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Presidential Documents

Title 3—

The President

Proclamation 9079 of January 31, 2014

American Heart Month, 2014

By the President of the United States of America

A Proclamation

Maintaining a strong heart is key to a long and healthy life. The number one killer of American men and women, cardiovascular disease is responsible for one out of every four deaths in the United States. During American Heart Month, we renew our fight, both as a Nation and in each of our own lives, against the devastating epidemic of heart disease.

While anyone can develop heart disease, those with high blood pressure or high cholesterol and those who smoke are at greater risk. Risk factors like diabetes, obesity, poor diet, physical inactivity, and excessive alcohol use can also increase the likelihood of developing heart disease. By adopting a few healthy habits—getting regular exercise; not smoking; eating diets rich in fruits and vegetables and low in salt, saturated fat, and cholesterol—each of us can reduce our risk. Following health care providers' instructions can also improve heart health and lessen the chance of heart attack.

Thanks to the Affordable Care Act, millions of Americans have gained access to affordable health care coverage, including recommended preventive screenings with no out-of-pocket cost. As we improve access to coverage, my Administration remains committed to supporting scientific research and raising awareness of heart disease. In 2011, we launched Million Hearts, which aims to prevent one million heart attacks and strokes by 2017. And through First Lady Michelle Obama's *Let's Move!* initiative, we are helping young people make the positive choices that will keep them healthy throughout their lives.

On Friday, February 7, everyone will have the chance to show their support for heart health by observing National Wear Red Day. Michelle and I encourage Americans to wear red in solidarity with those struggling with heart disease and in acknowledgement of the hardworking health care professionals who provide life-saving treatment, research, and advice. As we honor their contributions, let us take ownership of our heart health and commit to positive lifestyles, this month and throughout the year.

In acknowledgement of the importance of the ongoing fight against cardiovascular disease, the Congress, by Joint Resolution approved December 30, 1963, as amended (77 Stat. 843; 36 U.S.C. 101), has requested that the President issue an annual proclamation designating February as ''American Heart Month.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim February 2014 as American Heart Month, and I invite all Americans to participate in National Wear Red Day on February 7, 2014. I also invite the Governors of the States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in recognizing and reaffirming our commitment to fighting cardiovascular disease.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of January, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–02529
Filed 2–4–14; 8:45 am]
Billing code 3295–F4

Presidential Documents

Proclamation 9080 of January 31, 2014

National African American History Month, 2014

By the President of the United States of America

A Proclamation

Americans have long celebrated our Nation as a beacon of liberty and opportunity—home to patriots who threw off an empire, refuge to multitudes who fled oppression and despair. Yet we must also remember that while many came to our shores to pursue their own measure of freedom, hundreds of thousands arrived in chains. Through centuries of struggle, and through the toil of generations, African Americans have claimed rights long denied. During National African American History Month, we honor the men and women at the heart of this journey—from engineers of the Underground Railroad to educators who answered a free people's call for a free mind, from patriots who proved that valor knows no color to demonstrators who gathered on the battlefields of justice and marched our Nation toward a brighter day.

As we pay tribute to the heroes, sung and unsung, of African-American history, we recall the inner strength that sustained millions in bondage. We remember the courage that led activists to defy lynch mobs and register their neighbors to vote. And we carry forward the unyielding hope that guided a movement as it bent the arc of the moral universe toward justice. Even while we seek to dull the scars of slavery and legalized discrimination, we hold fast to the values gained through centuries of trial and suffering.

Every American can draw strength from the story of hard-won progress, which not only defines the African-American experience, but also lies at the heart of our Nation as a whole. This story affirms that freedom is a gift from God, but it must be secured by His people here on earth. It inspires a new generation of leaders, and it teaches us all that when we come together in common purpose, we can right the wrongs of history and make our world anew.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim February 2014 as National African American History Month. I call upon public officials, educators, librarians, and all the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of January, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

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Presidential Documents

Proclamation 9081 of January 31, 2014

National Teen Dating Violence Awareness and Prevention Month, 2014

By the President of the United States of America

A Proclamation

Each year, 1 in 10 American teenagers suffers physical violence at the hands of a boyfriend or girlfriend, and many others are sexually or emotionally abused. Dating violence can inflict long-lasting pain, putting survivors at increased risk of substance abuse, depression, poor academic performance, and experiencing further violence from a partner. During National Teen Dating Violence Awareness and Prevention Month, we renew our commitment to preventing abuse, supporting survivors, holding offenders accountable, and building a culture of respect.

Although girls and young women ages 16 to 24 are at the highest risk, dating violence can affect anyone. That is why everyone must learn the risk factors and warning signs. While healthy relationships are built on fairness, equality, and respect, dating violence often involves a pattern of destructive behaviors used to exert power and control over a partner. It can include constantly monitoring, isolating, or insulting a partner; extreme jealousy, insecurity, or possessiveness; or any type of physical violence or unwanted sexual contact. If you, a friend, or a loved one, is in an abusive relationship, the National Dating Abuse Helpline will offer immediate and confidential support. To contact the Helpline, call 1–866–331–9474, text ''loveis'' to 22522, or visit www.LoveIsRespect.org. For more information on dating violence, please visit www.CDC.gov/features/datingviolence.

My Administration remains dedicated to preventing dating violence, raising awareness among teens and their families, and educating young people about healthy relationships. Earlier this year, I established the White House Task Force to Protect Students from Sexual Assault. In addition to its primary focus of reducing sexual assault on college campuses, the task force will consider how its recommendations could apply to secondary schools. Because we must also reach out to teens in new ways, Vice President Joe Biden's 1 is 2 Many initiative is engaging them online, via mobile applications, and in social media. Alongside schools, communities, and advocacy groups, we are working to change attitudes and help teens speak out against dating violence.

Each of us can play a role in ending dating violence—in our schools, our homes, our neighborhoods, and our dormitories. This month and throughout the year, let every American look out for one another, stand with survivors, speak out against dating violence, and build communities where abuse is never tolerated.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim February 2014 as National Teen Dating Violence Awareness and Prevention Month. I call upon all Americans to support efforts in their communities and schools, and in their own families, to empower young people to develop healthy relationships throughout their lives and to engage in activities that prevent and respond to teen dating violence.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of January, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0891; Airspace Docket No. 12–ASO–37]

RIN 2120–AA66

Establishment of Area Navigation (RNAV) Routes; Atlanta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes nine low-altitude RNAV routes (T-routes) in the Atlanta, GA, area. The new routes enhance the efficiency of the National Airspace System (NAS) by providing routing through, around and over the busy Atlanta terminal airspace and by providing connectivity to the existing airway structure.

DATES: Effective date 0901 UTC, April 3, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On November 15, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish nine new RNAV routes in the Atlanta, GA area (78 FR 68777). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Four comments were received.

Discussion of Comments

The Aircraft Owners and Pilots Association (AOPA) and a pilot who often flies in the area, both wrote in support of the proposal. Two other commenters, the City of College Park, GA, and the Woodward Academy, expressed concerns about the proximity of proposed route T–319 to the Woodward Academy campus in College Park, GA. The City and the Academy stated concerns about possible environmental and related economic impacts that might result from the establishment of the route. Additionally, the City advised that they had not been informed as to potential changes to the types and frequency of traffic along the path due to the creation of T–319. The commenters also were concerned about the potential impact of helicopter noise from T–319.

Route T–319 is almost congruent with an existing VOR Federal airway (V–97) which passes through the same area near the Woodward Academy campus. Additionally, this area has long been used by air traffic control (ATC) as a corridor to vector aircraft north and south over the Hartsfield-Jackson Atlanta International airport (ATL). We do not anticipate an increase in traffic with the establishment of T–319. Air traffic is already utilizing that airspace. There are no plans to move additional small propeller aircraft, small jets or helicopters over this route. Further, the route is being established for aircraft transiting through the area and is not intended for aircraft or helicopters circling the area. Aircraft using T–319 will be assigned an altitude of 5,000 feet MSL or 6,000 feet MSL as they are today in the corridor. Additionally, with this RNAV route, ATC will be able to move some traffic through the area at higher altitudes (e.g., 12,000 feet MSL and 13,000 feet MSL). This should reduce the potential for noise impacts. The commenters recommended that the FAA consider moving T–319 to the east along a line approximately 0.3 miles east of Harrison Road (the east edge of the City). Regarding the placement of T–319, the route must be located as proposed in the NPRM so that separation can be provided between the transiting traffic and ATL departures that are climbing to 10,000 feet MSL when ATL is on either an east or west operation.

Differences from the NPRM

The description of T–297 in the NPRM contained a one minute error in the longitude coordinate of the RKMRT, GA, waypoint. The NPRM read ''long. 85°14′03″ W.'' The correct point is ''long. 85°15′03″ W.''

The NPRM stated that this action would support the Atlanta Optimization of Airspace and Procedures in a Metroplex (OAPM) Project. That statement resulted in some confusion over the status of the T-route proposal versus the Metroplex project. While these new routes will enhance airspace efficiency in the Atlanta terminal area, the T-routes in this rule have independent utility from the Metroplex project, and environmental evaluations were conducted independently.

The Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to establish nine low altitude RNAV routes (T-routes) in the Atlanta, GA, area to provide published routes for aircraft to use to circumnavigate the busy Atlanta terminal area airspace. The new routes are described below.

T–290: T–290 provides a route south of Atlanta from the SCAIL, AL, waypoint (WP), near Tallapoosa County, AL, to the JACET, GA, WP, near Augusta, GA.

T–292: T–292 provides a route to the north of Atlanta from the RKMRT, GA, WP (near Polk County Airport, GA) to the JACET, GA, WP.

T–293: T–293 extends around the west of the Atlanta area from the CHUTT, AL, WP, in Alabama (south of Columbus, GA) to the DAISI, GA, WP (near Pickens County Airport, GA [JZP]). Aligning the route segments between the RTLRY, HONRR and POLLL waypoints keeps T–293 within Atlanta TRACON's airspace and provides vertical and lateral separation from three separate published arrival procedures used by aircraft descending to land at airports within the Metroplex area.

T–294: T–294 provides an alternative RNAV route through the Atlanta area on the southwest side, between the GRANT, GA, WP (near Thomaston, GA) and the HEFIN, AL, WP (near Heflin, AL).

T–296: T–296 provides a route southeast of Atlanta between the JMPPR, GA, WP (near Woodbury, GA) and the TACKL, GA, WP (southwest of Athens, GA).

T–297: T–297 provides an alternative route around the west side of the Atlanta area between the PAIRA, GA, WP (south of Atlanta, near Geneva, GA) and the REELL, GA, WP (northwest of Athens, GA). The route has altitude limitations so that T–297 flights are procedurally separated from all optimized published departure and arrival procedures.

T–319: T–319 provides an RNAV route directly over the Hartsfield-Jackson Atlanta International Airport (ATL) for aircraft transitioning Class B airspace from north-to-south and vice versa.

T–321: T–321 provides a north-south oriented route east of ATL, between the BBOAT, GA, WP (near Eatonton, GA) and the BIGNN, GA, WP (abeam Habersham County, GA). The BBOAT and BIGNN waypoints also connect to T–290 and T–323, respectively, enabling more flexibility in routing options.

T–323: T–323 allows aircraft to transition the Atlanta area between a point approximately 110 NM northeast of ATL from the HIGGI, NC, WP and a point 110 NM southeast of ATL at the CROCS, GA, WP. T–323 intersects the new T–290 and T–321 enabling alternative routing between the Knoxville, TN, area and locations south of the Atlanta area.

These new T-routes provide access through, around and over the Atlanta terminal area that are procedurally deconflicted from arrivals, departures and other airspace areas. This will benefit the efficiency and safety of the NAS by establishing published routes that are more direct and by reducing air traffic controller and pilot workload.

Low altitude RNAV routes are published in paragraph 6011 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as required to enhance the safe and efficient flow of air traffic in the Atlanta, GA area.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6011—United States Area Navigation Routes.

* * * * *

T–290 SCAIL, AL to JACET, GA [New]

SCAIL, AL	WP	(lat. 33°02′01″ N., long. 85°39′32″ W.)
BBAIT, GA	WP	(lat. 33°07′14″ N., long. 84°46′13″ W.)
BBASS, GA	WP	(lat. 33°11′33″ N., long. 83°59′21″ W.)
BBOAT, GA	WP	(lat. 33°16′51″ N., long. 83°28′10″ W.)
BOBBR, GA	WP	(lat. 33°19′57″ N., long. 83°08′19″ W.)
JACET, GA	WP	(lat. 33°29′41″ N., long. 82°06′28″ W.)

T–292 RKMRT, GA to JACET, GA [New]

RKMRT, GA	WP	(lat. 34°03′37″ N., long. 85°15′03″ W.)
POLLL, GA	WP	(lat. 34°08′57″ N., long. 84°46′50″ W.)
CCATT, GA	WP	(lat. 34°16′15″ N., long. 84°09′05″ W.)
REELL, GA	WP	(lat. 34°01′33″ N., long. 83°31′44″ W.)
TRREE, GA	WP	(lat. 33°47′15″ N., long. 82°55′30″ W.)
JACET, GA	WP	(lat. 33°29′41″ N., long. 82°06′28″ W.)

T–293 CHUTT, AL to DAISI, GA [New]

CHUTT, AL	WP	(lat. 32°13′23″ N., long. 85°03′06″ W.)
NFTRY, GA	WP	(lat. 33°02′03″ N., long. 85°09′06″ W.)
RTLRY, GA	WP	(lat. 33°45′18″ N., long. 85°07′48″ W.)
HONRR, GA	WP	(lat. 33°57′35″ N., long. 85°01′28″ W.)

POLLL, GA	WP	(lat. 34°08′57″ N., long. 84°46′50″ W.)
DAISI, GA	WP	(lat. 34°26′08″ N., long. 84°25′51″ W.)

T–294 HEFIN, AL to GRANT, GA [New]

HEFIN, AL	Fix	(lat. 33°35′55″ N., long. 85°25′11″ W.)
BBAIT, GA	WP	(lat. 33°07′14″ N., long. 84°46′13″ W.)
JMPPR, GA	WP	(lat. 32°57′42″ N., long. 84°33′19″ W.)
GRANT, GA	Fix	(lat. 32°49′45″ N., long. 84°22′36″ W.)

T–296 JMPPR, GA to TACKL, GA [New]

JMPPR, GA	WP	(lat. 32°57′42″ N., long. 84°33′19″ W.)
BBASS, GA	WP	(lat. 33°11′33″ N., long. 83°59′21″ W.)
TATRS, GA	WP	(lat. 33°20′37″ N., long. 83°51′37″ W.)
TACKL, GA	WP	(lat. 33°44′25″ N., long. 83°30′31″ W.)

T–297 PAIRA, GA to REELL, GA [New]

PAIRA, GA	WP	(lat. 32°31′48″ N., long. 84°31′42″ W.)
NFTRY, GA	WP	(lat. 33°02′03″ N., long. 85°09′06″ W.)
HEFIN, AL	Fix	(lat. 33°35′55″ N., long. 85°25′11″ W.)
RKMRT, GA	WP	(lat. 34°03′37″ N., long. 85°15′03″ W.)
CHTTE, GA	WP	(lat. 34°23′18″ N., long. 84°52′55″ W.)
DAISI, GA	WP	(lat. 34°26′08″ N., long. 84°25′51″ W.)
AWSON. GA	Fix	(lat. 34°28′49″ N., long. 83°59′03″ W.)
REELL, GA	WP	(lat. 34°01′33″ N., long. 83°31′44″ W.)

T–319 CCLAY, GA to BLEWW, GA [New]

CCLAY, GA	WP	(lat. 33°18′11″ N., long. 84°24′41″ W.)
DUNCS, GA	WP	(lat. 33°27′34″ N., long. 84°25′23″ W.)
SHURT, GA	WP	(lat. 33°32′13″ N., long. 84°25′50″ W.)
KLOWD, GA	WP	(lat. 33°43′59″ N., long. 84°26′05″ W.)
BLEWW, GA	WP	(lat. 33°58′14″ N., long. 84°25′43″ W.)

