wave. A low pitch sound corresponds to a low frequency sound wave.

Pitch Strength: Perception of how strong a pitch seems to be according to a listener. Two sounds with equal frequencies can be perceived to have different strengths.

Point Source: A sound source whose dimensions are sufficiently small that it can be treated as a point. Point sources attenuate at 6 dB per distance doubling. One example is of a point source is a stationary ICE vehicle at idle.

Power: A measure of energy supplied or consumed per unit of time, usually expressed in Watts (W). A sound with a power of only one-trillionth of one W can be audible in an otherwise quiet environment; a jackhammer has an acoustic power output of about 1 W.

Propagation: The advancement of a sound wave in a particular direction traveling through a medium.

Psychoacoustics: A branch of psychophysics that studies the psychological correlations between acoustic and psychological parameters.

Pure Tone: A sound characterized by the fact that it is comprised of only one frequency.

Quiet: Causing little to no noise.

Reflection: A change in the direction of propagation of a wave due to boundary, for example pavement.

Refraction: Bending of waves due to a change in the speed of sound in the medium, for example, due to a temperature change in the air.

Resonance: The response of a system to input at a natural frequency.

Reverberation: Repetition of sound resulting from reflected sound waves.

Reverberant Field: A sound field resulting from a large number of reflections from boundaries within an enclosed area.

Ribbon: A type of microphone that converts sound into an electrical signal by placing a ribbon between the two poles of a magnet to generate electromagnetic induction.

Roll-off Rate: The steady attenuation that occurs on either end of a frequency range which is typically expressed in dB/octave or in dB/decade.

Roughness: Level of dissonance.

Sharp: A semitone above the natural pitch of a given tone. Sound composed of a greater proportion of high frequencies.

Sinusoid (Sine): Used to graphically represent a sound wave. A trigonometric function of an angle describing the ratio between the length of the opposite side of the triangle from which the angle is drawn, and the length of the adjacent side of the triangle.

Sone: Unit of subjective loudness on a linear scale. A sound that is 14 sones is twice as loud as a 7 sone sound.

Sound Intensity: The sound power passing through an area in a sound field, expressed as Watts per square meter.

Sound Intensity Level: The logarithmic measurement of sound intensity with respect to a reference level.

$$SIL = 10 \log_{10}(I^2/I_{ref}^2)$$

where I is the acoustic intensity and I_{ref} is equal to 10^{-12} W/m^2 for air.

Sound Pressure Level (SPL): Level of a sound relative to a reference pressure and measured in decibels.

$$SPL = 10 \log_{10}(P^2/P_{ref}^2)$$

where P is the root mean square of the acoustic pressure and P_{ref} is equal to 20 microPascals (μPa) for air. Examples of a-weighted sound pressure levels include: threshold of human hearing (0 dB(A)), quiet office (40 dB(A)), noisy restaurant (70 dB(A)), rock concert (110 dB(A)), pain (140 dB(A))

Sound Level Meter: Instrument used to measure sound pressure levels, often used for noise pollution studies.

Spectral Balance: The relative pressure levels of components of a sound at various frequencies. This is often described by a spectral plot with frequency in the horizontal axis and sound pressure level/Hz on the vertical axis.

Stationary Sound: A sound whose root mean squared amplitude does not change with time. Examples include a fan running at a constant speed, a waterfall, and a constant tone or hum.

Tonalness (tonality): Harmonic effect of being in a certain key.

Transverse Waves: Waves moving in right angles to their propagation.

Tympanic Membrane: Also known as the ear drum, a membrane in the inner ear that vibrates as a response to sound, or changes in air pressure.

Un-weighted Spectrum: A spectrum recorded with uniform amplification at all frequencies. In contrast, many spectra are recorded after the signal is processed through filters that approximate the variation in

sensitivity with frequency that occurs in human hearing (*e.g.,* the A-weighted filter). See also ''Flat Response''.

.wav: Waveform Audio File Format, a type of file format used to storing audio.

White Noise: Noise with spectrum level that does not vary as a function of frequency.

Appendix B. Acoustic Primer

This primer introduces and describes what sound is, its components, how it is perceived by humans and how the different components of a sound can be measured. Sound can be described using physical principles but is also a perceptual phenomenon. Humans can perceive various qualities of sound, not all of which have established quantitative measures. Humans can also perceive the direction, distance and movement of sound sources. The information included here provides background and context to concepts put forth in the NPRM.

What is sound?

A sound is said to exist when the static pressure of a medium (typically air) is disturbed by periodic pressure variations (sound waves) that propagate through the medium and are perceived by a listener. The pressure variations in the medium are due to the compression and rarefaction of molecules in the medium. In regions of compression, the density of molecules is high and the number of molecule collisions increases relative to the static pressure condition. In regions of rarefaction, the density of molecules is low and the number of molecule collisions decreases relative to the static pressure condition. Over time, the pressure in a given region will increase and decrease as the sound wave propagates through the medium. The change in pressure relative to the static pressure is called the acoustic or sound pressure.

In the simplest case, sound pressure can be represented as a function of time by a sinusoidal wave for a specific location in space, as shown in Figure 1.[136] Here, the baseline represents the static pressure. The difference in pressure from the baseline to the peak of the wave is the peak amplitude of the acoustic pressure; the higher the amplitude, the louder the sound. As time progresses, the pressure increases and decreases cyclically for this location. The period of the wave can be defined by the time that it takes to go from one peak to the next; a longer period indicates a lower pitch. Another way to quantify the rate of change of a wave is by its frequency. The frequency of a wave is the inverse of the period and the unit is Hertz (Hz); the lower the frequency, the lower the pitch. The wavelength of a sound wave is similar to the period of the wave, except that rather than considering the *time* to go from one peak to the next for a given location in space, one considers the *distance* to go from one peak to the next for a given instant in time. The wavelength is mathematically related to the period by $\lambda = cT$, where λ is the wavelength, c is the speed of sound in the medium and T is the period.

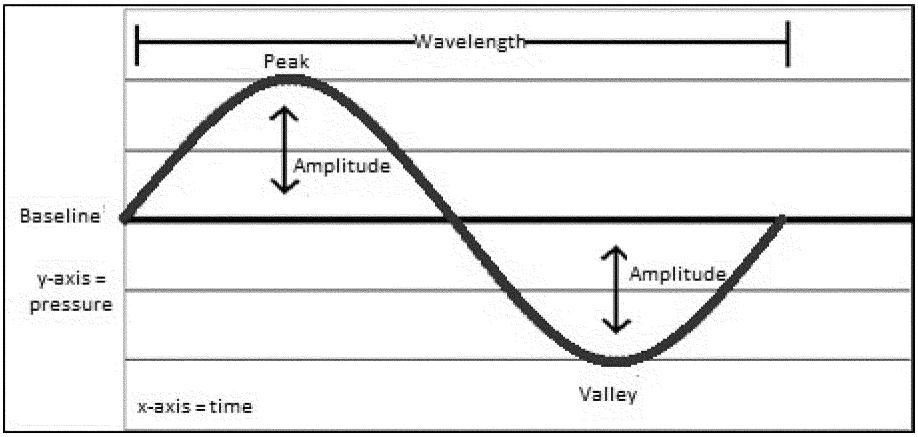

Figure 1. Graphical representation of a sinusoidal wave.

The relative location of sound source and listener in an environment can have a strong effect on the final sound that is received by the listener. As a sound propagates away from the source, the acoustic energy [137] is spread over a greater area in a manner similar to ripples in a pond. In a pond, the ripple's diameter becomes larger but the amplitude becomes smaller the further they travel from the source. Similarly, the further a sound propagates from a source, the quieter the sound will tend to be. For a point source radiating sound into free space, the intensity of that sound will diminish by a factor of four for each doubling of distance from the source to listener (inverse square law). However, in typical environments, reflections and atmospheric absorption also affect the sound level. The latter effect is greatest for high frequencies, so when a sound propagates long distances, the high frequency components of a sound will tend to decrease more than the low frequency components. This affect is most noticeable for distances greater than a hundred meters. Finally, sound propagation can be affected by intervening surfaces, which can reflect and block sound propagation. Highway barriers are a classic example of surfaces intended to block sound propagation. By placing these barriers between traffic and the listener, the sound due to the traffic can be reduced at the listener's position. A ''live'' gymnasium is an example of an environment with many reflective surfaces. Due to the reflective surfaces, sound waves can arrive simultaneously at the listener from the same source even though the sounds were emitted at slightly different times. The combination of these direct and reflected sound waves create interference patterns that can cause the level to be higher or lower. Constructive interference occurs when the sounds are ''in phase'', that is, when the peaks line up. Destructive interference occurs when the sounds are ''out of phase'', that is, when peaks line up with valleys.