T–321 BBOAT, GA to BIGNN, GA [New]

BBOAT, GA	WP	(lat. 33°16′51″ N., long. 83°28′10″ W.)
TACKL, GA	WP	(lat. 33°44′25″ N., long. 83°30′31″ W.)
REELL, GA	WP	(lat. 34°01′33″ N., long. 83°31′44″ W.)
BIGNN, GA	WP	(lat. 34°20′34″ N., long. 83°33′07″ W.)

T–323 CROCS, GA to HIGGI, NC [New]

CROCS, GA	WP	(lat. 32°27′18″ N., long. 82°46′29″ W.)
BOBBR, GA	WP	(lat. 33°19′57″ N., long. 83°08′19″ W.)
BIGNN, GA	WP	(lat. 34°20′34″ N., long. 83°33′07″ W.)
ZPPLN, NC	WP	(lat. 34°59′47″ N., long. 83°49′38″ W.)
HIGGI, NC	WP	(lat. 35°26′47″ N., long. 83°46′41″ W.)

Issued in Washington, DC, on January 29, 2014.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–02327 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1168; Airspace Docket No. 07–AWA–3]

RIN 2120–AA66

Modification of the Dallas/Fort Worth Class B Airspace Area; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published in the **Federal Register** January 21, 2014. In that rule, two geographic coordinate references, one in Area J and one in Area M, were incorrectly published in the Dallas/Fort Worth Class B airspace area regulatory text descriptions.

DATES: Effective Date: 0901 UTC, March 6, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On January 21, 2014, a final rule for FAA Docket No. FAA–2012–1168, Airspace Docket No. 07–AWA–3, was published in the **Federal Register** (79 FR 3315) to amend the Dallas/Fort Worth Class B airspace area. The longitude information contained in one of the geographic coordinates defining a boundary point in the Area J regulatory text, and the latitude information contained in one of the geographic coordinates defining a boundary point in the Area M regulatory text were published with typographic errors. The geographic coordinates to be corrected for Area J are changed from ''lat. 32°39′56″ N., long. 97°20′39″ W.'' to ''lat. 32°39′56″ N., long. 97°20′38″ W.'' and the geographic coordinates to be corrected for Area M are changed from ''lat. 32°02′04″ N., long. 97°30′09″ W.'' to ''lat. 33°02′04″ N., long. 97°30′09″ W.''

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, in the final rule FAA Docket No. FAA–2012–1168, published in the **Federal Register** on January 21, 2014 (79 FR 3315) FR Doc. 2014–00941, make the following correction:

§ 71.1 [Amended]

On page 3324, column 1, starting on line 32, for Area J, remove (lat. 32°39′56″ N., long. 97°20′39″ W.) and add in its place (lat. 32°39′56″ N., long. 97°20′38″ W.).

On page 3324, column 3, starting on line 4, for Area M, remove (lat. 32°02′04″ N., long. 97°30′09″ W.) and add in its place (lat. 33°02′04″ N., long. 97°30′09″ W.).

Issued in Washington, DC, on January 29, 2014.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–02331 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30938; Amdt. No. 3573]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective February 5, 2014. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 5, 2014.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979) ; and (3) does not warrant preparation of a

regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on January 3, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 6 FEBRUARY 2014

Prescott, AZ, Ernest A. Love Field, ILS OR LOC/DME RWY 21L, Amdt 4
Oakland, CA, Metropolitan Oakland Intl, ILS OR LOC RWY 30, Amdt 27
San Diego, CA, San Diego Intl, RNAV (GPS) RWY 27, Amdt 3A
Washington, DC, Manassas Rgnl/Harry P. Davis Field, ILS OR LOC RWY 16L, Orig
Washington, DC, Manassas Rgnl/Harry P. Davis Field, ILS OR LOC RWY 16L, Amdt 5, CANCELED
Washington, DC, Manassas Rgnl/Harry P. Davis Field, RNAV (GPS) RWY 16L, Amdt 1
Washington, DC, Manassas Rgnl/Harry P. Davis Field, RNAV (GPS) RWY 16R Amdt 1
Lakeland, FL, Lakeland Linder Rgnl, RNAV (GPS) RWY 9, Amdt 2A
Kapolei, HI, Kalaeloa (John Rodgers Field), RNAV (GPS) RWY 4R, Orig
Mount Vernon, IL, Mount Vernon, ILS OR LOC RWY 23, Amdt 11B
Troy, MI, Oakland/Troy, Takeoff Minimums and Obstacle DP, Amdt 4A
Jackson, MN, Jackson Muni, NDB RWY 13, Amdt 10, CANCELED
Burlington, NC, Burlington-Alamance Rgnl, GPS RWY 24, Amdt 1B, CANCELED
Burlington, NC, Burlington-Alamance Rgnl, ILS Y OR LOC/NDB Y RWY 6, Orig
Burlington, NC, Burlington-Alamance Rgnl, ILS Z OR LOC/NDB Z RWY 6, Amdt 2
Burlington, NC, Burlington-Alamance Rgnl, RNAV (GPS) RWY 6, Amdt 1
Burlington, NC, Burlington-Alamance Rgnl, RNAV (GPS) RWY 24, Orig
Burlington, NC, Burlington-Alamance Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
Burlington, NC, Burlington-Alamance Rgnl, VOR/DME–A, Amdt 2
Mount Airy, NC, Mount Airy/Surry County, Takeoff Minimums and Obstacle DP, Amdt 3
Sidney, OH, Sidney Muni, RNAV (GPS) RWY 10, Orig
Sidney, OH, Sidney Muni, RNAV (GPS) RWY 28, Orig
Sidney, OH, Sidney Muni, Takeoff Minimums and Obstacle DP, Amdt 3
Sidney, OH, Sidney Muni, VOR/DME RNAV OR GPS RWY 28, Amdt 5B, CANCELED
Portland, OR, Portland Intl, RNAV (RNP) Y RWY 28L, Amdt 1
Portland, OR, Portland Intl, RNAV (RNP) Y RWY 28R, Amdt 1
Portland, OR, Portland Intl, RNAV (RNP) Z RWY 10L, Amdt 1
Portland, OR, Portland Intl, RNAV (RNP) Z RWY 28R, Amdt 1
Bradford, PA, Bradford Rgnl, ILS OR LOC RWY 32, Amdt 12A
Bradford, PA, Bradford Rgnl, RNAV (GPS) RWY 14, Amdt 1A
Bradford, PA, Bradford Rgnl, RNAV (GPS) RWY 32, Amdt 1A
Laurens, SC, Laurens County, GPS RWY 8, Orig, CANCELED
Laurens, SC, Laurens County, RNAV (GPS) RWY 8, Orig
Laurens, SC, Laurens County, RNAV (GPS) RWY 26, Orig
Corpus Christi, TX, Corpus Christi Intl, ILS OR LOC RWY 13, Amdt 27A
Corpus Christi, TX, Corpus Christi Intl, ILS OR LOC RWY 36, Amdt 13
Corpus Christi, TX, Corpus Christi Intl, LOC RWY 31, Amdt 8A
Corpus Christi, TX, Corpus Christi Intl, RNAV (GPS) RWY 18, Amdt 1
Corpus Christi, TX, Corpus Christi Intl, RNAV (GPS) Y RWY 13, Amdt 1B
Corpus Christi, TX, Corpus Christi Intl, RNAV (GPS) Y RWY 31, Amdt 3A
Corpus Christi, TX, Corpus Christi Intl, RNAV (RNP) Z RWY 13, Orig-B
Corpus Christi, TX, Corpus Christi Intl, RNAV (RNP) Z RWY 31, Orig-B
Corpus Christi, TX, Corpus Christi Intl, RNAV (RNP) Z RWY 36, Amdt 1
Corpus Christi, TX, Corpus Christi Intl, Takeoff Minimums and Obstacle DP, Amdt 2
Corpus Christi, TX, Corpus Christi Intl, VOR OR TACAN RWY 18, Amdt 28
Dallas, TX, Dallas Love Field, ILS OR LOC Y RWY 13L, Amdt 32A
Dallas-Fort Worth, TX, Dallas/Fort Worth Intl, RNAV (GPS) Y RWY 31L, Amdt 1A
Dallas-Fort Worth, TX, Dallas/Fort Worth Intl, RNAV (RNP) Z RWY 31L, Amdt 1A
Seattle, WA, Seattle-Tacoma Intl, RNAV (RNP) Z RWY 34R, Orig-A
Fort Atkinson, WI, Fort Atkinson Muni, Takeoff Minimums and Obstacle DP, Amdt 1

[FR Doc. 2014–02182 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30939; Amdt. No. 3574]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective February 5, 2014. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 5, 2014.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030,

or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR part 97:

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on January 3, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§ 97.23, § 97.25, § 97.27, § 97.29, § 97.31, § 97.33, § 97.35 [AMENDED]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2/6/2014	AZ	Casa Grande	Casa Grande Muni	3/0097	12/24/13	Takeoff Minimums and (Obstacle) DP, Amdt 1A
2/6/2014	UT	Cedar City	Cedar City Rgnl	3/0098	12/24/13	Takeoff Minimums and (Obstacle) DP, Amdt 2
2/6/2014	UT	Blanding	Blanding Muni	3/0110	01/02/14	Takeoff Minimums and (Obstacle) DP, Amdt 1
2/6/2014	UT	Moab	Canyonlands Field	3/0120	12/24/13	Takeoff Minimums and (Obstacle) DP, Amdt 3
2/6/2014	CO	Lamar	Lamar Muni	3/0140	12/24/13	Takeoff Minimums and (Obstacle) DP, Orig
2/6/2014	CO	Alamosa	San Luis Valley Rgnl/ Bergman Field.	3/0148	01/02/14	Takeoff Minimums and (Obstacle) DP, Amdt 4A

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2/6/2014	WY	Rawlins	Rawlins Muni/Harvey Field	3/0171	12/24/13	Takeoff Minimums and (Obstacle) DP, Amdt 3
2/6/2014	WI	Milwaukee	General Mitchell Intl	3/0514	12/24/13	RNAV (GPS) Z RWY 7R, Amdt 1A
2/6/2014	WI	Milwaukee	General Mitchell Intl	3/0515	12/24/13	RNAV (GPS) Z RWY 25L, Amdt 1A
2/6/2014	GA	Dalton	Dalton Muni	3/0525	12/24/13	ILS OR LOC RWY 14, Orig-B
2/6/2014	TN	Chattanooga	Lovell Field	3/0529	12/31/13	ILS OR LOC RWY 20, Amdt 36A
2/6/2014	KY	Covington	Cincinnati/Northern Kentucky Intl.	3/0546	12/24/13	ILS OR LOC RWY 27, Amdt 17
2/6/2014	KY	Covington	Cincinnati/Northern Kentucky Intl.	3/0548	12/24/13	ILS OR LOC RWY 9, Amdt 18
2/6/2014	NY	New York	La Guardia	3/0559	12/24/13	ILS OR LOC RWY 4, Amdt 36A
2/6/2014	NY	New York	La Guardia	3/0560	12/24/13	LDA A, Amdt 2C
2/6/2014	NY	New York	La Guardia	3/0561	12/24/13	VOR F, Amdt 3A
2/6/2014	NY	New York	La Guardia	3/0564	12/24/13	VOR RWY 4, Amdt 3B
2/6/2014	NY	New York	La Guardia	3/0566	12/24/13	RNAV (GPS) RWY 31, Amdt 1A
2/6/2014	NY	New York	La Guardia	3/0567	12/24/13	ILS OR LOC RWY 22, Amdt 20B
2/6/2014	NY	New York	La Guardia	3/0568	12/24/13	RNAV (GPS) B, Orig
2/6/2014	NY	New York	La Guardia	3/0570	12/24/13	RNAV (GPS) Y RWY 22, Amdt 2A
2/6/2014	NY	New York	La Guardia	3/0571	12/24/13	RNAV (GPS) RWY 13, Amdt 1
2/6/2014	NY	New York	La Guardia	3/0572	12/24/13	ILS OR LOC RWY 13, Amdt 1B
2/6/2014	NY	New York	La Guardia	3/0576	12/24/13	VOR/DME G, Amdt 2B
2/6/2014	NY	New York	La Guardia	3/0577	12/24/13	LOC RWY 31, Amdt 3A
2/6/2014	NY	New York	La Guardia	3/0578	12/24/13	VOR/DME H, Amdt 3A
2/6/2014	AK	Tanana	Ralph M Calhoun Memorial.	3/1012	12/31/13	RNAV (GPS) RWY 7, Orig
2/6/2014	AK	Tanana	Ralph M Calhoun Memorial.	3/1015	12/31/13	VOR/DME RWY 7, Amdt 2
2/6/2014	TN	Camden	Benton County	3/2245	12/24/13	RNAV (GPS) RWY 22, Orig
2/6/2014	TN	Camden	Benton County	3/2249	12/24/13	VOR/DME RWY 4, Amdt 4
2/6/2014	OH	Cleveland	Cleveland-Hopkins Intl	3/2817	12/24/13	ILS OR LOC RWY 28, Amdt 24A
2/6/2014	NC	Elizabeth City	Elizabeth City CG Air Station/Rgnl.	3/3285	12/31/13	NDB RWY 10, Orig-E
2/6/2014	NC	Elizabeth City	Elizabeth City CG Air Station/Rgnl.	3/3293	12/31/13	VOR/DME RWY 10, Orig-C
2/6/2014	NC	Elizabeth City	Elizabeth City CG Air Station/Rgnl.	3/3294	12/31/13	VOR/DME RWY 19, Amdt 10D
2/6/2014	NC	Elizabeth City	Elizabeth City CG Air Station/Rgnl.	3/3295	12/31/13	VOR/DME RWY 28, Amdt 1
2/6/2014	NC	Elizabeth City	Elizabeth City CG Air Station/Rgnl.	3/3296	12/31/13	RNAV (GPS) RWY 10, Amdt 1
2/6/2014	NC	Elizabeth City	Elizabeth City CG Air Station/Rgnl.	3/3297	12/31/13	RNAV (GPS) RWY 19, Orig
2/6/2014	AK	Soldotna	Soldotna	3/3377	12/31/13	RNAV (GPS) RWY 25, Amdt 1
2/6/2014	MI	Holland	West Michigan Rgnl	3/3392	12/31/13	RNAV (GPS) RWY 8, Amdt 2
2/6/2014	MI	Three Rivers	Three Rivers Muni Dr Haines.	3/3736	12/31/13	RNAV (GPS) RWY 27, Orig-A
2/6/2014	MI	Cadillac	Wexford County	3/3924	12/31/13	ILS OR LOC RWY 7, Orig-C
2/6/2014	AK	Juneau	Juneau Intl	3/4826	12/24/13	RNAV (GPS) V RWY 8, Amdt 2
2/6/2014	AZ	Flagstaff	Flagstaff Pulliam	3/5307	12/31/13	Takeoff Minimums and (Obstacle) DP, Amdt 2
2/6/2014	CA	Sacramento	Sacramento Mather	3/6113	01/02/14	ILS OR LOC/DME RWY 22L, Amdt 5
2/6/2014	MS	Greenville	Mid Delta Rgnl	3/6732	12/24/13	ILS OR LOC RWY 18L, Amdt 9G
2/6/2014	LA	Baton Rouge	Baton Rouge Metropolitan, Ryan Field.	3/7443	12/24/13	Takeoff Minimums and (Obstacle) DP, Amdt 1
2/6/2014	CA	Oakland	Metropolitan Oakland Intl	3/7463	12/31/13	RNAV (RNP) Z RWY 28R, Amdt 1
2/6/2014	CA	Oakland	Metropolitan Oakland Intl	3/7465	12/31/13	RNAV (GPS) RWY 10R, Amdt 1
2/6/2014	SD	Sioux Falls	Joe Foss Field	3/7708	12/24/13	VOR OR TACAN RWY 15, Amdt 21B
2/6/2014	SD	Sioux Falls	Joe Foss Field	3/7711	12/24/13	RNAV (GPS) RWY 27, Orig-B
2/6/2014	SD	Sioux Falls	Joe Foss Field	3/7712	12/24/13	RADAR–1, Amdt 10A
2/6/2014	SD	Sioux Falls	Joe Foss Field	3/7715	12/24/13	VOR/DME OR TACAN RWY 33, Amdt 12B
2/6/2014	SD	Sioux Falls	Joe Foss Field	3/7716	12/24/13	RNAV (GPS) RWY 9, Orig-B
2/6/2014	IL	Chicago/Prospect Heights/ Wheeling.	Chicago Executive	3/8252	12/24/13	RNAV (GPS) RWY 16, Amdt 1
2/6/2014	IL	Chicago/Prospect Heights/ Wheeling.	Chicago Executive	3/8255	12/24/13	VOR RWY 16, Orig-B
2/6/2014	IL	Chicago/Prospect Heights/ Wheeling.	Chicago Executive	3/8259	12/24/13	ILS OR LOC RWY 16, Amdt 2
2/6/2014	ME	Caribou	Caribou Muni	3/8435	12/24/13	VOR A, Amdt 11
2/6/2014	ME	Caribou	Caribou Muni	3/8437	12/24/13	RNAV (GPS) RWY 19, Orig-A
2/6/2014	CA	Oakland	Metropolitan Oakland Intl	3/8648	12/31/13	RNAV (RNP) Z RWY 30, Amdt 1
2/6/2014	AZ	Winslow	Winslow-Lindbergh Rgnl	3/8980	12/24/13	VOR OR GPS RWY 11, Amdt 4B
2/6/2014	FL	Live Oak	Suwannee County	3/9822	12/24/13	RNAV (GPS) RWY 7, Orig
2/6/2014	FL	Live Oak	Suwannee County	3/9825	12/24/13	RNAV (GPS) RWY 25, Orig

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2/6/2014	MD	Hagerstown	Hagerstown Rgnl-Richard A Henson Fld.	3/9940	12/31/13	VOR RWY 9, Amdt 7

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BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81–19–000]

Natural Gas Pipelines; Project Cost and Annual Limits

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Pursuant to delegated authority, the Director of the Office of Energy Projects (OEP) computes and publishes the project cost and annual limits for natural gas pipelines blanket construction certificates for each calendar year.

DATES: This final rule is effective February 5, 2014 and establishes cost limits applicable from January 1, 2014 through December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Richard Foley, Chief, Certificates Branch 1, Division of Pipeline Certificates, (202) 502–8955.

Order of the Director, OEP

January 31, 2014.

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specifies the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the ''limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GDP implicit price deflator' published by the Department of Commerce for the previous calendar year.''

Pursuant to § 375.308(x)(1) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Energy Projects. The cost limits for calendar year 2014, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

Effective Date

This final rule is effective February 5, 2014. The provisions of 5 U.S.C. 804 regarding Congressional review of Final Rules does not apply to the Final Rule because the rule concerns agency procedure and practice and will not substantially affect the rights or obligations of non-agency parties. The Final Rule merely updates amounts published in the Code of Federal Regulations to reflect the Department of Commerce's latest annual determination of the Gross Domestic Product (GDP) implicit price deflator, a mathematical updating required by the Commission's existing regulations.

List of Subjects in 18 CFR Part 157

Administrative practice and procedure, Natural Gas, Reporting and recordkeeping requirements.

Jeff C. Wright,

Director, Office of Energy Projects.

In consideration of the foregoing, the Commission amends Part 157, Chapter I, Title 18, *Code of Federal Regulations,* as follows:

PART 157—[AMENDED]

■ 1. The authority citation for Part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

■ 2. Table I in § 157.208(d) is revised to read as follows:

§ 157.208 Construction, acquisition, operation, replacement, and miscellaneous rearrangement of facilities.

* * * * *

(d) * * *

TABLE I

Year	Limit	
	Auto. proj. cost limit (Col. 1)	Prior notice proj. cost limit (Col. 2)
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000
1985	4,900,000	13,800,000
1986	5,100,000	14,300,000
1987	5,200,000	14,700,000
1988	5,400,000	15,100,000
1989	5,600,000	15,600,000
1990	5,800,000	16,000,000
1991	6,000,000	16,700,000
1992	6,200,000	17,300,000
1993	6,400,000	17,700,000
1994	6,600,000	18,100,000
1995	6,700,000	18,400,000
1996	6,900,000	18,800,000
1997	7,000,000	19,200,000
1998	7,100,000	19,600,000
1999	7,200,000	19,800,000
2000	7,300,000	20,200,000
2001	7,400,000	20,600,000
2002	7,500,000	21,000,000
2003	7,600,000	21,200,000
2004	7,800,000	21,600,000
2005	8,000,000	22,000,000
2006	9,600,000	27,400,000
2007	9,900,000	28,200,000
2008	10,200,000	29,000,000
2009	10,400,000	29,600,000
2010	10,500,000	29,900,000
2011	10,600,000	30,200,000
2012	10,800,000	30,800,000
2013	11,000,000	31,400,000
2014	11,200,000	31,900,000

* * * * *

■ 3. Table II in § 157.215(a)(5) is revised to read as follows:

§ 157.215 Underground storage testing and development.

(a) * * *

(5) * * *

TABLE II

Year	Limit
1982	$2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000
1986	3,200,000
1987	3,300,000
1988	3,400,000
1989	3,500,000
1990	3,600,000
1991	3,800,000
1992	3,900,000
1993	4,000,000
1994	4,100,000
1995	4,200,000
1996	4,300,000
1997	4,400,000
1998	4,500,000
1999	4,550,000
2000	4,650,000

TABLE II—Continued

Year	Limit
2001	4,750,000
2002	4,850,000
2003	4,900,000
2004	5,000,000
2005	5,100,000
2006	5,250,000
2007	5,400,000
2008	5,550,000
2009	5,600,000
2010	5,700,000
2011	5,750,000
2012	5,850,000
2013	6,000,000
2014	6,100,000

* * * * *

[FR Doc. 2014–02434 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 329

[Docket ID: DOD–2012–OS–0161]

RIN 0790–AI96

National Guard Bureau Privacy Program

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule establishes policies and procedures for the National Guard Bureau (NGB) Privacy Program. The NGB is a Joint Activity of the Department of Defense (DoD) pursuant to 10 U.S.C. 10501. This rule will cover the privacy policies and procedures associated with records created and under the control of the Chief, NGB that are not otherwise covered by existing DoD, Air Force, or Army rules.

DATES: This rule is effective March 7, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Nikolaisen, 571–256–7838.

SUPPLEMENTARY INFORMATION:

Executive Summary

I. Purpose and Authority of the Regulatory Action

a. Purpose: This part implements the policies and procedures outlined in 5 U.S.C. 552a, Office of Management and Budget (OMB) Circular No. A–130, and 32 CFR part 310. This part provides guidance and procedures for implementing the National Guard Bureau Privacy Program.

b. Authority: Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 552a).

II. Summary of the Major Provisions of the Regulatory Action

This provision is made to establish the Privacy Program for the National Guard Bureau.

III. Cost and Benefits

This regulatory action imposes no monetary costs to the Agency or public. The benefit to the public is the accurate reflection of the Agency's Privacy Program to ensure that policies and procedures are known to the public.

Public Comments

The Department of Defense published a proposed rule on April 24, 2013. No public comments were received on the proposed rule. We have made editorial changes to correct misspellings, correct citations, and correct an email address. Part 329.2 has been partially revised to align with the Summary as published in the proposed rule.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

It has been determined that 32 CFR part 329 is not a significant regulatory action. The rule does not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive Orders.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that this rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 329

Privacy.

Accordingly, 32 CFR part 329 is added to read as follows:

PART 329—NATIONAL GUARD BUREAU PRIVACY PROGRAM

Sec.

329.1 Purpose.
329.2 Applicability.
329.3 Definitions.
329.4 Policy.
329.5 Responsibilities.
329.6 Procedures.
329.7 Exemptions.

Authority: Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 552a).

§ 329.1 Purpose.

This part implements the policies and procedures outlined in 5 U.S.C. 552a, Office of Management and Budget (OMB) Circular No. A–130, and 32 CFR part 310. This part provides the responsibilities, guidance, and procedures for the National Guard Bureau (NGB) to comply with Federal and DoD Privacy requirements.

§ 329.2 Applicability.

(a) This part applies to the NGB and the records under control of the Chief, NGB, as defined by DoD Directive (DoDD) 5105.77, entitled ''National Guard Bureau.'' (Available at *http://www.dtic.mil/whs/directives/corres/pdf/510577p.pdf*)

(b) This rule will cover the privacy policies and procedures associated with records created and under the control of the Chief, NGB that are not otherwise covered by existing DoD, Air Force, or Army rules.

§ 329.3 Definitions.

All terms used in this part which are defined in 5 U.S.C. 552a shall have the same meaning herein.

Access. Allowing individuals to review or receive copies of their records.

Accuracy. Within sufficient tolerance for error to assure the quality of the record in terms of its use in making a determination.

Agency. Any Executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the [federal] Government (including the Executive Office of the President), or any independent regulatory agency (as defined by 5 U.S.C. 552a).

Amendment. The process of adding, deleting, or changing information in a System of Records (SOR) to make the data accurate, relevant, timely, and/or complete.

Appellate authority. The individual with authority to deny requests for access or amendment of records under 5 U.S.C. 552a.

Breach. A loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where a person other than authorized users (with an official need to know), and for an other than authorized purpose has access or potential access to personally identifiable information, whether physical or electronic. A breach can include identifiable information in any form. (As defined by DoD Director of Administration and Management Memo, 5 Jun 2009 entitled ''Safeguarding Against and Responding to the Breach of Personally Identifiable Information (PII).'') (Available at *http://www.dod.mil/pubs/foi/privacy/docs/DA_M6_5_2009Responding_toBreach_of_PII.pdf*)

Chief, National Guard Bureau (CNGB). A principal advisor to the Secretary of Defense, through the Chairman of the Joint Chiefs of Staff, on matters involving non-federalized National Guard forces and on other matters as determined by the Secretary of Defense; and the principal adviser to the Secretary of the Army and the Chief of Staff of the Army, and to the Secretary of the Air Force and the Chief of Staff of the Air Force, on matters relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States. The CNGB also represents the National Guard on the Joint Chiefs of Staff.

Completeness. All elements necessary for making a determination are present before such determination is made.

Computer matching program. A program that matches the personal records in computerized database of two or more Federal agencies.

Denial authority. The individual with authority to deny requests for access or amendment of records under 5 U.S.C. 552a.

Determination. Any decision affecting an individual which, in whole or in part, is based on information contained in the record and which is made by any person or agency.

Directorate/Division. The terms directorate and division are used to refer to suborganizations within the NGB. The Joint Staff and Air Guard Readiness Center uses the term ''Directorate'' to refer to their suborganizations and the Army Guard Readiness Center uses the term ''Division'' to refer to their suborganizations.

Disclosure. Giving information from a system, by any means, to anyone other than the record subject.

Disclosure accounting. A record of all disclosures made from a SOR, except for disclosures made to Department of Defense personnel for use in performance of their official duties or disclosures made as required by 5 U.S.C. 552.

Federal Register (FR). A daily publication of notices and rules issued by Federal Agencies and the President printed on a daily Federal workday.

Individual. A citizen of the United States or an alien lawfully admitted for permanent residence. (As defined by 5 U.S.C. 552a)

Maintain. Maintain, collect, use or disseminate. (As defined by 5 U.S.C. 552a)

Memorandum of Agreement. A written understanding (agreement) between parties to cooperatively work together on an agreed upon project or meet an agreed objective.

Memorandum of Understanding. A written agreement between parties describing a bilateral or multilateral agreement between parties.

Necessary. A threshold of need for an element of information greater than mere relevance and utility.

Personal information. Information about an individual other than items of public record.

Personally Identifiable Information (PII). Personal information. Information about an individual that identifies, links, relates, or is unique to, or describes him or her. Information which can be used to distinguish or trace an individual's identity which is linked or linkable to a specified individual.

Privacy Act (5 U.S.C. 552a) Request. An oral (in person) or written request by an individual to access his or her records in a SOR.

Privacy Act (5 U.S.C. 552a) Statement (PAS). A statement given to an individual when soliciting personal information that will be maintained in a SOR that advises them of the authority to collect information, the principal purpose(s) that the information will be used for, the routine uses on how the information will be disclosed outside of the agency, and whether it is mandatory or voluntary to provide the information and any consequences for not providing the information.

Privacy Impact Assessment (PIA). A written assessment of an information system that addresses the information to be collected, the purpose and intended use; with whom the information will be shared; notice or opportunities for consent to individuals; how the information will be secured; and whether a new SOR is being created under 5 U.S.C. 552a. Privacy Impact Assessments are required for all information systems and electronic collections that collect, maintain, use, or disseminate personally identifiable information about members of the public (this includes contractors and family members), under Public Law 107–347, Section 208 of the E-Government Act of 2002. DoD Regulation 5400.16–R, entitled ''Department of Defense Privacy Impact Assessment (PIA)'' (Available at *http://www.dtic.mil/whs/directives/corres/pdf/540016p.pdf*), provides additional requirements for PIAs, including a requirement to write a PIA on any information systems or electronic collection of PII on Federal personnel.

Protected Health Information (PHI). Any information about health status, provision of health care, or payment for health care that can be linked to a specific individual.

Record. Any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, the individual's education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph (As defined by 5 U.S.C. 552a).

Relevance. Limitation to only those elements of information that clearly bear of the determination(s) for which the records are intended.

Routine use. The disclosure of a record outside the DoD for a use that is

compatible with the purpose for which the information was collected and maintained by the DoD. The routine use must be included in the published system notice for the SOR involved. The DoD Blanket Routine Uses, found in 32 CFR part 310, Appendix C are applicable to all SORNs published by DoD.

System Manager. The official who is responsible for managing a SOR, including policies and procedures to operate and safeguard it. Local System Managers operate record systems or are responsible for the records that are maintained in decentralized locations but are covered by a SORN published by another DoD activity or a Government-Wide SORN.

System of Records (SOR). A group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

System of Records Notice (SORN). The official public notice published in the FR of the existence and content of the SOR. As required by 5 U.S.C. 552a and 32 CFR part 310, appendix E. The notice shall include:

(1) System ID.

(2) The name and location of the system.

(3) The categories of individuals on whom records are maintained in the system.

(4) The categories of records maintained in the system.

(5) Each routine use of the records contained in the system, including the categories of users and the purpose of such use.

(6) The policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records.

(7) The title and business address of the agency official who is responsible for the SOR.

(8) The agency procedures whereby an individual can be notified at his request if the SOR contains a record pertaining to him.

(9) The agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the SOR, and how he can contest its contents.

(10) The categories of sources of records in the system.

(11) Exemptions claimed for the system.

Timeliness. Sufficiently current to ensure that any determination based on the record will be accurate and fair.

§ 329.4 Policy.

In accordance with 32 CFR part 310, it is NGB's policy that:

(a) Personal information contained in any SOR maintained by any NGB organization will be safeguarded to the extent authorized by 5 U.S.C. 552a, Appendix I of Office of Management and Budget Circular No. A–130, and any other applicable legal requirements.

(b) NGB will collect, maintain, use, and disseminate personal information only when it is relevant and necessary to achieve a purpose required by a statute or Executive Order.

(c) NGB will collect personal information directly from the individuals to whom it pertains to the greatest extent possible and will provide individuals a PAS at the time of collection when the information being collected will be filed and/or retrieved by the subject's name or other unique identifier. The PAS will contain the following elements, as required by 5 U.S.C. 552a:

(1) The statutory authority or Executive Order that allows for the solicitation,

(2) The intended use/purpose that will be made of the information collected,

(3) The routine uses that may be made of the information collected; and

(4) Whether it is mandatory or voluntary for the individual to disclose the requested information and the non-punitive effects on the individual for not providing all or any part of the requested information. Collection can only be mandatory if the statutory authority or Executive Order cited provides a penalty for not providing the information.