How is sound perceived?

Amplitude and frequency of sound pressure are physical attributes of sound that can be related to perceptual dimensions such as loudness, pitch, and timbre.[138] Humans interpret these psychological dimensions subjectively, but some of them can be quantified through psychoacoustic modeling. Psychoacoustics is the study of how humans

[136] While it is convenient to represent sound waves as transverse waves, where the motion is perpendicular to the wave propagation, they are in actuality longitudinal waves, where the motion is parallel to the wave propagation.

[137] Acoustic energy is *equal* to the acoustic intensity integrated over the area. In an environment with no reflecting boundaries, the acoustic intensity is proportional to the acoustic pressure squared.

[138] Since timbre includes all other perceptual characteristics other than the loudness and pitch of a sound, it includes the perception of modulations, attack, decay, sharpness, roughness, etc.

perceive sound and forms the basis for extracting objective data from the physical characteristics of acoustic pressure to quantify how humans perceive the loudness, pitch, and timbre of a sound. However, some of the properties of sounds that are important to recognition or the characterization of a sound as pleasant or annoying have no established metrics.

The loudness of a sound (by definition, a subjective measure) is primarily related to the sound pressure level of a sound, but is also influenced by its frequency. Loudness (or loudness level) is measured in sones (or phons). The loudness level of a sound in phons is equal to the sound pressure level in dB of a 1000-Hz tone that is perceived to be equal in loudness to the sound of interest. For example, all sounds that are judged to be equal in loudness to a 40dB–SPL, 1000 Hz tone have a loudness level equal to 40 phons. Loudness level (phons) increases logarithmically, while loudness (sones) increases linearly. For a human to judge a sound to be twice as loud, the sound needs to be increased by roughly 10 phons or by twice the number of sones, for example the perceived loudness approximately doubles for 40, 50, 60, 70, 80 phons or 1, 2, 4, 6, 8, 16 sones. The relationship between perceived loudness and the physical acoustic pressure of a sound is non-linear in both amplitude and frequency, as illustrated in Figure 2. This means that the relative loudness (and detectability) of two sounds with the same SPL value can change substantially depending on their amplitude and frequency.

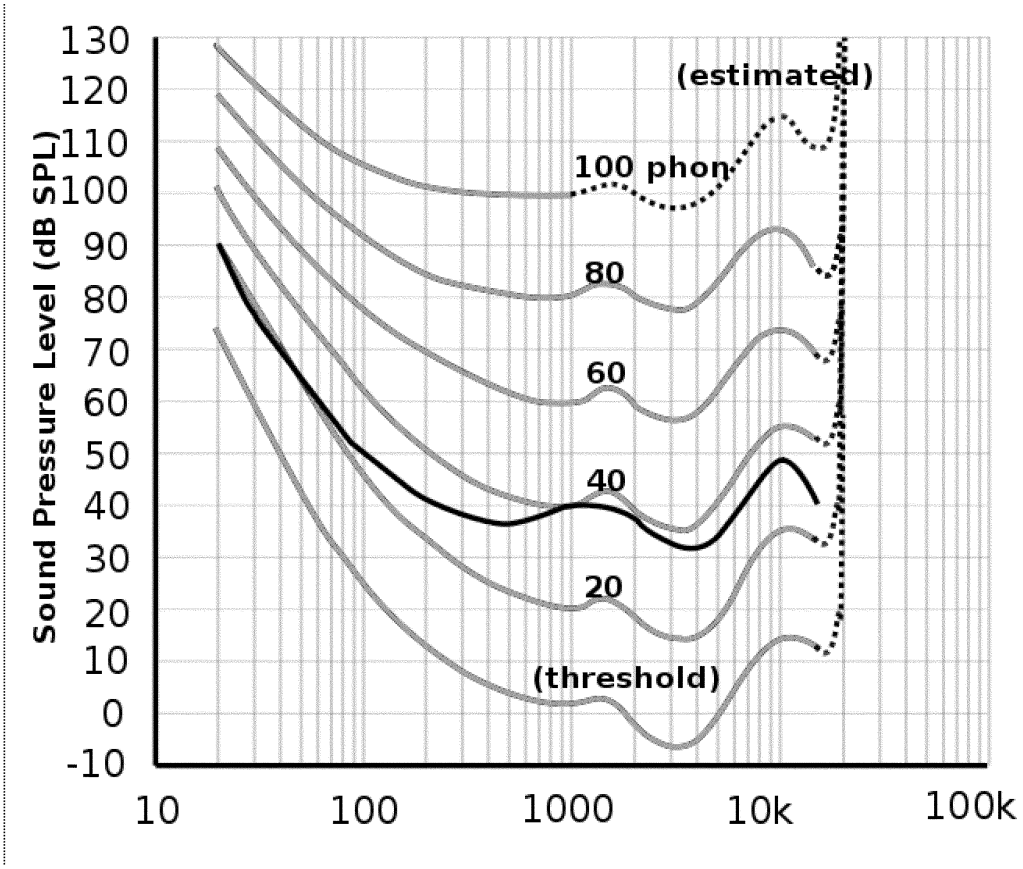

Figure 2 Equal Loudness Contours (grey) (from ISO 226:2003 revision) and Original ISO Standard (black) for 40 Phons

Pitch is directly related to frequency. Roughly speaking, humans interpret the fundamental frequency of a sound to be its pitch; the higher the frequency, the higher the pitch; the lower the frequency, the lower the pitch. A sound wave with a high frequency produces the sensation of a high, sharp pitch and a low frequency produces a low, dull pitch. Pitch strength refers to the strength of the pitch's sensation. The pitch strength is dependent on the tone-to-noise ratio. The tonal components of a sound have periodic, sinusoidal waveforms, while the noise components are random (*e.g.,* wind noise). However, if noise is constrained by some physical or electronic process to contain a relatively narrow band of frequencies, it can produce the sensation of pitch, *e.g.,* some turbine sounds. The greater the noise levels relative to the tone level, the weaker the pitch strength.

There is a strong correlation between the pitch of a sound and the spectral location of its frequency components. When there are multiple frequency components present that are integer multiples of a single lowest frequency, the sound is said to be harmonic. The lowest frequency is commonly referred to as the fundamental. If there are harmonics present, the ability to detect pitch is improved. Even when the fundamental is not present (case of the missing fundamental), the human auditory system compensates for the loss of the lower harmonic. For example, a tone complex of 600, 800 and 1200 Hz is judged to have a pitch of 400 Hz because this corresponds to the shortest common wave period.

Timbre describes the characteristics of a sound that allow the listener to differentiate two sounds with the same pitch and loudness. The timbre of a sound is based predominantly on characteristics of the sound's spectrum but is also dependent on temporal characteristics. Characteristics of the spectrum that effect timbre include: the relative strength of the tonal and noise character of the sound (pitch strength and

tonality); the number of harmonics (harmonic richness); and the relative level of high frequencies and low frequencies components (sharpness and dullness). Temporal characteristics include the musical concepts of ''attack, sustain, and decay'' as well as ''vibrato'' or modulations. A violin, a muted bell, and a voice can all create a sound at the same pitch and loudness, but the violin will have a short attack, long sustain, and moderate decay. The muted bell will have a short attack, a short sustain, and a short decay. The voice will have a long attack, a moderate sustain, and a moderate decay. The violin and voice can be expressed either with or without vibrato (modulations).

Temporal effects on timbre can also be considered outside of the musical context. Humans can perceive sounds as being constant, changing or impulsive. A sound is perceived to be constant when the physical aspects, such as the tonal frequencies and levels, are unvarying and steady. An example would be standing next to an idling vehicle. Since the car is stationary and the engine speed is constant, the sound emitted from the engine does not vary significantly (assuming a well-functioning engine). Slow changes in pitch or loudness at a rate of about ½ second or longer lead to the perception of a changing sound. A good example of a changing sound is that of a siren on an emergency vehicle. If the rate of change is very quick, for example over a time less than ½ second, the sound will be perceived as impulsive. Sound with a very high rate of change such as gun fire and individual combustions produce impulsive sounds.

It is rare that humans hear only one sound at a time. This is because one sound may overshadow, very closely resemble, or interfere with the perception of another sound that does not share the same physical characteristics. When one sound interferes with the perception of another sound, it is called masking. The masking threshold is the point at which one sound's audibility or detectability is lost because of the masking sound. It can be measured in the laboratory by presenting subjects with different target sounds (stimuli) of different amplitudes and frequencies in combination with various masking sounds, and testing the subjects to determine under which conditions they can detect the targets. The level of the masking sound is used as an indicator of the amount masking the sound provided for the stimulus.