(d) NGB offices maintaining records and information about individuals will ensure that such data is protected from unauthorized access, use, dissemination, disclosure, alteration, and/or destruction. Offices will establish safeguards to ensure the security of personal information is protected from threats or hazards that might result in substantial harm, embarrassment, inconvenience, or unfairness to the individual using guidelines found in 32 CFR part 310, subpart B, 32 CFR part 310, appendix A, and DoD Manual (DoDM) 5200.01, Volume 4, entitled ''DoD Information Security Program: Controlled Unclassified Information (CUI).'' (Available at *http://www.dtic.mil/whs/directives/corres/pdf/520001_vol4.pdf*)

(e) NGB offices shall permit individuals to access and have a copy of all or any portion of records about them, unless an exemption for the system has been properly established (see 5 U.S.C. 552a, 32 CFR part 310, subparts D and F, and § 329.7 of this part). Individuals requesting access to their record will also receive concurrent consideration under 5 U.S.C. 552 and 32 CFR part 286.

(f) NGB offices will permit individuals an opportunity to request that records about them be corrected or amended (see 5 U.S.C. 552a, 32 CFR part 310, subpart D, and § 329.6 of this part).

(g) Any records about individuals that are maintained by the NGB will be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual before making any determination about the individual or before making the record available to any recipient pursuant to a routine use.

(h) NGB will keep no record that describes how individuals exercise their rights guaranteed by the First Amendment, unless expressly authorized by statute or by the individual to whom the records pertain, or is pertinent to and within the scope of an authorized law enforcement activity.

(i) NGB will notify individuals whenever records pertaining to them are made available under compulsory legal processes, if such process is a matter of public record.

(j) NGB will assist individuals in determining what records pertaining to them are being collected, maintained, used, or disseminated.

(k) NGB offices and personnel, including contractors, maintaining and having access to records and information about individuals will manage them and conduct themselves so as to avoid the civil liability and criminal penalties provided for under 5 U.S.C. 552a.

§ 329.5 Responsibilities.

(a) *Chief of the National Guard Bureau (CNGB).* The CNGB, under the authority, direction, and control of the Secretary of Defense (SecDef), approves and establishes overall policy, direction, and guidance for the NGB privacy program and promulgates privacy policy for the non-Federalized National Guard.

(b) *NGB Chief Counsel.* The NGB Chief Counsel, under the authority, direction, and control of the CNGB, shall:

(1) Serve as the National Guard Component Senior Official for Privacy (CSOP) pursuant to part 32 CFR part 310, subpart A.

(2) Direct and administer the Privacy Program for the NGB as well as the National Guard of the States, Territories, and the District of Columbia as it pertains to the maintenance of records

protected by 5 U.S.C. 552a, other Federal laws on privacy, and OMB and DoD Privacy policies.

(3) Ensure implementation of and compliance with standards and procedures established by 5 U.S.C. 552a, OMB A–130, 32 CFR part 310, and this part.

(4) Serve as the appellate authority on denials of access or amendment.

(5) Direct the implementation all aspects of 5 U.S.C. 552a, OMB A–130, 32 CFR part 310, this part, and other Federal laws on privacy, and OMB and DoD Privacy policies.

(c) *Chief of the Office of Information and Privacy (OIP).* The Chief of the OIP, under the authority, direction, and control of the NGB Chief Counsel, shall:

(1) Oversee the National Guard's compliance with 5 U.S.C. 552a, OMB A–130, 32 CFR part 310, this part, and other Federal laws on privacy, and OMB and DoD Privacy policies.

(2) Issue policy and guidance as it relates to 5 U.S.C. 552a and other Federal and DoD Privacy requirements.

(3) Collect, consolidate, and submit Privacy reports to the Defense Privacy and Civil Liberties Office (DPCLO), or the respective service (Air Force or Army) that the reporting of information pertains to. This includes, but is not limited to:

(i) Personally Identifiable Information (PII) Breach Reports required by 32 CFR part 310, subpart B,

(ii) Quarterly Training Reports, SORN Reviews, and Privacy Complaints; and,

(iii) Reports pursuant Public Law 17–347.

(4) Submit all approved SORNs to the DPCLO or the respective service that has the statutory authority to publish the SORN for publication in the FR.

(5) Refer inquiries about access, amendments of records, and general and specific exemptions listed in a SORN to the appropriate System Manager.

(6) Review all instructions, directives, publications, policies, Memorandums of Agreement (MOA), Memorandums of Understanding (MOU), data sharing agreements, data transfer agreements, data use agreements, surveys (including web-based or electronic), and forms that involve or discuss the collection, retention, access, use, sharing, or maintenance of PII are to ensure compliance with this part.

(7) Make training resources available to NGB personnel, including contractors, regarding 5 U.S.C. 552a, OMB A–130, 32 CFR part 310, compliance with this part, and other Federal and DoD Privacy requirements.

(d) *Chief of Administrative Law.* The Chief of Administrative Law shall serve as the initial denial authority (IDA) to deny official requests for access or amendment to an individual's record pursuant to a published NGB SORN under 5 U.S.C. 552a or amendments to such records.

(e) *Chief of Litigation and Employment Law.* The Chief of Litigation and Employment Law will notify the Chief of the OIP of any complaint citing 5 U.S.C. 552a is filed in a U.S. District Court against the NGB, or any employee of NGB using the procedures outlined in § 329.6 of this part.

(f) *NGB Comptroller/Director of Administration and Management (DA&M).* The NGB Comptroller/DA&M shall ensure appropriate Federal Acquisition Regulation (FAR) (Available at *https://www.acquisition.gov/far/*) and Defense Federal Acquisition Regulation Supplement (DFARS) (Available at *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html*) clauses (FAR Subpart 24.1 related to 5 U.S.C. 552a and FAR subpart 24.2 related to 5 U.S.C. 552, as well as DFARS clauses 52.224–1 and/or 52.224–2) are included in all contracts that provide for contractor personnel to have access or maintain records, including records in information systems, that are covered by 5 U.S.C. 552a or that contain PII.

(g) *NGB Directorates/Divisions.* All NGB directorates/divisions maintaining records containing PII or that have personnel that have access to PII shall:

(1) Ensure that a SORN is published in the FR before collection of any information subject to 5 U.S.C. 552a is scheduled to begin.

(2) Ensure System Managers comply with all responsibilities outlined in paragraph (h) of this section. This includes referring any proposed denials of access or amendment under 5 U.S.C. 552a to the Chief of the OIP within 10 working days.

(3) Evaluate Privacy requirements for information systems and electronic collection or maintenance of PII in the early stages of system acquisition/development. This includes completing a PIA in accordance with the requirements of Public Law 107–347, section 208 of the E-Government Act of 2002, and DoD 5400.16–R.

(4) Ensure personnel, including contractors, who have access to PII complete appropriate Privacy training as required by 5 U.S.C. 552a, 32 CFR part 310, subpart H, and Part II of DoD Policy ''Safeguarding Against and Responding to Breaches of PII'' (*http://www.dod.mil/pubs/foi/privacy/docs/DA_M6_5_2009 Responding_toBreach_of_PII.pdf*) as follows:

(i) Orientation Training: Training that provides individuals with a basic understanding of the requirements of 5 U.S.C. 552a as it applies to the individual's job performance. The training is for all personnel, as appropriate, and should be a prerequisite to all other levels of training.

(ii) Specialized Training: Training that provides information as to the application of specific provisions of this part to specialized areas of job performance. Personnel of particular concern include, but are not limited to personnel specialists, finance officers, special investigators, paperwork managers, public affairs officials, information technology professionals, and any other personnel responsible for implementing or carrying out functions under this part.

(iii) Management Training: Training that provides managers and decision makers considerations that they should take into account when making management decisions regarding the Privacy program.

(iv) Privacy Act (5 U.S.C. 552a) SOR Training: All individuals who work with a Privacy Act (5 U.S.C. 552a) SOR are trained on the provisions of the 5 U.S.C. 552a SORN(s) they work with, 32 CFR part 310, and this part.

(5) Ensure all instructions, directives, publications, policies, MOAs, MOUs, data sharing agreements, data transfer agreements, data use agreements, surveys (including Web-based or electronic surveys), and forms that involve the collection, retention, use, access, sharing, or maintenance of PII are coordinated with the Chief of the OIP.

(6) Ensure that any suspected or confirmed breaches of PII, or potential breaches of PII, are immediately reported to the Chief of the OIP in accordance with NGB Memorandum 380–16/33–361. (Available at *http://www.nationalguard.mil/sitelinks/links/NGB%20Memorandum%20380-16%2033-361,%20PII%20Incident%20Response%20Handling.pdf*).

(7) Ensure policies and administrative processes within their directorates are evaluated to ensure compliance with the procedures in this part.

(h) *System Managers.* System Managers will:

(1) Report any changes to their existing SORN(s) to the Chief of the OIP for publishing in the FR at least 90 working days before the intended change to the system.

(2) Review their published SORN(s) on a biennial basis and submit updates to the Chief of the OIP as necessary.

(3) Ensure appropriate training is provided for all users, to include contractors, which have access to

records covered by their published system notice.

(4) Ensure safeguards are in place to protect all records containing PII (electronic, paper, etc.) from unauthorized access, use, disclosure, alteration, and/or destruction using guidelines found in 32 CFR part 310, subpart B, 32 CFR part 310, appendix A, and DoDM 5200.01, Volume 4.

(5) Assist in responding to any complaints and inquiries regarding the collection or maintenance of, or access to information covered by their published SORN(s).

(6) Process all 5 U.S.C. 552a requests for access and amendment, as outlined in § 329.6 of this part.

(7) Maintain a record of disclosures for any records covered by a SORN using a method that complies with 32 CFR part 310, subpart E when disclosing records outside of the agency (DoD). Such disclosures will only be made when permitted by a Routine Use published in the SORN.

(i) As required by 5 U.S.C. 552a and 32 CFR part 310, subpart E, the disclosure accounting will be maintained for 5 years after the disclosure, or for the life of the record, whichever is longer. The record may be maintained with the record disclosed, or in a separate file within the office's official record keeping system.

(ii) Pursuant to 5 U.S.C. 552a and 32 CFR part 310, subpart E, the disclosure accounting will include the release date, a description of the information released, the reason for the release; and, the name and address of the recipient.

§ 329.6 Procedures.

(a) *Publication of notice in the FR.* (1) A SORN shall be published in the FR of any record system meeting the definition of a SOR, as defined by 5 U.S.C. 552a.

(2) System Managers shall submit notices for new or revised SORNs through their Director to the Chief of the OIP for review at least 90 working days prior to implementation.

(3) The Chief of the OIP shall forward complete SORNs to the Defense Privacy and Civil Liberties Office (DPCLO), or the respective service that has the statutory authority to publish the SORN, for review and publication in the FR in accordance with 32 CFR part 310, subpart G. Following the OMB comment period, the public is given 30 days to submit written data, views, or arguments for consideration before a SOR is established or modified.

(b) *Access to Systems of Records Information.* (1) As provided by 5 U.S.C. 552a, records shall be disclosed to the individual they pertain to and under whose individual name or identifier they are filed, unless exempted by the provisions in 32 CFR part 310, subpart F, and § 329.7 of this part. If an individual is accompanied by a third party, or requests a release to a third party, the individual shall be required to furnish a signed access authorization granting the third party access conditions according to 32 CFR part 310, subpart D.

(2) Individuals seeking access to records that pertain to themselves, and that are filed by their name or other personal identifier, may submit the request in person, by mail, or by email. All requests for access must be in accordance with these procedures:

(i) Any individual making a request for access to records in person shall show personal identification to the appropriate System Manager, as identified in the SORN published in the FR, to verify his or her identity, according to 32 CFR part 310, subpart D.

(ii) Any individual making a request for access to records by mail or email shall address such request to the System Manager. If the System Manager is unknown, the individual may inquire to NGB–JA/OIP: AHS-Bldg 2, Suite T319B, 111 S. George Mason Drive, Arlington, VA 22204–1382, or email *ng.ncr.arng.mbx.ngb-privacy-office@mail.mil* for assistance in locating the System Manager.

(iii) Requests for access shall include a mailing address where the records should be sent and include either a signed notarized statement or a signed unsworn declaration to verify his or her identity to ensure that they are seeking to access records about themselves and not, inadvertently or intentionally, the records of others. The Privacy Act (5 U.S.C. 552a) provides a penalty of a misdemeanor and a fine of not more than $5,000 for any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses. If making a declaration, it shall read as follows:

(A) Inside the U.S.: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

(B) Outside the U.S.: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

(iv) All requests for records shall describe the record sought and provide sufficient information to enable the records to be located (e.g. identification of the SORN, approximate date the record was initiated, originating organization, and type of document).

(v) All requesters shall comply with the procedures in 32 CFR part 310, subpart D for inspecting and/or obtaining copies of requested records.

(vi) Requestors affiliated with the DoD may not use official government supplies or equipment to include mailing addresses, work phones/faxes, or DoD-issued email accounts to make requests. If requests are received using DoD equipment, the requestor will be advised to make a new request, using non-DoD equipment, and processing of their request will begin only after such new request is received.

(3) The System Manager shall mail a written acknowledgement of the request for access to the individual within 10 working days of receipt. The acknowledgement shall identify the request and may, if necessary, request any additional information needed to access the record, advising the requestor that they have 20 calendar days to reply. No acknowledgement is necessary if the request can be reviewed and processed, to include notification to the individual of a grant or denial of access, within the 10 working day period. Whenever practical, the decision to grant or deny access shall be made within 30 working days. For requests presented in person, written acknowledgement may be provided at the time the request is presented.

(4) When a request for access is received, System Managers shall promptly take one of three actions on requests to access records:

(i) If no portions of the record are exempt, pursuant to the published SORN, 32 CFR part 310, subpart F, and § 329.7 of this part, the request for access shall be granted and the individual will be provided access to all records about him or her. If there is information within the record not about the record subject (e.g. third party information) that information will be removed and referred to the Chief of the OIP for processing under 5 U.S.C. 552, pursuant to 32 CFR part 286.

(ii) If the System Manager finds that the record, or portions of the record, is exempt from access pursuant to the published SORN, 32 CFR part 310, subpart F, and § 329.7 of this part, they will refer the recommended denial to the Chief of the OIP, through their Director, within 10 working days of receipt. The referral will include the following:

(A) Written recommendation for denial explaining which portion(s) of the record should be exempt from access and a discussion for why the

record, or portions of the record, should be denied.

(B) The record, or portions of the record, being recommended for denial. If only portions of records are recommended for denial they must be clearly marked or highlighted.

(C) The original request and any correspondence with the requestor.

(D) A clean copy of the record.

(iii) If the request for access pertains to a record controlled and maintained by another Federal agency, but in the temporary custody of the NGB, the records are the property of the originating Component. Access to these records is controlled by the system notice and rules for the originating component/agency. Such requests shall be referred to the originating component/agency and the requestor will be notified in writing of the referral and contact information for the component/agency.

(5) The Chief of the OIP will use the following procedures for processing any recommended denials of access:

(i) The specific reason for denial cited by the System Manager will be evaluated and a recommendation will be presented to the denial authority.

(ii) If the request for access is denied, a written letter will be sent to the requestor using procedures outlined in 32 CFR part 310, subpart D. The requestor will be advised they have 60 calendar days to appeal the decision to deny access. Appeals should be sent to: NGB Chief Counsel, 1636 Defense Pentagon, Room 1D164, Washington, DC 20301–1636. The requester must provide proof of identity or a sworn declaration with their appeal, as outlined in 32 CFR part 310, subpart D.

(iii) If the request for access should be granted, the access request will be directed back to the System Manager to process.

(6) The Chief Counsel will use the following procedures for any appeals received:

(i) The Chief Counsel will notify the Chief of the OIP that an appeal has been received and will request the administrative record of the initial denial.

(ii) The Chief of the OIP will provide an exact copy of all records from the initial denial to the Chief Counsel within 10 working days.

(iii) The Chief Counsel will review the appeal and make a final determination on whether to grant or deny the appeal.

(A) If the appellate authority denies the appeal, he or she will provide a formal written notification to the requestor using the procedures outlined in 32 CFR part 310, subpart D and will provide a copy of the response to the Chief of the OIP.

(B) If the appellate authority grants the appeal, he or she will notify the Chief of the OIP and the Directorate that recommended the denial that the individual is being given access to the record. The Chief Counsel will provide a subsequent notification to the requestor advising that his or her appeal has been granted, and will provide the requestor access to his or her record.

(iv) All appeals should be processed within 30 working days after receipt by the Chief Counsel. If the Chief Counsel determines that a fair and equitable review cannot be made within that time, the individual shall be informed in writing of the reasons for the delay and of the approximate date the review is expected to be completed.

(7) There is no requirement that an individual be given access to records that are not in a group of records that meet the definition of a SOR in 5 U.S.C. 552a.

(8) No verification of identity shall be required of an individual seeking access to records that are otherwise available to the public.

(9) Individuals shall not be denied access to a record in a SOR about themselves because those records are exempted from disclosure under 32 CFR part 285. Individuals may only be denied access to a record in a SOR about themselves when those records are exempted from the access provisions of 32 CFR part 310, subpart F, and this part.

(10) Individuals shall not be denied access to their records for refusing to disclose their Social Security Number (SSN), unless disclosure of the SSN is required by statute, by regulation adopted before January 1, 1975, or if the record's filing identifier and only means of retrieval is by the SSN (reference 5 U.S.C. 552a, note, Executive Order 9397, as amended).

(c) *Access to Records or Information Compiled for Law Enforcement Purposes.*

(1) All requests by individuals to access records about themselves are processed under 5 U.S.C. 552, 5 U.S.C. 552a as well as 32 CFR part 286, 32 CFR part 310, subpart D to give requesters a greater degree of access to records on themselves, regardless of which Act is cited by the requestor for processing.

(2) Records (including those in the custody of law enforcement activities) that have been incorporated into a SOR exempted from the access conditions of 5 U.S.C. 552a and 32 CFR part 310, subpart D will be processed in accordance with 5 U.S.C. 552a, 32 CFR part 310, subpart D, and this part. Individuals shall not be denied access to records solely because they are in an exempt system. They will have the same access that they would receive under 5 U.S.C. 552 and 32 CFR part 286.

(3) Records systems exempted from access conditions will be processed under 5 U.S.C. 552 and 32 CFR part 286, or 5 U.S.C. 552a and 32 CFR part 310, subpart D, depending upon which gives the greater degree of access.

(4) If a non-law enforcement element has temporary custody of a record otherwise exempted from access under 32 CFR part 310, subpart F for the purpose of adjudication or personnel actions, they shall refer any such access request, along with the records, to the originating agency and notify the requestor of the referral.

(d) *Access to illegible, incomplete, or partially exempt records.* (1) An individual shall not be denied access to his or her record or a copy of the record solely because the physical condition or the format of the record does not make it readily available (e.g. record is in a deteriorated state or on a magnetic tape). The document will be prepared as an extract, or it will be exactly recopied.

(2) If a portion of the record contains information that is exempt from access, an extract or summary containing all of the information in the record that is releasable shall be prepared by the System Manager.

(3) When the physical condition of the record makes it necessary to prepare an extract for release, the extract shall be prepared so that the requestor will understand it.

(4) The requester shall be given access to any deletions or changes to records that are accessible.

(e) *Access to medical records.* (1) Medical records and other protected health information (PHI) shall be disclosed to the individual pursuant to Chapter 11 of DoD 6025.18–R, DoD Health Information Privacy Regulation (Available at *http://www.dtic.mil/whs/directives/corres/pdf/602518r.pdf*) and 32 CFR part 310, subpart D.

(2) The individual may be charged reproduction fees for copies or records as outlined in 32 CFR part 310, subpart D.

(f) *Amending and disputing personal information in systems of records.* (1) The System Manager shall allow individuals to request amendments to the records covered by their system notice to the extent that such records are not accurate, relevant, timely, or complete. Amendments are limited to correcting factual matters and not matters of official judgment, such as performance ratings, promotion

potential, and job performance appraisals.

(2) Individuals seeking amendment to records that pertain to themselves, and that are filed or retrieved by their name or other personal identifier, may submit a request for amendment in person, by mail, or by email. All requests for amendment must be in accordance with the following:

(i) Any individual making a request for amendment to records in person shall show personal identification to the appropriate System Manager, as identified in the SORN published in the FR, to verify his or her identity, as outlined in 32 CFR part 310, subpart D.

(ii) Any individual making a request for amendment to records by mail or email shall address such request to the System Manager. If the System Manager is unknown, they may inquire to NGB–JA/OIP: AHS-Bldg 2, Suite T319B, 111 S. George Mason Drive, Arlington VA 22204–1382, or email *ng.ncr.arng.mbx.ngb-privacy-office@mail.mil* for assistance in locating the System Manager.

(iii) Requests for amendment shall include a mailing address where the decision on the request for amendment can be sent and include either a signed notarized statement or a signed unsworn declaration to verify his or her identity to ensure that they are seeking to amend records about themselves and not, inadvertently or intentionally, the records of others. The Privacy Act (5 U.S.C. 552a) provides a penalty of a misdemeanor and a fine of not more than $5,000 for any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses. The declaration shall read as follows:

(A) Inside the US: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

(B) Outside the US: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

(iv) All requests for amendment must include all information necessary to make a determination on the request for amendment, as outlined in 32 CFR part 310, subpart D.

(v) Requestors affiliated with the DoD may not use official government supplies or equipment to include mailing addresses, work phones/faxes, or DoD-issued email accounts to make requests for amendment. If requests are received using DoD equipment, the requestor will be advised to make a new request, using non-DoD equipment, and processing of their request will begin only after such new request is received.

(3) When a request for amendment is received, the System Manager shall:

(i) Mail a written acknowledgement of the request for amendment to the individual within 10 working days of receipt. Such acknowledgement shall identify the request and may, if necessary, request any additional information needed to make a determination, advising the requestor that they have 20 calendar days to reply. No acknowledgement is necessary if the request can be reviewed and processed, to include notification to the individual of a grant or denial of amendment within the 10 working day period. Whenever practical, the decision to amend shall be made within 30 working days. For requests presented in person, written acknowledgement may be provided at the time the request is presented.

(ii) Determine whether the requester has adequately supported his or her claim that the record is inaccurate, irrelevant, untimely, or incomplete.

(A) If it is determined the individual's request for amendment is being granted, the System Manager will proceed to amend the records in accordance with existing statutes, regulations, or administrative procedures. The requestor will then be notified in writing of the agreement to amend and all previous holders of the records will be notified of the amendment as required by 32 CFR part 310, subpart D.

(B) If it is determined that any, or all, of the record should not be amended, the original request, along with the record requested for amendment, and justification for recommended denial action shall be forwarded through their Director to the Chief of the OIP within 10 working days of receipt for a decision by the IDA.

(C) If the request for an amendment pertains to a record controlled and maintained by another Federal agency, the amendment request shall be referred to the appropriate agency and the requestor will be notified in writing of the referral and contact information for the agency.

(4) The Chief of the OIP will use the following procedures for any recommended denials of amendment:

(i) The specific reason for denial of amendment cited by the System Manager shall be evaluated and a recommendation presented to the IDA on whether to support the recommendation to deny amendment to the record.

(ii) If the request to amend the record is denied, a written letter will be sent to the requestor using procedures outlined in 32 CFR part 310, subpart D. If an individual disagrees with the denial decision, he or she may file an appeal within 60 calendar days of receipt of the denial notification. Appeals should be sent to: NGB Chief Counsel, 1636 Defense Pentagon, Room 1D164, Washington DC 20301–1636.

(5) The Chief Counsel will use the following procedures for any appeals received:

(i) The Chief Counsel will notify Chief of the OIP that an appeal has been received and request an exact copy of the administrative record be provided within 10 working days.

(ii) The Chief Counsel will review the appeal and make a final determination on whether to grant or deny the appeal.

(A) If the Chief Counsel denies the appeal, a written letter will be provided to the requestor using the procedures outlined in 32 CFR part 310, subpart D including notification to the requestor that they may file a statement of disagreement. A brief statement will be prepared by the NGB Chief Counsel summarizing the reasons for refusing to amend the records and a copy will be provided to the Chief of the OIP and the System Manager.

(B) If the appellate authority grants the appeal, the procedures outlined in 32 CFR part 310, subpart D and this part will be followed. The System Manager will be responsible for informing all previous recipients of the amendment when a disclosure accounting has been maintained in accordance with 32 CFR part 310, subpart E.

(iii) All appeals should be processed within 30 working days after receipt by the Chief Counsel. If the Chief Counsel determines that a fair and equitable review cannot be made within that time, the individual shall be informed in writing of the reasons for the delay and of the approximate date the review is expected to be completed.

(g) *Disclosure of disputed information.* If the appellate authority determines the record should not be amended and the individual has filed a statement of disagreement, the following procedures will be used:

(1) The System Manager that has control of the record shall annotate the disputed record so it is apparent to any person to whom the record is disclosed that a statement has been filed. Where feasible, the notation itself shall be integral to the record.

(2) Where disclosure accounting has been made, the System Manager shall advise previous recipients that the record has been disputed and shall

provide a copy of the individual's statement of disagreement, and the statement summarizing the reasons for the NGB refusing to amend the records in accordance with 32 CFR part 310, subpart D.

(3) The statement of disagreement shall be maintained in a manner that permits ready retrieval whenever the disputed portion of the record is disclosed.

(4) When information that is the subject of a statement of disagreement is subsequently requested for disclosure, the System Manager will follow these procedures:

(i) The System Manager shall note which information is disputed and provide a copy of the individual's statement in the disclosure.

(ii) The System Manager shall include the summary of the NGB's reasons for not making a correction when disclosing disputed information.

(5) Copies of the statement summarizing the reasons for the NGB refusing to amend the records will be treated as part of the individual's record; however, it will not be subject to the amendment procedure outlined in 5 U.S.C. 552 and 32 CFR part 310, subpart D.

(h) *Penalties.* (1) Civil Action. An individual may file a civil suit against the NGB or its employees if the individual feels certain provisions of 5 U.S.C. 552a have been violated.

(2) Criminal Action.

(i) Criminal penalties may be imposed against any officer or employee for the offenses listed in subsection I of 5 U.S.C. 552a.

(ii) An officer or employee of NGB may be found guilty of a misdemeanor and fined up to $5,000 for a violation of the offenses listed in subsection I of 5 U.S.C. 552a.

(i) *Litigation status sheet.* Whenever a complaint citing 5 U.S.C. 552a is filed in a U.S. District Court against the NGB, or any employee of NGB, the Chief of Litigation and Employment Law shall:

(1) Promptly notify the Chief of the OIP of the complaint using the litigation status sheet in 32 CFR part 310, appendix H. This status sheet will be provided to the DPCLO, or the respective service(s) involved in the litigation.

(2) Provide a revised litigation status sheet to the Chief of the OIP at each stage of the litigation for submission to the DPCLO, or the respective service(s) involved.

(3) When a court renders a formal opinion or judgment, copies of the judgment or opinion shall be provided to the Chief of the OIP who will provide them to DPCLO, or the respective service(s) involved, along with the litigation status sheet reporting the judgment or opinion.

(j) *Computer matching programs.* All requests for participation in a matching program (either as a matching agency, or a source agency) shall be submitted directly to the DPCLO for review and compliance, following procedures in 32 CFR part 310, subpart L. The Directorate shall submit a courtesy copy of such requests to the Chief of the OIP.

§ 329.7 Exemptions.

(a) *General information.* There are two types of exemptions, general and specific. The general exemption authorizes the exemption of a SOR from all but a few requirements of 5 U.S.C. 552a. The specific exemption authorizes exemption of a SOR or portion thereof, from only a few specific requirements. If a new SOR originates for which an exemption is proposed, or an additional or new exemption for an existing SOR is proposed, the exemption shall be submitted with the SORN. No exemption of a SOR shall be considered automatic for all records in the system. The System Manager shall review each requested records and apply the exemptions only when this will serve significant and legitimate purpose of the Federal Government.

(b) *Exemption for classified material.* All SOR maintained by the NGB shall be exempt under section (k)(1) of 5 U.S.C. 552a to the extent that the systems contain any information properly classified under Executive Order 13526 and that is required by that Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein which contain isolated items of properly classified information.

(c) *Exemption for anticipation of a civil action or proceeding.* All systems of records maintained by the NGB shall be exempt under section (d)(5) of 5 U.S.C. 552a, to the extent that the record is compiled in reasonable anticipation of a civil action or proceeding.

(d) *General exemptions.* No SOR within the NGB shall be considered exempt under subsection (j) or (k) of 5 U.S.C. 552a until the exemption rule for the SOR has been published as a final rule in the FR.

(e) *Specific exemptions.* (1) System identifier and name: INGB 001, Freedom of Information Act (5 U.S.C.) and Privacy Act (5 U.S.C. 552a) Case Files.

(i) Exemption: During the course of a 5 U.S.C. 552 or 5 U.S.C. 552a action, exempt materials from other systems of records may, in turn, become part of the case records in this system. To the extent that copies of exempt records from those other systems of records are entered into this 5 U.S.C. 552 or 5 U.S.C. 552a case record, the NGB hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary SOR which they are a part.

(ii) Authority: 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) Reasons: Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this SOR. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(2) System identifier and name: INGB 005, Special Investigation Reports and Files.

(i) Exemption: Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. NOTE: When claimed, this exemption allows limited protection of investigative reports maintained in a SOR used in personnel or administrative actions. Any portion of this SOR which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections

of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) Authority: 5 U.S.C. 552a(k)(2).

(iii) Reasons: (A) From subsection (c)(3) of 5 U.S.C. 552a because to grant access to the accounting for each disclosure as required by 5 U.S.C. 552a, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) of 5 U.S.C. 552a because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under 5 U.S.C. 552a would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) of 5 U.S.C. 552a because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) of 5 U.S.C. 552a because this SOR is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) of 5 U.S.C. 552a because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

Dated: January 21, 2014.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–01883 Filed 2–4–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG–2013–0070]

RIN 1625–AA00

Safety Zone; Olympus Tension Leg Platform

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone around the Olympus Tension Leg Platform, Mississippi Canyon Block 807 on the OCS. The purpose of the safety zone is to promote the safety of life and property on the facilities, their appurtenances and attending vessels, and on the adjacent waters within the safety zone. Placing a safety zone around the facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

DATES: This rule is effective March 7, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0070]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Rusty Wright, U.S. Coast Guard, District Eight Waterways Management Branch; telephone 504–671–2138, *rusty.h.wright@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
USCG United States Coast Guard
FR Federal Register
NPRM Notice of Proposed Rulemaking
OCS Outer Continental Shelf

A. Regulatory History and Information

On July 18, 2013, the Coast Guard published an NPRM entitled, ''Safety Zone; Olympus Tension Leg Platform on the Outer Continental Shelf Platform in the Gulf of Mexico'' in the **Federal Register** [78 FR 42902] and requested comments on the proposed rule. The Coast Guard received no comments, no public meetings were requested and none were held.

B. Basis and Purpose

Coast Guard regulations permit the establishment of safety zones for facilities located on the OCS for the purpose of protecting life, property and the marine environment (33 CFR 147.1). Placing a safety zone around the facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment. The authority for this rule is 14 U.S.C. 85, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1.