How is sound quantified?

Sound is most commonly quantified in decibels (dB). A decibel is a logarithmic unit of magnitude based on the ratio of two powers. In terms of acoustics, the ratio, commonly referred to as the sound pressure level, is between the mean-squared acoustic pressure relative to a reference mean-squared acoustic pressure. The reference for sound pressure level measurements in air is typically 20 micro-Pascals. However, when sounds are processed electronically, standard practice is to represent their intensity on a dB scale where 0 is the maximum amplitude that can be handled without distortion. In this frame of reference, levels are usually negative numbers.

Usually, acoustic equipment used for measurements is A-weighted to approximate the frequency response of human hearing (see Figure 2) to sounds of moderate loudness.

The distribution of acoustic energy in a sound can be represented graphically with a full spectrum plot, like that shown in Figure 3, or more compactly by breaking the spectrum into a relatively small number of bands, usually 30 for a one-third octave analysis, shown in Figure 4.

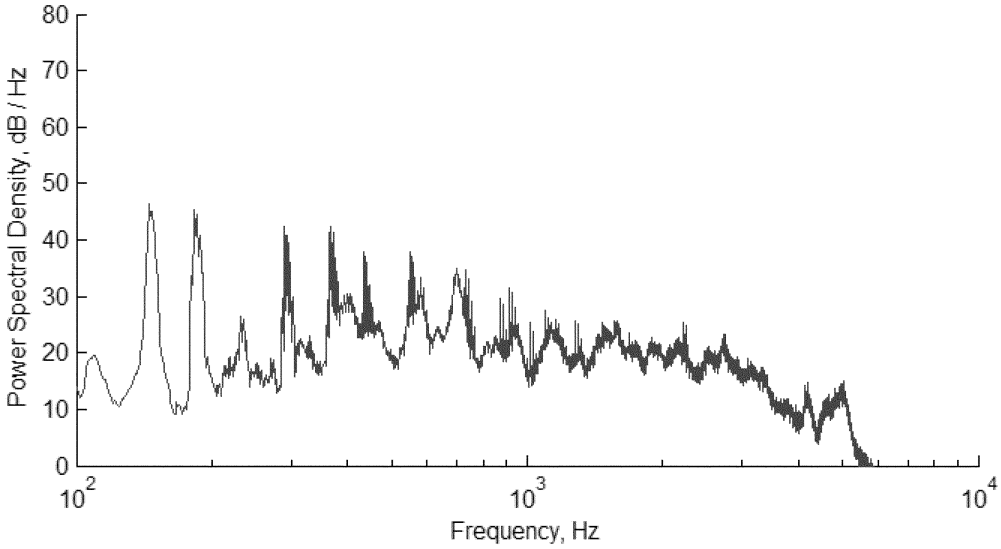

Figure 3. Full Spectrum of an Alerting Sound

(vertical scale is in dB / Hz referenced to 20 micro-Pascals: the logarithmic horizontal axis is in Hertz)

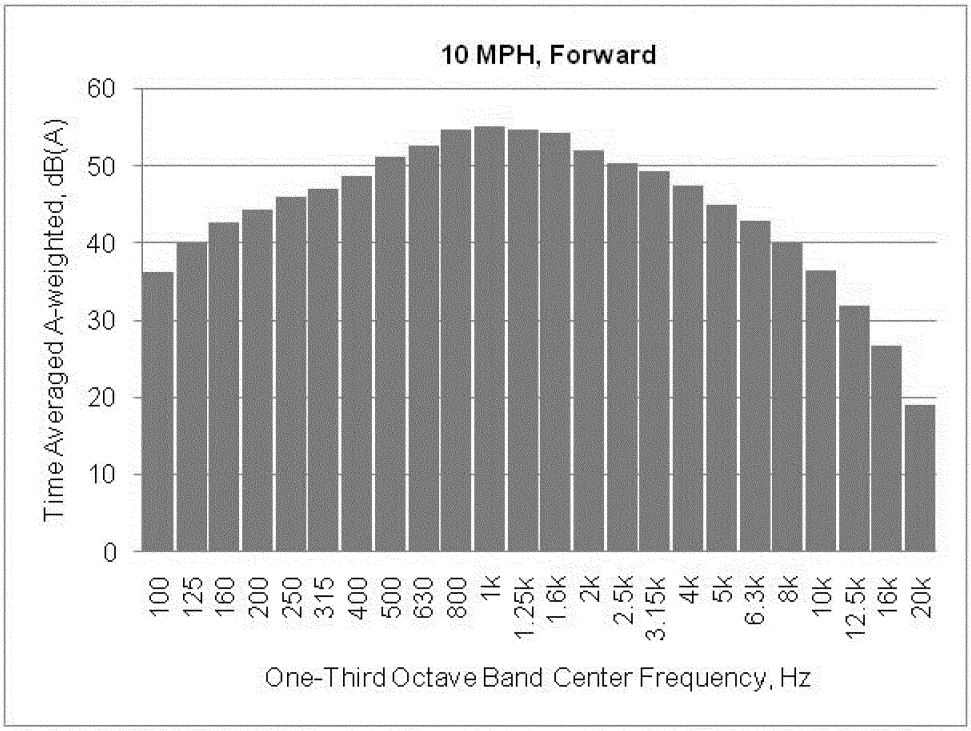

Figure 4. Example of an A-Weighted, One-Third Octave Plot of Noise Emission from a Vehicle Passing at 10 mph

Due to the breadth of this spectrum, octave bands and one-third octave band scales were created to facilitate identifying the specific frequency of sounds. Octave bands separate the range of human audible frequencies into ten bands and the one-third octave bands split each of the ten octave bands into three bands. Each scale in the breakdown provides more information about the sound being analyzed. An octave band is split by the interval between two frequencies and identified by the center frequency within the bands: 31.5 Hz, 63 Hz, 125 Hz, 250 Hz, 500 Hz, 1 kHz, 2 kHz, 4 kHz, 8, kHz and 16 kHz. Since there are ten octaves, there are 30 one-third octave bands. A one-third octave band extends from one-sixth of an octave below the center frequency to one-sixth above an octave frequency. The measurement of how humans perceive the loudness of a sound is dependent on the sound pressure level and

can be used as a way to determine the annoyance qualities of a sound. The values from a one-third-octave analysis can also be easily presented in tabular form (Table 1), while those from a full-spectrum cannot.

TABLE 8—EXAMPLE OF ONE-THIRD-OCTAVE DATA IN TABULAR FORM: SUMMARY OF AMBIENT LEVELS DURING ICE MEASUREMENTS, A-WEIGHTED LEVEL, dB(A)

⅓ octave band center frequency, Hz	Linear average (⅓ octave band)	Min (overall A-weighted)	Max (overall A-weighted)	Min (⅓ octave band)	Max (⅓ octave band)
100 to 20k	49.6	46.1	53.4	45.3	54.7
100	34.6	30.7	34.1	30.7	38.4
125	35.5	32.4	36.8	32.4	42.1
160	36.1	32.1	37.9	32.0	41.5
200	36.9	32.7	37.9	32.7	41.2
250	36.5	33.9	38.1	33.1	40.7
315	36.5	32.5	37.6	32.1	41.5
400	36.0	31.9	38.1	31.8	39.7
500	36.7	33.6	39.8	33.1	41.1
630	38.2	34.4	41.7	34.0	42.2
800	40.2	36.0	46.1	35.8	46.1
1k	41.1	36.4	46.4	36.4	46.4
12.5k	40.0	35.3	45.1	35.3	45.1
16k	37.6	32.9	43.1	32.9	43.1
2k	34.7	30.3	37.8	30.3	37.8
2.5k	34.5	32.8	35.4	30.8	42.1
3.15k	35.5	36.9	37.1	30.0	39.6
4k	34.0	33.0	34.3	28.3	40.2
5k	29.0	25.0	29.8	24.3	32.8
6.3k	25.7	22.3	26.9	19.7	31.7
8k	20.2	16.6	22.4	14.1	24.2
10k	14.4	10.3	17.3	7.6	18.3
12.5k	8.9	5.0	11.7	3.2	13.0
16k	3.1	0.7	5.6	−0.8	8.7
20k	−1.9	−3.1	−0.4	−3.5	2.0

Summary

The acoustic science described above was intended to provide novices enough knowledge to understand the data and discussions put forth in the NPRM. Sound is a form of energy that is created when a medium vibrates, creating pressure variations (compressions and rarefactions of molecules) within a medium (such as air) which creates a pattern called a wave. Sound pressure over time creates peaks and valleys which make up the wavelength. The difference in acoustic pressure from the ambient pressure (no contraction of the medium) to the peak or valley of a wavelength is called the amplitude; the higher the amplitude, the louder the sound. The period of a wave is the time it takes for a cycle (a peak and a valley) to complete; a longer period indicates a lower pitch. The frequency of a sound is the number of complete wave cycles that pass by a given point in space every second; the higher the frequency, the higher the pitch.