Shell Exploration and Production Company requested that the Coast Guard establish a safety zone around the Olympus Tension Leg Platform facility. The request for the safety zone was made due to safety concerns for vessels operating in the area and the environment. Shell Exploration and Production Company indicated that it is highly likely that any allision with the facility would result in a catastrophic event. In evaluating this request, the Coast Guard explored relevant safety factors and considered several criteria, including but not limited to, (1) the level of shipping activity around the facility, (2) safety concerns for personnel aboard vessels operating in the area and onboard the facility, (3) concerns for the environment, (4) the possibility that an allision would result in a catastrophic event based on proximity to shipping fairways, offloading operations, production levels, and size of the crew, (5) the volume of traffic in the vicinity of the safety zone area, (6) the types of vessels navigating in the vicinity of the safety zone area, and (7) the structural configuration of the facility.

The safety zone established by this rulemaking is in the deepwater area of the Gulf of Mexico, located at 28°

9′35.59′ N, 89°14′20.86″ W in Mississippi Canyon Block 807. For the purposes of this regulation, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ), which is contiguous to the territorial sea of the United States, and extends up to 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. Navigation in the area of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways.

C. Discussion of Comments and Changes

The Coast Guard received no comments in response to the NPRM and there are no changes to the safety zone regulation as proposed by the NPRM. One technical amendment is being made in this final rule to correct the section number. The section number is changed from § 147.848 to § 147.849 to be consistent with the numbering of OCS safety zones in the Coast Guard's Eighth District.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule is not a significant regulatory action due to the location of the Olympus Tension Leg Platform on the OCS and its distance from both land and safety fairways. Vessels traversing waters near the safety zone will be able to safely travel around the zone without incurring additional costs.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in Mississippi Canyon Block 807. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) This rule will enforce a safety zone around a production platform that is in an area of the Gulf of Mexico not typically frequented by vessel traffic; (2) this rule will enforce a safety zone that is not in close proximity to a safety fairway; and (3) vessel traffic can pass safely around the safety zone without incurring additional costs.

3. Collection of Information

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

4. Federalism

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

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. Technical Standards

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

12. 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. Safety zones are established around OCS facilities being constructed, maintained, or operated on the OCS to promote the safety of life and property on the facilities, their appurtenances and attending vessels, and on the adjacent waters within the safety zones. A safety zone may extend to a maximum distance of 500 meters around the OCS facility measured from

each point on its outer edge or from its construction site, but may not interfere with the use of recognized sea lanes essential to navigation. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

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

PART 147—SAFETY ZONES

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

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

■ 2. Add § 147.849 to read as follows:

§ 147.849 Safety Zone; Olympus Tension Leg Platform.

(a) *Description.* The Olympus Tension Leg Platform is in the deepwater area of the Gulf of Mexico in Mississippi Canyon Block 807B. The facility is located at 28° 9′35.59″ N, 89°14′20.86″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and the area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

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

(1) An attending vessel;

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

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

Dated: January 10, 2014.

Kevin S. Cook,

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

[FR Doc. 2014–02441 Filed 2–4–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 152

[EPA–HQ–OPP–2009–0456; FRL–9904–32]

RIN 2070–AJ58

Pesticides; Satisfaction of Data Requirements; Procedures To Ensure Protection of Data Submitters' Rights

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revising and updating its regulations governing the procedures for the satisfaction of data requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Specifically, this regulation addresses procedures for the protection of exclusive use and data compensation rights of data submitters, which have not been revised since issuance in 1984. These revisions are now needed to accommodate statutory changes and related changes in practice that have occurred since that time and to make minor changes to clarify the regulations.

DATES: This final rule is effective April 7, 2014.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–0456, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Scott Drewes, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–0107; email address: *drewes.scott@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the agency taking?

EPA is revising and updating its regulations governing the procedures for the satisfaction of data requirements under FIFRA. Specifically, these provisions include procedures for the protection of exclusive use and data compensation rights of data submitters. These revisions also provide greater clarity when data compensation procedures do and do not apply, and update the regulations to be consistent with statutory changes and related changes in practice since the regulations were first promulgated in 1984.

B. What is the agency's authority for taking this action?

This action is issued under the authority of FIFRA sections 3 and 25, 7 U.S.C. 136 *et seq.*

C. Does this action apply to me?

You may be potentially affected by this action if you produce pesticide products that require registration with EPA. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include, but are not limited to: Pesticide and other agricultural chemical manufacturing (NAICS code 325320), e.g., pesticides manufacturing, insecticides manufacturing, herbicides manufacturing, fungicides manufacturing, etc.

D. What are the incremental costs and benefits of this action?

EPA did not quantify the potential costs or benefits from these revisions, which are qualitatively discussed in Unit V. EPA has determined that there are minimal incremental costs for industry to comply with the requirement that applicants submit data compensation materials at the time of application for registration. As such, EPA has concluded that the per firm and industry level impact of the rule is not significant. Benefits are derived from the efficiencies in the registration process gained by the timely submission of data compensation materials to EPA, as well as the early resolution of data compensation disputes that may arise. EPA also believes benefits accrue to applicants through the additional clarity regarding when data compensation procedures do not apply.

II. Background

A. Summary of the Proposed Rule

In the **Federal Register** of November 5, 2010 (75 FR 68297) (FRL–8424–8), EPA proposed to revise the regulations governing procedures for the satisfaction of data requirements under

FIFRA. EPA proposed to do the following:

- Replace the limited listing of actions to which subpart E does not apply with a single reference to actions that may be accomplished by notification or non-notification under § 152.46;
- Update and restructure the existing definition of exclusive use period to incorporate the additional exclusive use criteria added by the Food Quality Protection Act (FQPA) of 1996;
- Revise § 152.84 to conform to the requirements of FIFRA section (33)(f), which now requires data compensation materials to be submitted at the time of application; and
- Update the regulations to be consistent with programmatic developments since the regulations were first promulgated in 1984, including eliminating the data gap procedures, removing the reference to Registration Standards, and adding email as a means of contacting data submitters.

B. Public Comments and EPA Responses

EPA has considered the comments received on the proposed rule, and provided responses in a Response to Comments document, which is available in the docket for this rulemaking. Many commenters requested the Agency to make additional revisions that were outside the scope of the proposed rule. Only the key comments within the scope of the proposed rule and the Agency's responses are discussed in this document.

1. *Data submitters rights under a Data Call-In (DCI).* Two commenters questioned how data submitters' rights would be addressed under a DCI. EPA proposed to specify in the applicability section of the regulation at 40 CFR 152.81(a)(3) that when a DCI itself establishes procedures for the protection of data rights, recipients of the DCI must follow the procedures established in the DCI rather than the procedures set forth in subpart E. The commenters argued that the proposed revisions would nullify the protections afforded by the administrative process used to develop subpart E and could result in the establishment of arbitrary procedures.

In response, EPA notes that the Agency did not intend to suggest that the data protections of FIFRA section 3(c)(1)(F) do not apply to data submitted in response to a DCI. The purpose of the proposed amendment to § 152.81(a)(3) was to clarify and codify the Agency's existing practices for ensuring protection of data rights in connection with the issuance of DCIs. EPA's intent in adding the reference to FIFRA section 3(c)(2)(B) was simply to make clear that DCIs are actions subject to the data compensation provisions of FIFRA and to acknowledge that EPA, pursuant to its authority under FIFRA section 3(c)(2)(B), generally establishes compliance procedures in the DCIs it issues. EPA believes it is generally simpler and more efficient to include provisions for the protection of data in the DCIs themselves in order to provide recipients with a single set of instructions for satisfying the terms of a DCI. Further, because the process and timing for complying with DCIs under FIFRA section 3(c)(2)(B) differs from the process for obtaining a new registration, EPA believes it generally makes sense to tailor the instructions for addressing the data protection requirements of FIFRA to fit the structure of the DCI compliance process. As a practical matter, the procedures EPA establishes for the protection of data rights in DCIs track those in subpart E because, as the commenter points out, the protections of FIFRA section 3(c)(1)(F) apply with equal force to data submitted under FIFRA section 3(c)(2)(B). Thus, this provision does not have any substantive impact on the protection EPA extends to data submitted to the Agency under FIFRA.

2. *List of amendments excluded from the scope of subpart E.* A commenter asked the Agency to provide a single source of current, appropriately updated and readily available guidance that specifies actions that do not require compliance with subpart E.

In response, EPA notes that it proposed to revise § 152.81(b) by removing the list of amendments in § 152.81(b)(4) that do not require compliance with subpart E and instead refer to the notification and non-notification provisions of § 152.46. Through proposed § 152.81(b)(6), however, EPA retains its ability to exclude from the provisions of subpart E ''any type of amendment if the Administrator determines, by written finding, that Agency consideration of data would not be necessary in order to approve the amendment under FIFRA section 3(c)(5).''

The proposed revisions to § 152.81(b) would not change the scope of subpart E. As EPA explained in the preamble to the proposed amendments, data submission obligations—and therefore compliance with the data protection procedures of the subpart E regulations—only apply where review of an application requires EPA consideration of scientific data in order to make a FIFRA regulatory determination. Because it would be difficult to create an exhaustive list of possible registration amendment actions that do not require review of data, EPA believes it is simpler and less confusing to make that principle clear in the regulations without also including what, in the existing regulations, was a non-exhaustive list of such amendments. Further, EPA believes the regulation's express exclusion of registration amendments subject to the notification and non-notification provisions of § 152.46 from these data protection procedures effectively addresses the majority of amendment actions not requiring consideration of scientific data. A list of those actions can be found in Pesticide Registration (PR) Notice 98–10, available on the Internet at *http://www.epa.gov/PR_Notices/pr98-10.pdf.* PR Notice 98–10 was developed pursuant to § 152.46 specifically to identify minor registration amendments that may be made by notification or non-notification without the need for Agency review of scientific data and are, therefore, not subject to the subpart E data protection procedures. EPA believes it is appropriate to address other circumstances where scientific review of data is not required on a case-by-case basis in connection with specific amendment requests. EPA is finalizing the language in § 152.81(b) as proposed.

3. *Authorization for use of exclusive use studies for tolerances or tolerance exemptions.* A commenter proposed that EPA require applicants to submit authorizations for use of exclusive use studies to the Agency prior to registration or the Agency's granting of a tolerance or tolerance exemption if the Agency identifies any exclusive use data submitted on the Data Submitter's List.

In response, EPA notes that the regulations at §§ 152.86(a) and 152.93(b) already require applicants for FIFRA registration to certify prior to registration that they have obtained permission for the citation of any exclusive use studies. EPA believes that the certification process under those provisions has been effective in ensuring that necessary authorizations have been obtained and there is no need to require submission of the actual documentation to EPA.

EPA notes that the commenter's request to extend the proposal to apply to the issuance of tolerances and tolerance exemptions goes beyond the scope of EPA's proposal. EPA did not propose to make changes to the portion of the regulations addressing the types of regulatory approvals that are subject to the subpart E procedures. This comment therefore goes beyond the scope of EPA's proposal.

In 2003, EPA addressed the substance of this comment when it announced in the **Federal Register** of April 17, 2003 (68 FR 18977) (FRL–7279–9) the availability of a white paper, ''Proposal for Implementing Data Compensation Rights for Data Submitted in Support of Tolerance or Tolerance Exemption Actions,'' discussing a program to enable the Agency to appropriately implement the new provisions contained in section 408(i) of the Federal Food, Drug, and Cosmetic Act (FFDCA) to address exclusive use and compensation rights for data submitted to EPA in support of tolerance and tolerance exemption actions. In that white paper, EPA made clear that FFDCA section 408(i) extends exclusive use and data compensation rights to data submitted to support or maintain tolerances and tolerance exemptions to the same extent provided by FIFRA section 3. It is, however, important to understand how and when FFDCA data are protected by EPA. While FFDCA section 408(i) bestows protections to data submitted under FFDCA, EPA protects those rights through the FIFRA registration process when an application for a pesticide registration is submitted, not when a tolerance or tolerance exemption is sought. Tolerances and tolerance exemptions are rulemaking actions, not licenses issued to individuals that sell or distribute pesticides or pesticide ingredients. Unlike FIFRA, the FFDCA rulemaking process does not, therefore, provide EPA with a means of ensuring compliance with exclusive use and compensation requirements by all persons who may sell or distribute a product that is covered by a tolerance or tolerance exemption. For this reason, EPA ensures compliance with exclusive use and data compensation obligations in connection with the submission of an application for registration or amended registration under FIFRA and not in connection with the issuance of a FFDCA tolerance or tolerance exemption.

4. *When materials must be submitted.* Several commenters addressed EPA's proposal to amend § 152.84 to require submission of all data compensation compliance information and materials, including evidence of any necessary offers to pay compensation, at the time of application rather than ''at any later time prior to EPA's approval of the application.''

In response, EPA notes that the commenters were split regarding EPA's proposal to require submission of all data compliance information and materials at the time of application. As EPA explained in the preamble to the proposed rule, the Agency proposed this change to conform the implementing regulations with the requirements of FIFRA section 33(f)(4) (as amended by the Pesticide Registration Improvement Renewal Act (PRIA II), Pub. L. 110–94, commonly called PRIA II). Because FIFRA section 33(f)(4)(B) directs EPA to determine during the initial screen (within 21 days after receiving the required registration service fee) that ''the application contains all the necessary forms, data, and draft labeling,'' EPA believes that completed data citation forms must be submitted at the time of application. In addition, EPA also cited a policy rationale in support of this proposed amendment, noting that the Agency's primary rationale for previously allowing data compensation materials to be submitted after submission of the application—the time-consuming data gap certification process—was being eliminated from the regulations.

The commenters objecting to EPA's proposal argued that, contrary to EPA's position, FIFRA section 33(f)(4) leaves EPA with discretion to determine what contents of the application constitute a ''complete application.'' They also argued that the Agency's ability to conduct reviews of applications would not be limited in any way by allowing applicants to submit offers to pay throughout the application review process. This group of commenters' primary concern with the proposed change appeared to be that it may provide a greater opportunity for data submitters to seek compensation and file data compensation petitions before uncertainties involving EPA's ''substantial similarity'' determinations and related data issues have been resolved. To that end, these commenters asked that EPA maintain the current language, or that EPA consider an alternative to the proposed amendment whereby applicants would be required to provide notice to data submitters of their intent to file applications for registration, but would not be compelled to tender any associated offers to pay compensation unless and until EPA reviewed and accepted the applicant's citations to data. They argued that this alternative would not delay EPA's review, since review of the offer to pay certification is merely an ''administrative function'' and they asserted that this alternative could minimize unnecessary and premature data compensation disputes.

The commenters supporting EPA's proposed amendment agreed with EPA's interpretation of PRIA II that completed data compensation materials must be submitted as part of the initial application. They also argued that allowing applicants to delay submitting required offers ''until the eve of registration'' effectively reads the right to petition to deny an application out of EPA's regulations and deprives EPA of the assistance of the original data submitter in meeting EPA's obligation to determine that the applicant has submitted or cited all necessary data, consistent with the requirements of FIFRA section 3(c)(1)(F) and §§ 152.80 through 152.99.

EPA continues to believe that Congress clearly addressed this issue with the passage of PRIA II and must therefore reject those comments seeking that EPA maintain § 152.84 in its current form. There is no dispute that FIFRA section 3(c)(1)(F) requires applicants for registration or amended registration to offer to pay compensation to original data submitters when the application seeks to rely on previously submitted data that are subject to FIFRA compensation requirements. EPA requires applicants to submit a data certification form to demonstrate that any required offer to pay compensation has been made. There can be little question, therefore, that the data certification form is a ''necessary form'' within the meaning of FIFRA section 33(f)(4)(B) and that, consistent with the requirements of that section, these forms must be submitted at the time of application.

With the recent passage of the Pesticide Registration Improvement Act of 2012 (Pub. L. 112–177), Congress has only made it more clear that a completed data certification form must be submitted at the time of application. Specifically, FIFRA section 33(f)(4)(B)(iv)(II) now expressly provides that an application is only considered complete for purposes of the preliminary technical screening required by FIFRA section 33 if the Administrator determines that ''the application, data, or information are consistent with the proposed labeling and any proposal for a tolerance or exemption from the requirement of a tolerance . . . and are such that, subject to full review under the standards of this Act, could result in the granting of the application.'' (emphasis added). Since EPA cannot lawfully grant an application in the absence of ensuring that an applicant has made all necessary offers to pay or received any required letters of authorization to cite data, it is clear that EPA cannot consider as complete applications that do not include a completed data certification form. Consistent with the requirements of FIFRA section 33(f)(4)(B)(ii), EPA is required to reject applications that do not include completed data certification

forms and therefore cannot permit applicants to submit certifications ''at any later time prior to the approval of the application,'' as previously provided in § 152.84.

Further, even if EPA had discretion to consider the alternative approach offered by the commenters, EPA does not believe that approach promotes the efficient and effective review of applications. The notion that certain portions of applications should continue to come in piecemeal to EPA is not consistent with the prompt and efficient FIFRA application process envisioned by PRIA. In addition, ensuring that all necessary offers to pay are made is not simply an ''administrative function,'' but an obligation that lies at the core of EPA's duty to ensure compliance with the data protection provisions of FIFRA section 3(c)(1)(F). EPA believes that providing data submitters with the required offers to pay at the beginning of the application process rather than at the end of that process can serve to assist EPA in ensuring that the Agency meets its FIFRA section 3(c)(1)(F) obligations and can serve to encourage early resolution of data compensation disputes. While EPA understands the reasoning why some commenters would prefer to engage in those disputes after an application has been granted rather than before, EPA does not believe this is a policy objective reflected in FIFRA, nor was it EPA's objective when it promulgated the original regulation that allowed data compensation materials to be submitted after the initial application. The basis for that provision was largely to avoid the delay applicants could encounter as a result of the data gap certification process. And, as noted, EPA has eliminated the data gap process with these amendments.

5. *Electronic means of contacting data submitters.* Two commenters sought clarification as to whether the proposal to require offers to pay to include the applicant's email address applied to data submitters, as the title of this section in the preamble to the proposed rule might have suggested, or whether it was meant to apply only to applicants that are submitting offers to pay compensation. The commenters further asserted that they believe that it would not be appropriate or sufficient to allow electronic notification as the sole method of delivering offers to pay data submitters.

In response, EPA notes that the provision proposed in §§ 152.86 and 152.95 that creates a requirement to include an email address as an additional point of contact is part of the ''offer to pay'' requirement that is applicable to applicants, not to data submitters. EPA agrees that the title of this section in the preamble of the proposed rule may have created some confusion, but EPA believes the proposed provisions of the rule are clear that the obligation to provide an email address is part of the offer to pay requirement. EPA also notes that it inadvertently omitted this language from the offer to pay provision in proposed § 152.93(b)(2)(v) and has included it in the final rule.

In response to the commenters' final point, it was not EPA's intent in the proposed rule to prescribe or limit the means by which an applicant delivers offers to pay to data submitters and the regulations in subpart E have not limited the forms of delivery that may be used. EPA recognizes the efficiencies afforded by email, and the Agency believes that, given advances in technology, it would be inappropriate to preclude email as a means of communication between applicants and data submitters, including submission of offers. Provided the applicant can produce evidence of delivery of the offer to the original data submitter, EPA does not believe FIFRA prescribes a precise method of delivery.

Consistent with this view, in this final rule EPA is amending the language in § 152.99(b)(2) requiring that data compensation petitions be sent by certified mail, to allow the use of any method that provides evidence of delivery.

6. *Source of list of data requirements.* Several commenters requested EPA to clarify when Reregistration Eligibility Decision documents (REDs) and registration review decision documents can be relied on to determine registration data requirements and to determine what data are compensable.

In response, EPA notes that the Agency proposed in the November 5, 2010 **Federal Register** document to eliminate from § 152.90(a) the requirement that an applicant use an issued Registration Standard, the EPA reregistration decision documents issued prior to 1988, as the source of its list of data requirements for the selective method. Further, § 152.90(a) indicated that if the Registration Standard does not address all required data or there is no Registration Standard, the applicant must refer to the data requirements in 40 CFR part 158 as the alternate source of its list of data requirements.

As explained in the preamble to the proposed rule, the form of EPA decision documents has evolved since the 1984 regulations were promulgated. Registration Standards were superseded beginning in 1988 by REDs as the Agency implemented the reregistration requirements of FIFRA section 4. In turn, REDs will likely be superseded or updated by determinations made under the registration review program required by FIFRA section 3(g) and 40 CFR part 155. Given the growth and evolution of the program's systematic review of existing pesticides, EPA explained that it no longer intends to identify by regulation a specific type of decision document as the source of data requirement listings. These documents are a snapshot of the data requirements at a particular review period, and are likely to become outdated over time as EPA's risk assessments evolve and new types of data are needed. Accordingly, the Agency concluded that § 152.90(a)(2) should be revised to require applicants to list the applicable EPA data requirements at 40 CFR part 158.

The commenters expressed concern that this amendment could be interpreted to allow selective citations to exclude data requirements that are not explicitly included in EPA's codified data requirements but that may have otherwise been required in connection with registration, reregistration, or registration review actions and reflected in Agency decision documents such as REDs. The commenters, therefore, asked EPA to reinforce that its data regulations are flexible and that the Agency can and often does impose additional requirements beyond those found explicitly in the data tables. EPA agrees with these comments, but does not believe there is any need to alter the language of the amendment as proposed. It was not EPA's intention to suggest that in all cases the data tables in 40 CFR part 158 will constitute the exclusive list of required data that applicants utilizing the selective method of citation must satisfy. In fact, EPA's data regulations make it explicitly clear that the regulations are intended to be flexible and that EPA reserves the right to require additional data, or, in some instances, to waive studies that EPA concludes are not relevant to its registration decision under FIFRA. It is EPA's intention that the reference to 40 CFR part 158 in amended § 152.90(a)(2) incorporate this principle. Accordingly, where EPA has imposed additional requirements beyond those listed in the 40 CFR part 158 data tables, applicants will be required to satisfy those requirements, consistent with the requirements of subpart E. Conversely, where EPA determines that a requirement can be waived or that

alternative information to that listed in the data tables can serve to satisfy the data requirement, applicants will not be required to satisfy the requirements as set forth in the data tables. As noted in the preamble, given the flexibility of the data regulations, documents such as REDs will continue to provide useful guidance to applicants and registrants in determining how EPA has applied the data requirements to individual products and uses.

7. *Elimination of certification and documentation procedures for data gaps.* One commenter noted that, in the preamble to the proposed rule, the Agency states that a data submitter would no longer routinely receive requests from applicants to confirm a data gap, but that, under § 152.119 the Agency ''will make available 30 days after registration the means by which an applicant satisfied the data requirements, including whether, under the selective method, the applicant claimed a data gap.'' The commenter contended that this puts a burden upon data submitters to search for Agency actions that may be affected. Further, the commenter questioned how the Agency proposes to make such information available and whether the information will be available for all applications for new or amended registrations that rely upon the selective method or only for certain ones.

In response, EPA notes that while it is true that in the absence of receiving a data gap letter, the data submitter will not necessarily know at the time of application whether the applicant is claiming that a data gap exists, EPA believes there are numerous means to ensure protection of a data submitter's interest in compensable data should an applicant incorrectly assert that a data gap exists. First, as noted in the preamble to the proposed rule, with the completion of reregistration and the development of REDs for all pesticides that list by guideline the data received and reviewed by EPA, the Agency is now in a far better position to evaluate the legitimacy of data gap claims than it was when it issued the existing data compensation regulations in 1984. Second, data submitters will often have prior notice that an applicant is seeking registration when they receive offers to pay compensation for any data for which a data gap is not claimed. If they believe the offer to pay they receive should also extend to previously submitted studies not included in the offer, the data submitter can file a petition to deny the application under § 152.99. Finally, once a registration is issued, the data submitter may obtain a copy of any applicant's data compliance materials through the Freedom of Information Act, as provided in § 152.119 and consistent with EPA's information regulations at 40 CFR part 2. With that information, the data submitter can then file a petition to cancel under § 152.99 if the data submitter believes the Agency improperly accepted the applicant's data gap claim in lieu of citing data belonging to the data submitter.

III. The Final Rule

With the exception of the modifications discussed in the Unit II.B., EPA is finalizing the rule in essentially the same form as the proposed rule. The final rule does the following:

- Provides greater clarity when data compensation requirements do not apply by highlighting actions that do not require a scientific review of data and thus do not require satisfaction of data requirements;
- Updates the definition of an ''exclusive use study'' to incorporate the additional exclusive use criteria added by the FQPA;
- Conforms to the requirements of FIFRA section 33(f)(4), as most recently amended by PRIA II, by requiring applicants to submit data compensation materials at the time of application;
- Removes the outdated requirement that applicants use a Registration Standard for determining which data requirements need to be satisfied for a particular pesticide; instead, applicants will simply be directed to the data requirement listings in 40 CFR part 158; and
- Updates the regulations to be consistent with Agency practices since the regulations were first promulgated in 1984.

IV. FIFRA Review Requirements

In accordance with FIFRA sections 25(a) and (d), the Agency submitted a draft of this final rule to the appropriate Congressional Committees, the Secretary of Agriculture, and the FIFRA Scientific Advisory Panel (SAP). The SAP and the Secretary of Agriculture waived review of this rule.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

On May 5, 2011, the Office of Management and Budget (OMB) determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993), and is therefore not subject to review by OMB under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burdens that require additional review or approval by OMB under PRA, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are displayed in the **Federal Register** and are listed in 40 CFR part 9.

The information collection requirements contained in this rule are already approved by OMB under OMB control numbers 2070–0060 (EPA ICR No. 0277) and 2070–0174 (EPA ICR No. 2288.01). Since there is no new burden, it was not necessary to amend the Information Collection Requests (ICRs).

C. Regulatory Flexibility Act (RFA)

Pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.),* after considering the potential economic impacts of this rule on small entities, the Agency hereby certifies that this action will not have a significant adverse economic impact on a substantial number of small entities. For purposes of assessing the impacts of this rule on small entities, a small entity is defined as:

1. A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201.

2. A small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000.

3. A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities'' (5 U.S.C. 603 and 604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

EPA believes that the final rule would not have any adverse impacts on affected small entities, because the revisions are of minimal impact and do not increase activities or related burden. The revisions change the timing, but do not alter the substance of the existing pesticide data submission or citation obligations. The revisions are expected to simplify the procedures for the satisfaction of data requirements. Further, small business entities already receive the benefit of the statutory ''formulators' exemption'' provision which exempts qualifying applicants and registrants from most data submission and citation obligations. EPA has therefore concluded that the final rule will not have any adverse impacts on affected small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of UMRA (2 U.S.C. 1531–1538). Therefore, this action is not subject to the requirements of UMRA.

E. Executive Order 13132: Federalism

This action does not have a substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Since States or local governments are rarely pesticide applicants or registrants, this final rule may seldom affect a State or local government. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications because it does not have any effect on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000) do not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not an economically significant regulatory action as defined by Executive Order 12866, nor does it establish an environmental standard that is intended to mitigate health or safety risks, nor would it otherwise have a disproportionate effect on children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have any adverse effect on the energy supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This final rule does not impose any technical standards that would require Agency consideration of voluntary consensus standards provided in section 12(d) of the NTTAA, 15 U.S.C. 272 note.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This rule only impacts entities that intend to register or currently hold registrations for pesticides. It does not involve special consideration of any environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

VI. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 152

Environmental protection, Administrative practice and procedure, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 27, 2014.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, 40 CFR part 152, subpart E is amended as follows:

PART 152—PESTICIDE REGISTRATION AND CLASSIFICATION PROCEDURES

■ 1. The authority citation for part 152 continues to read as follows:

Authority: 7 U.S.C. 136–136y; Subpart U is also issued under 31 U.S.C. 9701.

■ 2. Revise the heading of subpart E to read as follows:

Subpart E—Satisfaction of Data Requirements and Protection of Data Submitters' Rights

■ 3. Revise § 152.81 to read as follows:

§ 152.81 Applicability.

(a) Except as provided in paragraph (b) of this section, the requirements of this subpart apply to:

(1) Each application for registration of a new product.

(2) Each application for amended registration of a currently registered product.

(3) Each submission in response to a Data Call-In under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(c)(2)(B) for an existing registration, including but not limited to, a product subject to reregistration under FIFRA section 4 or registration review under FIFRA section 3(g). If the Data Call-In establishes procedures for protection of data submitters' rights, recipients must comply with the specific requirements of the Data Call-In rather than the generic procedures set forth in §§ 152.85 through 152.96.

(b) This subpart does not apply to any of the following:

(1) An application for registration submitted to a State under FIFRA section 24(c).

(2) An application for an experimental use permit (EUP) under FIFRA section 5.

(3) An application for an emergency exemption under FIFRA section 18.

(4) A request for cancellation of a registration, or a request for deletion of one or more existing uses, under FIFRA section 6(f).

(5) A modification to registration of a currently registered product that may be accomplished under the notification or non-notification provisions of § 152.46 and any procedures issued thereunder. Notwithstanding the preceding sentence, compliance with this subpart is required if the Administrator has, by written notice under § 152.46, determined that the modification may not be accomplished by notification or non-notification.

(6) Any type of amendment if the Administrator determines, by written

finding, that Agency consideration of data would not be necessary in order to approve the amendment under FIFRA section 3(c)(5).

(7) Compliance with Agency regulations, adjudicatory hearing decisions, notices, or other Agency announcements that unless the registration is amended in the manner the Agency proposes, the product's registration will be suspended or canceled, or that a hearing will be held under FIFRA section 6. However, this paragraph does not apply to amendments designed to avoid cancellation or suspension threatened under FIFRA section 3(c)(2)(B) or because of failure to submit data.

§ 152.83 [Redesignated as § 152.82]

■ 4. Redesignate § 152.83 as § 152.82.

■ 5. Amend newly redesignated § 152.82 by revising the introductory text and removing the definition for ''Exclusive use study''.

The amendments read as follows:

§ 152.82 Definitions.

For the purposes of this subpart, the definitions set forth in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), in § 152.3, and in this section apply. In addition, the term ''exclusive use study'' shall have the meaning set forth in § 152.83.

* * * * *

■ 6. Add § 152.83 to read as follows:

§ 152.83 Definition of exclusive use study.

A study is an exclusive use study if it meets the conditions of either paragraph (a) or paragraph (b) of this section.

(a) *Initial exclusive use period.* A study submitted to support the registration of a product containing a new active ingredient (new chemical) or a new combination of active ingredients (new combination) is an exclusive use study if all the following conditions are met:

(1) The study pertains to a new active ingredient (new chemical) or new combination of active ingredients (new combination) first registered after September 30, 1978.

(2) The study was submitted in support of, or as a condition of approval of, the application resulting in the first registration of a product containing such new chemical or new combination, or an application to amend such registration to add a new use.

(3) Less than 10 years have passed (or up to 13 years, if the period of exclusive use protection has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(c)(1)(F)(ii)) since the issuance of the registration for which the data were submitted.

(4) The study was not submitted to satisfy a data requirement imposed under FIFRA section 3(c)(2)(B).

(b) *Exclusive use period for certain minor use data.* A study submitted by an applicant or registrant to support an amendment adding a new minor use to an existing registration that does not retain any period of exclusive use under paragraph (b)(1) of this section is an exclusive study under FIFRA section 3(c)(1)(F)(vi) if all the following conditions are met:

(1) The study relates solely to a minor use of a pesticide.

(2) The applicant or registrant at the time the new use is requested has notified the Administrator that any exclusive use period for the pesticide has expired and that the study is eligible for exclusive use treatment.

(3) Less than 10 years have passed since the study was submitted to EPA.