The wavelength, amplitude, period and frequency are physical attributes of a sound wave that affect the human perception of loudness, pitch and timbre. These perceptions can be quantified using psychoacoustics. Psychoacoustics is the study of how humans perceive sound and forms the basis for extracting objective data from the physical characteristics of acoustic pressure (sound). Using the physical characteristics and psychoacoustic analysis, a sound is usually measured in decibels (dBs) within an octave. Octaves can be further broken down into one-third octave bands which provide more information about the spectral content of sound being analyzed. After reading this primer, the reader should understand what ''sound'' is, identify its different components, and understand how humans perceive sound and how each of these contributes to measuring sound.

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Issued in Washington, DC on January 7, 2013, under authority delegated in 49 CFR 1.95.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–00359 Filed 1–9–13; 4:15 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 585

[Docket No. NHTSA–2011–0100]

Draft Environmental Assessment for Rulemaking To Establish Minimum Sound Requirements for Hybrid and Electric Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of availability.

SUMMARY: NHTSA is announcing the availability of a Draft Environmental Assessment (EA) to evaluate the potential environmental impacts of a proposed rule establishing a Federal Motor Vehicle Safety Standard (FMVSS) setting minimum sound requirements for hybrid and electric vehicles.

DATES: Comments must be received on or before March 15, 2013.

ADDRESSES: You may submit comments on the EA to the docket number identified in the heading of this document using any of the following methods:

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

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202–366–9324.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, Ms. Gayle Dalrymple, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, NVS–112, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–5559; fax: 202–493–2990.

For legal issues, Mr. Russell Krupen, Office of the Chief Counsel, National Highway Traffic Safety Administration, NCC–113, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–1834; fax: 202–366–3820.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act, NHTSA has prepared a Draft EA analyzing the potential environmental impacts of the agency's proposed action to establish minimum sound requirements for hybrid and electric vehicles. The Draft EA is being issued together with the agency's Notice of Proposed Rulemaking for FMVSS No.141, *Minimum Sound Requirements for Hybrid and Electric Vehicles.* The proposal would require hybrid and electric passenger cars, light trucks, medium and heavy duty trucks and buses, low speed vehicles, and motorcycles to meet certain minimum sound requirements and would apply to electric vehicles and to those hybrid vehicles that are capable of propulsion in any forward or reverse gear without operation of the vehicle's internal combustion engine.

On July 12, 2011, the agency published a Notice of Intent to Prepare an Environmental Assessment, which sought comment on the scope of the environmental analysis, the significant issues to be analyzed, and the nature of the analysis to be conducted. NHTSA received comments to the Notice of Intent from 35 individuals and organizations. NHTSA developed the alternatives analyzed in the Draft EA based on the comments received and further research and analysis conducted by the agency.

NHTSA invites interested parties to comment on the Draft EA by following the instructions under **ADDRESSES** above. The Draft EA is available on the agency's Web site at *http://www.nhtsa.gov* or on the public docket at *http://www.regulations.gov* (Docket No. NHTSA–2011–0100).

Issued on: January 7, 2013.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–00361 Filed 1–9–13; 4:15 pm]

BILLING CODE 4910–59–P

FEDERAL REGISTER

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No. 9 January 14, 2013

Part IV

Environmental Protection Agency

49 CFR Parts 571 and 585

Approval and Promulgation of Implementation Plans; Georgia: New Source Review—Prevention of Significant Deterioration; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0622; FRL–9770–2]

Approval and Promulgation of Implementation Plans; Georgia: New Source Review—Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve portions of two SIP revisions to the Georgia State Implementation Plan (SIP) submitted by the State of Georgia, through the Georgia Department of Natural Resources'' Environmental Protection Division (EPD), on September 26, 2006(with a clarifying revision submitted on November 6, 2006) and July 26, 2012. The September 26, 2006, SIP submission makes multiple changes to the Georgia SIP including the State's permit exemption provisions. The July 26, 2012, submission includes changes to Georgia's New Source Review (NSR), Prevention of Significant Deterioration (PSD) program to incorporate by reference (IBR) federal PSD requirements regarding fine particulate matter ($PM_{2.5}$) increments, significant impact levels (SILs), significant monitoring concentration (SMC) and the deferral of, until July 21, 2014, PSD applicability to biogenic carbon dioxide (CO_2) emissions from bioenergy and other biogenic stationary sources as well as additional air quality rule revisions. EPA is proposing to approve portions of both SIP revisions because the Agency has preliminarily determined that they are consistent with section 110 of the Clean Air Act (CAA or Act) and EPA regulations regarding NSR permitting.

DATES: Comments must be received on or before February 13, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0622 by one of the following methods:

1. *www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2012–0622, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. ''EPA–R04–OAR–2012–0622.'' EPA's policy is that all comments received will be included in the public docket without change and may be made available online *www.regulations.gov.* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov.* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov.* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov.* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov.* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Georgia SIP, contact Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bradley's telephone number is (404) 562–9352; email address: *bradley.twunjala@epa.gov.* For information regarding NSR, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Ms. Adams' telephone number is (404) 562–9241; email address: *adams.yolanda@epa.gov.* For information regarding the $PM_{2.5}$ national ambient air quality standards (NAAQS), contact Mr. Joel Huey, Regulatory Development Section, at the same address above. Mr. Huey's telephone number is (404) 562–9104; email address: *huey.joel@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What action is EPA proposing?

On July 26, 2012, EPD submitted a SIP revision to EPA for approval into the Georgia SIP to IBR [1] federal NSR PSD permitting requirements at Georgia's Air Quality Control Rule 391–3–1–.02(7)—*Prevention of Significant Deterioration of Air Quality.* These rule changes were provided to comply with federal NSR permitting regulations and include provisions related to the implementation of the $PM_{2.5}$ NAAQS for the PSD program as promulgated in the rule entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact

[1] Throughout this document IBR means incorporate or incorporates by reference.

Levels (SILs) and Significant Monitoring Concentration (SMC), Final Rule,'' 75 FR 64864 (October 20, 2010) (hereafter referred to as ''$PM_{2.5}$ PSD Increment-SILs-SMC Rule'') and the deferral until July 21, 2014, of the application of PSD permitting requirement to biogenic CO_2 emissions from bioenergy and other biogenic stationary sources as promulgated in the rule entitled, ''Deferral for CO_2 Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs,'' Final Rule, 76 FR 43490 (July 20, 2011) (hereafter referred to as CO_2 Biomass Deferral Rule). Additionally, the July 26, 2012, SIP revision (1) IBR into Georgia SIP EPA's interim rulemaking entitled ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Reconsideration of Inclusion of Fugitive Emissions; Interim Rule; Stay and Revisions,'' 76 FR 17548 (March 30, 2011) (hereafter referred to as the ''Fugitive Emissions Interim Rule''); (2) requests that EPA remove from the SIP the exclusion language at Rule 391–3–1–.02(7) regarding the coarse particle pollution (PM_{10}) surrogate and grandfathering provision promulgated in the ''Implementation of the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers,'' 73 FR 28321, May 16, 2008 (hereafter referred to as ''NSR $PM_{2.5}$ Rule''); (3) amends the definitions Rule 391–3–1–.01(nnn)—*Definitions* regarding testing and monitoring of air pollutants; (4) amends Rules 391–3–1–.02(2)(c)—*Incinerators;* and (5) revises Rule 391–3–1–.03(6)—*Exemptions* by adding a new exemption for cumulative small modifications at an existing quarry where the quarry is not a major source and the associated emissions increase is less than 10 tons per year of particulate matter and PM_{10}. In addition, EPA is proposing to approve a portion of Georgia's September 26, 2006, SIP submittal [2] which adds new text at 391–3–1–.03(6)(i)(3) regarding Georgia's permit exemptions.

The two elements of EPD's July 26, 2012, SIP submittal that EPA is not proposing to approve in this action are: (1) Incorporation of the SIL thresholds and provisions promulgated in EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule (for reasons explained later in this notice); and (2) Rules 391–3–1–.02(www)—*Sewage Sludge Incineration,* 391–3–1–.03(9)—*Permit Fees,* 391–3–1–.02(8)(b)—*New Source Performance Standards* and 391–3–1–.02(9)(b)—*Emissions Standards for Hazardous Air Pollutants,* as these regulations are not part of Georgia's federally approved SIP.

II. What is the background for EPA's proposed action?

Today's proposed action to revise the Georgia SIP relates to PSD provisions promulgated in EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule and CO_2 Biomass Deferral Rule. Additionally, the July 26, 2012, SIP revision addresses EPA's repeal of the grandfathering provision as promulgated in the Rule entitled ''Implementation of the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$); Final Rule to Repeal Grandfather Provision'' (76 FR 28646, May 18, 2011) and the extension of the stay in the Fugitive Emissions Interim Rule. More details regarding these rules are found in the respective final rulemakings and are summarized below. For more information on the NSR Program and the $PM_{2.5}$ NAAQS please refer to the $PM_{2.5}$ PSD Increment-SILs-SMC Rule and the NSR $PM_{2.5}$ Rule.

A. $PM_{2.5}$ PSD Increment-SILs-SMC-Rule

On October 20, 2010, EPA finalized the $PM_{2.5}$ PSD Increment-SILs-SMC Rule to provide additional regulatory requirements under the PSD program regarding the implementation of the $PM_{2.5}$ NAAQS for NSR. Specifically, the rule establishes: (1) $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS; (2) SILs used as a screening tool (by a major source subject to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and (3) a SMC (also a screening tool) used by a major source subject to PSD to determine if a source must submit to the permitting authority one year of pre-construction air quality monitoring data prior to constructing or modifying a facility. As part of the response to comments on the October 20, 2010, final rulemaking, EPA explained that the Agency agrees that the SILs and SMCs used as *de minimis* [3] thresholds for the various pollutants are useful tools that enable permitting authorities and PSD applicants to screen out ''insignificant'' activities; however, these values are not required by the Act as part of an approvable SIP program. EPA believes that most states are likely to adopt the SILs and SMCs because of the useful purpose they serve regardless of EPA's position that the values are not mandatory. Alternatively, states may develop more stringent values if they desire to do so. In any case, states are not under any statutory deadline for revising their PSD programs to add these screening tools. *See* 75 FR 64864, 64900.

Georgia's July 26, 2012, SIP revision IBR the NSR changes promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule to be consistent with the federal NSR regulations and to appropriately implement the State's NSR program for the $PM_{2.5}$ NAAQS. More detail on the $PM_{2.5}$ PSD Increment-SILs-SMC Rule can be found in EPA's October 20, 2010, final rule and is summarized below. *See* 75 FR 64864. For the reasons explained below, EPA is not proposing to take action to approve the SILs (promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule) into the Georgia SIP in this rulemaking. EPA's authority to implement the SILs and SMC for PSD purposes has been challenged by the Sierra Club. *Sierra Club* v. *EPA*, Case No. 10–1413 (D.C. Circuit Court).[4] More details regarding Georgia's changes to its PSD regulations are also summarized below in Section III.

What are PSD increments?

As established in part C of title I of the CAA, EPA's PSD program protects public health from adverse effects of air pollution by ensuring that construction of new or modified sources in attainment or unclassifiable areas does not lead to significant deterioration of air quality while simultaneously ensuring that economic growth will occur in a manner consistent with preservation of clean air resources. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility ''will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.'' In other words, when a source applies for a permit to emit a regulated pollutant in an area that meets the NAAQS, the state

[2] On September 26, 2006, Georgia submitted to EPA multiple SIP revisions to Georgia's Air Quality Rules found at Chapter 391–3–1. A clarifying revision was submitted on November 6, 2006. EPA took action on a portion of Georgia's September 26, 2006, submittal in multiple actions published in the **Federal Register** on February 9, 2010 (75 FR 6309) and December 1, 2010 (75 FR 74624). Action on the remaining portions of the September 26, 2006, submittal is still under consideration and will be addressed in separate actions. *See* 75 FR 74624.

[3] The *de minimis* principle is grounded in the decision described by the court case *Alabama Power Co.* v. *Costle,* 636 F.2d 323, 360 (D.C. Cir. 1980). In this case, reviewing EPA's 1978 PSD regulations, the court recognized that ''there is likely a basis for an implication of *de minimis* authority to provide exemption when the burdens of regulation yield a gain of trivial or no value.'' 636 F.2d at 360.

[4] On April 6, 2012, EPA filed a brief with the D.C. Circuit Court defending the Agency's authority to implement SILs and SMC for PSD purposes.

and EPA must determine if emissions of the regulated pollutant from the source will cause significant deterioration in air quality. Significant deterioration occurs when the amount of the new pollution exceeds the applicable PSD increment, which is the ''maximum allowable increase'' of an air pollutant allowed to occur above the applicable baseline concentration [5] for that pollutant. PSD increments prevent air quality in clean areas from deteriorating to the level set by the NAAQS. Therefore, an increment is the mechanism used to estimate ''significant deterioration'' of air quality for a pollutant in an area.

For PSD baseline purposes, a baseline area for a particular pollutant emitted from a source includes the attainment or unclassifiable area in which the source is located as well as any other attainment or unclassifiable area in which the source's emissions of that pollutant are projected (by air quality modeling) to result in an ambient pollutant increase of at least 1 microgram per meter cubed ($\mu g/m^3$) (annual average). *See* 40 CFR 52.21(b)(15)(i). Under EPA's existing regulations, the establishment of a baseline area for any PSD increment results from the submission of the first complete PSD permit application and is based on the location of the proposed source and its emissions impact on the area. Once the baseline area is established, subsequent PSD sources locating in that area need to consider that a portion of the available increment may have already been consumed by previous emissions increases. In general, the submittal date of the first complete PSD permit application in a particular area is the operative ''baseline date'' after which new sources must evaluate increment consumption.[6] On or before the date of the first complete PSD application, emissions generally are considered to be part of the baseline concentration, except for certain emissions from major stationary sources. Most emissions increases that occur after the baseline date will be counted toward the amount of increment consumed. Similarly, emissions decreases after the baseline date restore or expand the amount of increment that is available. *See* 75 FR 64864. As described in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, and pursuant to the authority under section 166(a) of the CAA, EPA promulgated numerical increments for $PM_{2.5}$ as a new pollutant [7] for which NAAQS were established after August 7, 1977,[8] and derived 24-hour and annual $PM_{2.5}$ increments for the three area classifications (Class I, II and III) using the ''contingent safe harbor'' approach. *See* 75 FR 64864 at 64869 and ambient air increment table at 40 CFR 51.166(c)(1) and 52.21(c).

In addition to PSD increments for the $PM_{2.5}$ NAAQS, the $PM_{2.5}$ PSD Increment-SILs-SMC Rule amended the definition at 40 CFR 51.166 and 52.21 for ''*major source baseline date*'' and ''*minor source baseline date*'' (including trigger dates) to establish the $PM_{2.5}$ NAAQS specific dates associated with the implementation of $PM_{2.5}$ PSD increments. *See* 75 FR 64864. In accordance with section 166(b) of the CAA, EPA required the states to submit revised implementation plans to EPA for approval (to adopt the $PM_{2.5}$ PSD increments) within 21 months from promulgation of the final rule (by July 20, 2012). Regardless of when a state submits its revised SIP, the emissions from major sources subject to PSD for $PM_{2.5}$ for which construction commenced after October 20, 2010 (major source baseline date), consume $PM_{2.5}$ increment and should be included in the increment analyses occurring after the minor source baseline date is established for an area under the state's revised PSD program. *See* 75 FR 64864. As discussed in detail in Section III, Georgia's July 26, 2012, SIP revision IBR the $PM_{2.5}$ PSD increment permitting requirements promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule.

What are significant monitoring concentrations?

Under the CAA and EPA regulations, an applicant for a PSD permit is required to gather preconstruction monitoring data in certain circumstances. CAA Section 165(a)(7) calls for ''such monitoring as may be necessary to determine the effect which emissions from any such facility may have, or is having, on air quality in any areas which may be affected by emissions from such source.'' In addition, CAA section 165(e) requires an analysis of the air quality in areas affected by a proposed major facility or major modification and calls for gathering one year of monitoring data unless the reviewing authority determines that a complete and adequate analysis may be accomplished in a shorter period. These requirements are codified in EPA's PSD regulations at 40 CFR 51.166(m) and 40 CFR 52.21(m). In accordance with EPA's Guideline for Air Quality Modeling (40 CFR part 51, appendix W), the preconstruction monitoring data are primarily used to determine background concentrations in modeling conducted to demonstrate that the proposed source or modification will not cause or contribute to a violation of the NAAQS. *See* 40 CFR part 51, appendix W, section 9.2. SMCs are numerical values that represent thresholds of insignificant (*i.e.*, *de minimis*), monitored (ambient) impacts on pollutant concentrations. In EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule, EPA established a SMC of 4 $\mu g/m^3$ for $PM_{2.5}$.

Using the SMC as a screening tool, sources may be able to demonstrate that the modeled air quality impact of emissions from the new source or modification, or the existing air quality level in the area where the source would construct, is less than the SMC (i.e., *de minimis*), and as such, may be allowed to forego the preconstruction monitoring requirement for a particular pollutant at the discretion of the reviewing authority. *See* 40 CFR 51.166(i)(5) and 52.21(i)(5). SMCs are not minimum required elements of an approvable SIP under the CAA. This *de minimis* value is widely considered to be a useful component for implementing the PSD program, but is not absolutely necessary for the states to implement PSD programs. States can satisfy the statutory requirements for a PSD program by requiring each PSD applicant to submit air quality monitoring data for $PM_{2.5}$ without using *de minimis* thresholds to exempt certain sources from such requirements. *See* 75 FR 64864. The $PM_{2.5}$ SMC became effective under the federal PSD program on December 20, 2010. States with EPA-approved PSD programs that adopt the SMC for $PM_{2.5}$, however, may use the SMC, once it is part of an approved SIP, to determine when it may be appropriate to exempt a particular major stationary source or major modification from the monitoring requirements under

[5] Section 169(4) of the CAA provides that the baseline concentration of a pollutant for a particular baseline area is generally the air quality at the time of the first application for a PSD permit in the area.

[6] Baseline dates are pollutant specific. That is, a complete PSD application establishes the baseline date only for those regulated NSR pollutants that are projected to be emitted in significant amounts (as defined in the regulations) by the applicant's new source or modification. Thus, an area may have different baseline dates for different pollutants.

[7] EPA generally characterized the $PM_{2.5}$ NAAQS as a NAAQS for a new indicator of PM. EPA did not replace the PM_{10} NAAQS with the NAAQS for $PM_{2.5}$ when the $PM_{2.5}$ NAAQS were promulgated in 1997. EPA rather retained the annual and 24-hour NAAQS for $PM_{2.5}$ as if $PM_{2.5}$ was a new pollutant even though EPA had already developed air quality criteria for PM generally. *See* 75 FR 64864 (October 20, 2010).

[8] EPA interprets 166(a) to authorize EPA to promulgate pollutant-specific PSD regulations meeting the requirements of section 166(c) and 166(d) for any pollutant for which EPA promulgates a NAAQS after 1977.

its state PSD program. Georgia's July 26, 2012, revision IBR the SMC provision into the Georgia SIP.

Recently, the Sierra Club filed suit challenging EPA's authority to implement the $PM_{2.5}$ SILs [9] as well as the SMC for PSD purposes as promulgated in the October 20, 2010, rule. *Sierra Club* v. *EPA,* Case No 10–1413, D.C. Circuit Court. Specifically regarding the SMC, Sierra Club claims that the use of SMC to exempt a source from submitting a year's worth of monitoring data is inconsistent with the CAA. EPA responded to Sierra Club's claims in a brief dated April 6, 2012, which describes the Agency's authority to develop and promulgate SMCs.[10] A copy of EPA's April 6, 2012, brief can be found in the docket for today's rulemaking at *http://www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0622.

B. CO_2 Biomass Deferral

1. The GHG Tailoring Rule

On June 3, 2010 (effective August 2, 2010), EPA promulgated a final rulemaking, entitled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule'' (hereafter referred to as the GHG Tailoring Rule), for the purpose of relieving overwhelming permitting burdens from the regulation of greenhouse gases (GHG) that would, in the absence of the rule, fall on permitting authorities and sources. *See* 75 FR 31514. EPA accomplished this by tailoring the applicability criteria that determine which GHG emission sources become subject to the PSD program of the CAA. In particular, EPA established in the GHG Tailoring Rule a phase-in approach for PSD applicability and established the first two steps of the phase-in for the largest GHG emitters.[11] On January 13, 2011, EPD submitted a SIP revision to EPA to IBR into the Georgia SIP (at 391–3–1–.02(7)), the version of 40 CFR 52.21 as of June 3, 2010, which included the GHG Tailoring Rule thresholds.[12] EPA took final action to approve Georgia's SIP revision on September 8, 2011. *See* 76 FR 55572. Please refer to the GHG Tailoring Rule for specific details on the PSD thresholds.

2. EPA's CO_2 Biomass Deferral Rule

In the July 20, 2011, final rulemaking, EPA deferred until July 21, 2014, the consideration of CO_2 emissions from bioenergy and other biogenic sources (hereafter referred to as ''biogenic CO_2 emissions'') when determining whether a stationary source meets the PSD and title V applicability thresholds, including those for the application of best available control technology (BACT).[13] *See* 76 FR 43490. Thus, under the federal PSD rules, stationary sources that combust biomass (or otherwise emit biogenic CO_2 emissions) and construct or modify during the deferral period will not be subject to the application of PSD to the biogenic CO_2 emissions resulting from those actions. The deferral applies only to biogenic CO_2 emissions and does not affect non-GHG pollutants or other GHGs (e.g., methane and nitrous oxide) emitted from the combustion of biomass fuel. Also, the deferral only pertains to regulation of biogenic CO_2 emissions under the PSD and title V programs and does not pertain to any other EPA programs such as the GHG Reporting Program.

Biogenic CO_2 emissions are defined as emissions of CO_2 from a stationary source directly resulting from the combustion or decomposition of biologically-based materials other than fossil fuels and mineral sources of carbon. Examples of ''biogenic CO_2 emissions'' include, but are not limited to:

- CO_2 generated from the biological decomposition of waste in landfills, wastewater treatment, or manure management processes;
- CO_2 from the combustion of biogas collected from biological decomposition of waste in landfills, wastewater treatment, or manure management processes;
- CO_2 from fermentation during ethanol production or other industrial fermentation processes;
- CO_2 from combustion of the biological fraction of municipal solid waste or biosolids;
- CO_2 from combustion of the biological fraction of tire-derived fuel; and
- CO_2 derived from combustion of biological material, including all types of wood and wood waste, forest residue, and agricultural material.

The deferral is intended to be a temporary measure, in effect for no more than three years, to allow the Agency time to conduct detailed examination of the science and technical issues related to accounting for biogenic CO_2 emissions, and determine what, if any, treatment of biogenic CO_2 emissions should be in the PSD and title V programs. The biomass deferral rule is not EPA's final determination on the treatment of biogenic CO_2 emissions in those programs. The Agency plans to complete its science and technical review and any follow-up rulemakings within the three-year deferral period and further believes that three years is ample time to complete these tasks. It is possible that the subsequent rulemaking, depending on the nature of EPA's determinations, would supersede the biomass deferral rulemaking and become effective in fewer than three years. In that event, Georgia may revise its SIP accordingly.

EPA's final biomass deferral rule is an interim deferral for biogenic CO_2 emissions only and does not relieve sources of the obligation to meet the PSD and title V permitting requirements for other pollutant emissions that are otherwise applicable to the source during the deferral period or that may be applicable to the source at a future date pending the results of EPA's study and subsequent rulemaking action. This means, for example, that if the deferral is applicable to biogenic CO_2 emissions from a particular source during the three-year effective period and the study and future rulemaking do not provide for a permanent exemption from PSD and title V permitting requirements for the biogenic CO_2 emissions from a source with particular characteristics, then the deferral would end for that type of source and its biogenic CO_2 emissions would have to be appropriately considered in any applicability determinations that the source may need to conduct for future stationary source permitting purposes, consistent with that subsequent rulemaking and the final GHG Tailoring Rule (*e.g.*, a major source determination for title V purposes or a major modification determination for PSD purposes). EPA also wishes to clarify that the agency does not require that a PSD permit issued during the deferral period be amended or that any PSD

[9] As mentioned earlier, due to litigation by the Sierra Club, EPA is not proposing to take action on the SILs portion of the Georgia's July 26, 2012, SIP revision at this time but will take action once the court case regarding SILs implementation is resolved.

[10] Additional information on this issue can also be found in an April 25, 2012, comment letter from EPA Region 6 to the Louisiana Department of Environmental Quality regarding the SILs-SMC litigation. A copy of this letter can be found in the docket for today's rulemaking at *http://www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0622.

[11] Please refer to the July 12, 2012 rulemaking finalizing GHG Tailoring Rule Step 3. *See* 77 FR 41051.

[12] Georgia's submittal also revised the State's title V operating permit provisions (which are not included in the federally approved SIP) to incorporate the GHG Tailoring Rule provisions. As such, EPA did not taking final action to approve Georgia's update to its title V.

[13] As with the Tailoring Rule, the Biomass Deferral addresses both PSD and title V requirements. However, EPA is only taking action on Georgia's PSD program as part of this action.

requirements in a PSD permit existing at the time the deferral took effect, such as BACT limitations, be revised or removed from an effective PSD permit for any reason related to the deferral or when the deferral period expires.

Under 40 CFR 52.21(w), any PSD permit shall remain in effect, unless and until it expires or it is rescinded, under the limited conditions specified in that provision. Thus, a PSD permit that is issued to a source while the deferral was effective need not be reopened or amended if the source is no longer eligible to exclude its biogenic CO_2 emissions from PSD applicability after the deferral expires. However, if such a source undertakes a modification that could potentially require a PSD permit and the source is not eligible to continue excluding its biogenic CO_2 emissions after the deferral expires, the source will need to consider its biogenic CO_2 emissions in assessing whether it needs a PSD permit to authorize the modification.

Any future actions to modify, shorten, or make permanent the deferral for biogenic sources are beyond the scope of the biomass deferral action and this proposed approval of the deferral into the Georgia SIP, and will be addressed through subsequent rulemaking. The results of EPA's review of the science related to net atmospheric impacts of biogenic CO_2 and the framework to properly account for such emissions in title V and PSD permitting programs based on the study are prospective and unknown. Thus, EPA is unable to predict which biogenic CO_2 sources, if any, currently subject to the deferral as incorporated into the Georgia SIP would be subject to any permanent exemptions or which currently deferred sources would be potentially required to account for their emissions in the future rulemaking EPA has committed to undertake for such purposes in three or fewer years. Only in that rulemaking can EPA address the question of extending the deferral or putting in place requirements that would have the equivalent effect on sources covered by the biomass deferral. Once that rulemaking has occurred, Georgia may address related revisions to its SIP.

III. What is EPA's analysis of Georgia's SIP revision?

Georgia currently has a SIP-approved NSR program for new and modified stationary sources. EPD's PSD preconstruction rules are found at Georgia Air Quality Control Rule 391–3–1–.02(7)—*Prevention of Significant Deterioration of Air Quality* and apply to major stationary sources or modifications constructed in areas designated attainment areas or unclassifiable/attainment areas as required under part C of title I of the CAA with respect to the NAAQS. Georgia's Rule 391–3–1–.02(7) IBR the federal NSR PSD regulations at 40 CFR 52.21 into the Georgia SIP. In effect, EPD's July 26, 2012, SIP revision revises Rule 391–3–1–.02(7) by updating the State's IBR date to July 20, 2011, which includes the federal PSD permitting updates promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, the CO_2 Biomass Deferral Rule and the extension of the stay in the Fugitive Emissions Interim Rule. Additionally, the July 26, 2012, SIP submission revises Rule 391–3–1–.02(7) by removing language to address EPA's repeal of the PM_{10} surrogate and grandfathering provisions and clarifies at subparagraph (a)(1) of 391–3–1–.01 that all dates associated with IBR of the federal PSD rules (at 40 CFR 52.21) refer to the date of publication of those rules in the **Federal Register**. In addition to changes to Rule 391–3–1–.02(7), the July 26, 2012, SIP revision also (1) amends Georgia's definitions at 391–3–1–.01 by revising subparagraph (nnnn) to reference the February 1, 2012, update to Georgia's ''Procedures for Testing and Monitoring Sources of Air Pollutants,'' and; (2) revises 391–3–1–.02(2)—*Incinerators* to add exemptions to subparagraph (c)(6)(ix)–(xiii) to exempt certain incinerators from the state rule that are subject to more stringent, state adopted federal standards at Rule 391–3–1.02; and (3) modifies Georgia's provisions at Rule 391–3–1–.03(6)(i)(4) regarding permit exemptions.

Georgia's September 26, 2006 SIP (with a clarifying revision submitted on November 6, 2006) also revises the permit exemption provisions at Rule 391–1–.03(6)(i)(3). Both 391–3–1–.03(6)(i)(3) and the new provision at (i)(4) provide exemptions from the requirement of a source to obtain a SIP permit for cumulative modifications where the combined emission increases are below specific *de minimis* thresholds. The September 26, 2006, SIP revision to Rule 391–3–1–.03(6)(i)(3) adds text that excludes contemporaneous emission decreases from the combined emission increases for cumulative modifications when determining if they are below specific emission thresholds for carbon monoxide, lead, particulate matter, PM_{10}, sulfur dioxide, nitrogen oxide, volatile organic compounds and any hazardous air pollutant. In addition the exemption in Rule, 391–3–1–.03(6)(i)(3) applies to any existing source. The July 26, 2012, SIP revision, adds Rule 391–3–1.03(6)(i)(4) which is an alternative to the exemption (i)(3) that only applies to small modifications at existing quarry sources that are not major sources where the combined emission increases can include contemporaneous emission decreases from all nonexempt modified activities and are less than 10 tons per year of particulate matter and PM_{10}. Neither exemptions may be used to lower the potential to emit below ''major source'' thresholds, or avoid any ''applicable requirement'' as defined in 40 CFR 70.2. *See* Georgia Rule 391–3–1–.03(6).

The changes to Georgia's rules submitted September 26, 2006 (with a clarifying revision submitted on November 6, 2006) and July 26, 2012, became state effective on March 27, 2006, and August 9, 2012, respectively. EPA is proposing to approve changes to Georgia's Rule 391–3–1–.02(7), to update the State's existing SIP-approved PSD program to be consistent with federal NSR regulations (at 40 CFR 52.21) and the CAA. EPA is also proposing to approve Georgia's requested changes to Rules 391–3–1–.01, .02(2) and .03. More details on EPA's analysis and proposed approval of the portions of Georgia's July 26, 2012, SIP submittal addressing PSD provisions promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, the CO_2 Deferral Rule, the Fugitive Emissions Interim Rule and the NSR $PM_{2.5}$ Rule (grandfathering provision) are discussed below.

A. Rule 391–3–1–.02(7) SIP Revision

1. $PM_{2.5}$ PSD Increment-SILs-SMC Rule

EPD's July 26, 2012, SIP revision IBR the following provisions into the Georgia SIP at regulation 391–3–1–.02(7) as promulgated in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC Rule: (1) PSD increments for $PM_{2.5}$ annual and 24-hour NAAQS pursuant to section 166(a) of the CAA; (2) SILs used as a screening tool (used by a major source subject to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and (3) SMC to determine the level of data gathering required of a major source in support of its PSD permit application for $PM_{2.5}$ emissions.

Specifically, Georgia's July 26, 2012, SIP revision IBR into the Georgia SIP (at 391–3–1–.02(7)) the $PM_{2.5}$ PSD increments as amended in the tables at 40 CFR 52.21(c) and (p)(5) (for Class I Variances) the amendments to the terms ''major source baseline date'' (as amended at 40 CFR 52.21(b)(14)(i)(c)); ''minor source baseline date'' (including

establishment of the ''trigger date'') (40 CFR 52.21(b)(14)(ii)(c)); and the definition of ''baseline area'' (as amended at 40 CFR 52.21(b)(15)(i) and (ii)). These changes provide for the implementation of the $PM_{2.5}$ PSD increments for the $PM_{2.5}$ NAAQS in the State's PSD program. In today's action, EPA is proposing to approve Georgia's July 26, 2012, SIP revision to address $PM_{2.5}$ PSD increments.

Regarding the SILs and SMC established in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC Rule, the Sierra Club has challenged EPA's authority to implement SILs and SMC. In a brief filed in the D.C. Circuit on April 6, 2012, EPA described the Agency's authority under the CAA to promulgate and implement the SMCs and SILs *de minimis* thresholds. With respect to the SMC, Georgia's July 26, 2012, SIP revision IBR the SMC of 4 g/m3 for $PM_{2.5}$ NAAQS at 391–3–1–.02(7). Georgia's July 26, 2012, SIP revision is consistent with EPA's current promulgated provisions in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC Rule. EPA is proposing to approve this promulgated threshold into the Georgia SIP as EPA believes the SMC is a valid exercise of the Agency's *de minimis* authority. However, EPA notes that future court action may require subsequent rule revisions and SIP revisions from the State of Georgia.

The July 26, 2012, SIP revision submitted by Georgia to IBR the new PSD requirements for $PM_{2.5}$5 pursuant to the $PM_{2.5}$ PSD Increment-SILs-SMC Rule also includes the new regulatory text at 40 CFR 52.21(k)(2), concerning the implementation of SILs for $PM_{2.5}$. EPA stated in the preamble to the October 20, 2010, final rule that we do not consider the SILs to be a mandatory SIP element, but regard them as discretionary on the part of a regulating authority for use in the PSD permitting process. Nevertheless, the $PM_{2.5}$ SILs are currently the subject of litigation before the U.S. Court of Appeals. *Sierra Club* v. *EPA,* Case No 10–1413 (D.C. Circuit). In response to that litigation, EPA has requested that the court remand and vacate the regulatory text in EPA's PSD regulations at paragraph (k)(2) so that EPA can make necessary rulemaking revisions to that text. In light of EPA's request for remand and vacatur and the acknowledgement of the need to revise the regulatory text presently contained at paragraph (k)(2) of sections 51.166 and 52.21, EPA does not believe that it is appropriate at this time to approve that portion of Georgia's SIP revision that contains the affected regulatory text in the State's PSD regulations, at 391–3–1–0.2(7). Instead, EPA is taking no action at this time with regard to that specific provision contained in the SIP revision. EPA will take action on the SILs portion of Georgia's July 26, 2012, SIP revision in a separate rulemaking once the issue regarding the court case has been resolved.

2. CO_2 Biomass Deferral

In the July 20, 2011, CO_2 Biomass Deferral Rule, similar to the approach with the GHG Tailoring Rule, EPA incorporated the biomass deferral into the Federal PSD program by amending the definition of ''subject to regulation'' under 40 CFR 51.166 and 52.21, respectively. Georgia's July 26, 2012, SIP revision IBR into the Georgia SIP 40 CFR 52.21 as of July 20, 2011, which includes the CO_2 Biomass Deferral revision to the definition of ''subject to regulation'' deferring, until July 21, 2014, PSD applicability to biogenic carbon dioxide (CO_2) emissions from bioenergy and other biogenic stationary sources. EPA is proposing to approve Georgia's IBR of the CO_2 Biomass Deferral Rule.

3. Fugitive Emissions Interim Rule

Georgia's July 26, 2012, SIP revision also IBR the extension of the stay of the Fugitive Emissions Rule into the Georgia PSD program at 391–3–1–.02(7). On December 19, 2008, EPA issued a final rule revising the requirements of the NSR permitting program regarding the treatment of fugitive emissions. *See* 73 FR 77882. The final rule required fugitive emissions to be included in determining whether a physical or operational change results in a major modification only for sources in industries that have been designated through rulemaking under section 302(j) [14] of the CAA. As a result of EPA granting the Natural Resource Defense Council's petition for reconsideration on the original Fugitive Emissions Rule [15] on March 31, 2010, EPA stayed the Fugitive Emissions Rule (73 FR 77882) for 18 months to October 3, 2011. The stay allowed the Agency time to propose, take comment and issue a final action regarding the inclusion of fugitive emissions in NSR applicability determinations. On March 30, 2011 (76 FR 17548), EPA proposed an interim rule which superseded the March 31, 2010, stay and clarified and extended the stay of the Fugitive Emission Rule until EPA completes its reconsideration. The interim rule simply reverts the CFR text back to the language that existed prior to the Fugitive Emissions Rule changes in the December 19, 2008, rulemaking. EPA plans to issue a final rule affirming the interim rule as final. The final rule will remain in effect until EPA completes its reconsideration. EPA is proposing to approve Georgia's IBR of the interim rulemaking extending the stay of the Fugitives Emissions Rule into its SIP at Rule 391–3–1–.02(7).

4. $PM_{2.5}$ Grandfathering Provision

In the NSR $PM_{2.5}$ Rule, EPA finalized regulations to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and nonattainment areas including the grandfather provision which allowed PSD applicants that submitted their complete permit application prior to the July 15, 2008 effective date of the NSR $PM_{2.5}$ Rule to continue to rely on the 1997 PM_{10} Surrogate Policy rather than amend their application to demonstrate compliance directly with the new $PM_{2.5}$ requirements. *See* 73 FR 28321. On January 13, 2011, Georgia submitted a SIP revision to IBR into the Georgia SIP the version of 40 CFR 52.21 as of June 3, 2010 which included language that excluded the grandfathering exemption (at 40 CFR 52.21(i)(1)(xi)) from the state's PSD regulations (at Rule 391–3–1–.02(7)(b)(6)(i)) ensuring that sources were not subject to the grandfathering provision. EPA approved Georgia's January 13, 2011, SIP revision on September 8, 2011 (76 FR 55572).

On May 18, 2011, EPA took final action to repeal the $PM_{2.5}$ grandfathering provision at 40 CFR 52.21(i)(1)(xi). *See* 76 FR 28646. Georgia's July 26, 2012, SIP submittal incorporates into the Georgia SIP the version of 40 CFR 52.21 as of July 20, 2011, which includes the May 18, 2011, repeal of the grandfather provision. Thus, the language previously approved into Georgia's SIP at Rule 391–3–1–.02(7)(b)(6)(i) that excludes the grandfathering provision is no longer necessary. Georgia's July 26, 2012, SIP submittal removes the unnecessary language pertaining to the grandfather provision from Rule 391–3–1–.02(7)(b)(6)(i).[16] EPA is proposing to

[14] Pursuant to CAA section 302(j), examples of these industry sectors include oil refineries, Portland cement plants, and iron and steel mills.

[15] On April 24, 2009, EPA agreed to reconsider the approach to handling fugitive emissions and granted a 3-month administrative stay of the Fugitive Emissions Rule. The administrative stay of the Fugitive Emissions Rule became effective on September 30, 2009. EPA put an additional three-month stay in place from December 31, 2009, until March 31, 2010.

[16] Georgia's previous incorporation by reference of 40 CFR 52.21 at 391–3–1–.02(7) was as of June 3, 2010, which did not include the May 18, 2011, repeal of the PM_{10} Surrogate Policy; therefore the grandfathering exclusion language at 391–3–1–.02(7)(b)(6)(i) was necessary at that time. The June

Continued

approve this portion of Georgia's July 26, 2012, SIP submittal.

IV. Proposed Action

EPA is proposing to approve, into the Georgia SIP, portions of Georgia's September 26, 2006 (with a clarifying revision submitted on November 6, 2006) and the July 26, 2012, SIP revisions adopting federal regulations amended in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC rule; the June 3, 2010, CO_2 Biomass Deferral Rule; and the March 30, 2011, Fugitive Emissions Interim Rule, amendments regarding the $PM_{2.5}$ Grandfathering Provision, definition changes regarding testing and monitoring, and changes regarding exemptions from the requirement to obtain a SIP permit and exemptions for incinerators. EPA is not however proposing to approve in this rulemaking Georgia's July 26, 2012, SIP revision regarding the SIL thresholds and provisions and Rules 391–3–1–.02(www)—*Sewage Sludge Incineration,* 391–3–1–.03(9)—*Permit Fees,* 391–3–1–.02(8)(b)—*New Source Performance Standards* and 391–3–1–.02(9)(b)—*Emissions Standards for Hazardous Air Pollutants.* EPA has made the preliminary determination that these SIP revisions, with regard to the aforementioned proposed actions, are approvable because they are consistent with section 110 of the CAA and EPA regulations regarding NSR permitting.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 F43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 4, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–00581 Filed 1–11–13; 8:45 am]

BILLING CODE 6560–50–P

3, 2010, IBR date was approved into the Georgia SIP on September 8, 2011.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0622; FRL–9770–1]

Approval and Promulgation of Implementation Plans; Georgia: New Source Review—Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; withdrawal.

SUMMARY: EPA is withdrawing a proposed rulemaking published in the **Federal Register** on January 2, 2013, to approve changes to the Georgia State Implementation Plan (SIP) New Source Review Prevention of Significant Deterioration program for the fine particulate matter standards as a result of the inadvertent publication of an incorrect version of the proposed rulemaking.

DATES: The proposed rule published January 2, 2013, is withdrawn as of January 14, 2013.

FOR FURTHER INFORMATION CONTACT: Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bradley's telephone number is (404) 562–9352; email address: *bradley.twunjala@epa.gov.*

SUPPLEMENTARY INFORMATION: On January 2, 2013 (78 FR 45), a proposed rulemaking was published in the **Federal Register** entitled ''Approval and Promulgation of Implementation Plans; Georgia: New Source Review—Prevention of Significant Deterioration'' to approve changes to Georgia's SIP-approved regulations entitled ''Air Quality Control Rule 391–3–.1.'' The proposed rule version published in the **Federal Register** on January 2, 2013, was an incorrect version and EPA therefore, is now withdrawing its January 2, 2013, proposed rulemaking action. In a separate action, the correct version of EPA's proposed rulemaking related to Georgia's Air Quality Control Rule 391–3–.1 is being provided for public comment. This course of action will promote efficiency, mitigate confusion, and create a new comment period on the future proposed action to approve Georgia's SIP revisions related to Rule 391–3–1 with a proper basis of evaluation.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 4, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–00582 Filed 1–11–13; 8:45 am]

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