(4) The study was not submitted to satisfy a data requirement imposed under FIFRA section 3(c)(2)(B).

(5) The minor use supported by the data has not been voluntarily canceled nor have such data been used to support a non-minor use.

■ 7. Revise § 152.84 to read as follows:

§ 152.84 When materials must be submitted to the Agency.

Information and materials required by this subpart must be submitted at the time of application, unless the application is determined not to be subject to the requirements of this subpart.

■ 8. In § 152.86, revise paragraph (b)(2)(iv) to read as follows:

§ 152.86 The cite-all method.

* * * * *

(b) * * *

(2) * * *

(iv) The applicant's name, address, and contact information, including telephone number and email address.

* * * * *

■ 9. In § 152.90, revise the last sentence of the introductory text and paragraphs (a) and (b)(6) to read as follows:

§ 152.90 The selective method.

* * * Sections 152.91 through 152.96 contain specific procedures for citing or submitting a study or claiming a data gap.

(a) *List of data requirements.* (1) Each applicant must submit a list of the data requirements that would apply to his pesticide, its active ingredients, and its use patterns, if the product were being proposed for registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(c)(5) for the first time.

(2) The applicant must list the applicable requirements, as prescribed by part 158 of this chapter, as applicable. All required (R) studies, and any studies that could be conditionally required (CR) based upon composition, use pattern, or the results of required studies, are to be listed. The applicant need not list data requirements pertaining to any ingredient which qualifies for the formulators' exemption.

(b) * * *

(6) Claim of data gap. Refer to § 152.96.

■ 10. In § 152.91, revise paragraphs (a) and (c) to read as follows:

§ 152.91 Waiver of a data requirement.

* * * * *

(a) *Request for an extension of an existing waiver.* An applicant may claim that a waiver previously granted by the Agency also applies to a data requirement for the product. To document this claim, the applicant must provide a reference to the Agency record that describes the previously granted waiver, such as an Agency list of waivers or an applicable Reregistration Eligibility Decision (RED) document or registration review decision document, and explain why that waiver should apply to the product.

* * * * *

(c) *Effect of denial of waiver request.* A decision by the Agency to deny a written request for a new waiver or an extension of an existing waiver is a final Agency action. Following denial, the applicant must choose another method of satisfying the data requirement.

■ 11. In § 152.93, revise paragraph (b)(2)(v) to read as follows:

§ 152.93 Citation of a previously submitted valid study.

* * * * *

(b) * * *

(2) * * *

(v) The applicant's name, address, and contact information, including a telephone number and email address.

* * * * *

■ 12. In § 152.95, revise the introductory text and paragraph (b)(2)(v) to read as follows:

§ 152.95 Citation of all studies in the Agency's files pertinent to a specific data requirement.

An applicant normally may demonstrate compliance for a data requirement by citation of all studies in the Agency's files pertinent to that data requirement. The applicant who selects

this cite-all option must submit to the Agency:

* * * * *

(b) * * *

(2) * * *

(v) The applicant's name, address, and contact information, including a telephone number and email address.

* * * * *

■ 13. Revise § 152.96 to read as follows:

§ 152.96 Claim of data gap.

(a) *When a data gap may be claimed.* Except as provided in paragraph (b) of this section, an applicant may defer his obligation to satisfy an applicable data requirement until the Agency requires the data if no other person has previously submitted to the Agency a valid study that would satisfy the data requirement in question.

(b) *When a data gap may not be claimed*—(1) *Product containing a new active ingredient.* An applicant for registration of a product containing a new active ingredient may not defer his obligation by claiming a data gap unless he can demonstrate to the Agency's satisfaction that the data requirement was imposed so recently that insufficient time has elapsed for the study to have been completed and that, in the public interest, the product should be registered during the limited period of time required to complete the study. Refer to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(c)(7)(C).

(2) *Product not containing a new active ingredient.* An applicant for registration of a product under FIFRA sections 3(c)(7)(A) or (B) (a product not containing a new active ingredient) may not defer his obligation by claiming a data gap if the data are:

(i) Data needed to determine whether the product is identical or substantially similar to another currently registered product or differs only in ways that would substantially increase the risk of unreasonable adverse effects on the environment.

(ii) Efficacy data specific to the product, if required to be submitted to the Agency.

(iii) If a new use is proposed for a product that is identical or substantially similar to an existing product, data to demonstrate whether the new use would substantially increase the risk of unreasonable adverse effects on the environment.

(c) *Approval of application with a data gap claim*—(1) In accordance with § 152.115(a), any registration that is approved based upon a data gap claim shall be conditioned on the submission of the data no later than the time that the data are required to be submitted for similar products already registered.

(2) Notwithstanding paragraph (c)(1) of this section, the Agency will not approve an application if it determines that the data for which a data gap claim has been made are needed to determine if the product meets the requirements of FIFRA sections 3(c)(5) or (7).

■ 14. Revise § 152.97 to read as follows:

§ 152.97 Rights and obligations regarding the Data Submitters List.

(a) Each original data submitter shall have the right to be included on the Agency's Data Submitters List.

(b) Each original data submitter who wishes to have his name added to the current Data Submitters List must submit to the Agency the following information:

(1) Name and current address.

(2) Chemical name, common name (if any) and Chemical Abstracts Service (CAS) number (if any) of the active ingredients(s), with respect to which he is an original data submitter.

(3) For each such active ingredient, the type(s) of study he has previously submitted (identified by reference to data/information requirements listed in part 158 of this chapter), the date of submission, and the EPA registration number, file symbol, or other identifying reference for which it was submitted.

(c) Each applicant not already included on the Data Submitters List for a particular active ingredient must inform the Agency at the time of the submission of a relevant study whether he wishes to be included on the Data Submitters List for that pesticide.

■ 15. In § 152.99:

■ a. Remove paragraph (a)(2)(iv).

■ b. Redesignate paragraphs (a)(2)(v) and (a)(2)(vi) as paragraphs (a)(2)(iv) and (a)(2)(v).

■ c. Revise newly redesignated paragraph (a)(2)(iv) and paragraph (b)(2).

The amendments read as follows:

§ 152.99 Petitions to cancel registration.

* * * * *

(a) * * *

(2) * * *

(iv) The applicant has falsely or improperly claimed that a data gap existed at the time of his application.

(b) * * *

(2) *Notice to affected registrant.* At the same time that the petitioner files his petition with the Agency, the petitioner shall send a copy to the affected applicant or registrant by certified mail or by any other method that provides evidence of delivery. The affected applicant or registrant shall have 60 days from the date of receipt of the petition to submit written comments to the Agency.

* * * * *

[FR Doc. 2014–02294 Filed 2–4–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0668; FRL–9388–7]

Cyantraniliprole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of cyantraniliprole in or on multiple commodities that are identified and discussed later in this document. E.I. du Pont de Nemours & Company (DuPont) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective February 5, 2014. Objections and requests for hearings must be received on or before April 7, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2011–0668, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–0668 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before April 7, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–0668, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of May 23, 2012 (77 FR 30481) (FRL–9347–8), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1F7894) by E.I. du Pont de Nemours & Company (DuPont), 1007 Market St., Wilmington, DE 19898. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the insecticide cyantraniliprole, 3-bromo-1-(3-chloro-2-pyridinyl)-*N*-[4-cyano-2-methyl-6-[(methylamino)carbonyl]phenyl]-1*H*-pyrazole-5-carboxamide, including its metabolites and degradates, in or on almond hulls at 30 parts per million (ppm); berries and small fruits, bushberries (subgroup 13–07B) at 4 ppm; *Brassica* (cole) leafy vegetables, head and stem *Brassica* (subgroup 5A) at 2 ppm; *Brassica* (cole) leafy vegetables, leafy *Brassica* greens (subgroup 5B) at 30 ppm; bulb vegetables, onion, bulb (subgroup 3–07A) at 0.04 ppm; bulb vegetables, onion, green (subgroup 3–07B) at 8 ppm; cattle, fat at 0.01 ppm; cattle, liver at 0.04 ppm; cattle, meat at 0.01 ppm; cattle, meat byproducts, except liver at 0.01 ppm; cherries at 6 ppm; citrus fruits (group 10–10) at 0.7 ppm; cotton gin byproduct at 10 ppm; cucurbit vegetables (group 9) at 0.3 ppm; fruiting vegetables (group 8–10) at 2 ppm; goat, fat at 0.01 ppm; goat, liver at 0.04 ppm; goat, meat at 0.01 ppm; goat, meat byproducts, except liver at 0.01 ppm; hog, fat at 0.01 ppm; hog, liver at 0.04 ppm; hog, meat at 0.01 ppm; hog, meat byproducts, except liver at 0.01 ppm; horse, fat at 0.01 ppm; horse, liver at 0.04 ppm; horse, meat at 0.01 ppm; horse, meat byproducts, except liver at 0.01 ppm; leafy vegetables (except *Brassica* vegetables) (group 4) at 15 ppm; milk at 0.01 ppm; milk, fat at 0.04 ppm; oilseeds, except cotton gin byproduct (group 20) at 1 ppm; pome fruits (group 11–10) at 0.8 ppm; root and tuber vegetables, tuberous and corm vegetables (subgroup 1C) at 0.15 ppm; sheep, fat at 0.01 ppm; sheep, liver at 0.04 ppm; sheep, meat at 0.01 ppm; sheep, meat byproducts, except liver at 0.01 ppm; stone fruits, except cherries (group 12) at 1.5 ppm; tree nuts, except almond hulls (group 14) at 0.06 ppm; citrus, oil at 6 ppm; citrus, raw peel at 2 ppm; and potato, wet peel at 0.3 ppm.

In addition, DuPont requested to amend 40 CFR part 180 to establish indirect or inadvertent tolerances for residues of cyantraniliprole, 3-bromo-1-(3-chloro-2-pyridinyl)-*N*-[4-cyano-2-methyl-6-[(methylamino)carbonyl]phenyl]-1*H*-pyrazole-5-carboxamide, including its metabolites and degradates, in or on the following commodities: Foliage of legume vegetables (group 7), forage at 0.15 ppm; foliage of legume vegetables (group 7), hay at 0.6 ppm; forage, fodder and straw of cereal grains (group 16), forage at 0.06 ppm; forage, fodder and straw of cereal grains (group 16), hay and straw at 0.15 ppm; grass forage, fodder, and hay (group 17), forage at 0.06 ppm; grass forage, fodder, and hay (group 17), hay at 0.15 ppm; leaves of root and tuber vegetables (human food or animal feed) (group 2) at 0.04 ppm; nongrass animal feeds (forage, fodder, straw, and hay) (group 18), forage at 0.06 ppm; nongrass animal feeds (forage, fodder, straw, and hay) (group 18), hay at 0.15 ppm; peanut hay at 0.03 ppm; root and tuber vegetables, root vegetables (subgroup 1A) at 0.03 ppm.

That document referenced a summary of the petition prepared by DuPont, the registrant, which is available in the docket, *http://www.regulations.gov.*

Based upon review of the data supporting the petition, EPA is establishing several tolerances that vary from levels requested in the original petition. The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in

residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for cyantraniliprole including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with cyantraniliprole follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Cyantraniliprole is a 2-generation ryanodine receptor (RyR) insecticide belonging to the diamide class of chemistry whose pesticidal mode of action (MOA) is through unregulated activation of insect RyR channels. This leads to internal calcium store depletion and impaired regulation of muscle contraction, causing paralysis and eventual death of the insect. Mammalian RyR are shown to be 350 to >2,500 times less sensitive than those of insects. In general, cyantraniliprole administration in mammals produces both adverse and adaptive changes in the liver, thyroid gland, and adrenal cortex. With repeated dosing, consistent findings of mild to moderate increases in liver weights across multiple species (rats, mice, and dogs) are observed. Dogs appear to be more sensitive than rats and mice; cyantraniliprole produces adverse liver effects (increases in alkaline phosphatase, decreases in cholesterol, and decreases in albumin) in dogs at lower dose levels than in rats. In addition, the liver effects in the dog show progressive severity with increased duration of exposure. The available data also show thyroid hormone homeostasis is altered in rats following exposure to cyantraniliprole after 90 days due to enhanced metabolism of the thyroid hormones by the liver. However, cyantraniliprole does not act directly on the thyroid; the thyroid effects observed are only as a result of the adverse effects on the liver. Cyantraniliprole is classified as ''Not Likely to be Carcinogenic to Humans'' based on the absence of increased tumor incidence in acceptable/guideline carcinogenicity studies in rats and mice. In addition, there are no genotoxicity, mutagenicity, neurotoxicity, or immunotoxicity concerns. There are also no developmental or reproductive toxicity concerns. There is no evidence of an adverse effect attributable to a single dose. Specific information on the studies received and the nature of the adverse effects caused by cyantraniliprole as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document ''Cyantraniliprole. Aggregate Human Health Risk Assessment for the Proposed New Uses of the New Active Insecticide (March 7, 2013)'' at p.16 in docket ID number EPA–HQ–OPP–2011–0668.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern (LOC) to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints and points of departure for cyantraniliprole used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR CYANTRANILIPROLE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	POD and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (general population, including infants and children and females 13–49 years of age).	An effect attributed to a single dose was not identified in the toxicology database.		
Chronic dietary (All populations)	NOAEL = 1 mg/kg/day. UF_A = 10x. UF_H = 10x. FQPA SF = 1x.	Chronic RfD = 0.01 mg/kg/day. cPAD = 0.01 mg/kg/day.	Based on 1-year oral study in dogs. LOAEL = 6 mg/kg/day based on effects indicative of liver toxicity (increased liver weights and alkaline phosphatase activity), and significant decreases in albumin level.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR CYANTRANILIPROLE FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/scenario	POD and uncertainty/ safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Incidental oral short-term (1 to 30 days) and incidental oral intermediate-term (1 to 6 months).	NOAEL = 3 mg/kg/ day. UF_A = 10x. UF_H = 10x. FQPA SF = 1x.	LOC for MOE = 100	Based on both 28-day and 90-day oral study in dogs. 28-Day LOAEL = 35 mg/kg/day (lowest dose tested) based on decreases in body weight, food consumption, food efficiency, and changes in clinical chemistry (increased alkaline phosphatase, decreased cholesterol and decreased albumin). 90-Day LOAEL = 32 mg/kg/day based on a collection of treatment-related effects indicative of liver toxicity. The effects included decreases in total protein, albumin, and cholesterol in males and females; increases in alkaline phosphatase in males and females; increases in alanine aminotransferase in females; and increases in liver weights in males and females.
Dermal short-term (1 to 30 days).	A toxicity endpoint was not identified. Systemic toxicity was not seen in 28-day dermal toxicity in rats at the limit dose (1,000 mg/kg/day). There are no concerns for developmental or reproductive toxicity or neurotoxicity.		
Inhalation short-term (1 to 30 days).	Inhalation study NOAEL = 0.1 mg/ kg/day. UF_A = 3x.[a] UF_H = 10x. FQPA SF = 1x. HEC = 0.05 mg/L. HED = 7.2 mg/kg/ day.	LOC for MOE = 30 ..	Based on 28-day inhalation toxicity study in rats. A LOAEL was not established because the highest concentration tested (0.1 mg/L) did not demonstrate any adverse portal of entry or systemic effects.
Cancer (oral, dermal, inhalation).	Classification: ''Not likely to be Carcinogenic to Humans'' based on data showing lack of treatment-related increase in tumor incidence in the rat and mouse carcinogenicity studies. Mutagenic concern was not reported in the mutagenicity studies.		

FQPA SF = Food Quality Protection Act Safety Factor. HEC = human equivalent concentration. HED = human equivalent dose. LOAEL = lowest observed adverse effect level. LOC = level of concern. mg/kg/day = milligram/kilogram/day.

mg/L = milligram/Liter. MOE = margin of exposure. NOAEL = no observed adverse effect level. PAD = population-adjusted dose. POD = point of departure. RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

[a] The magnitude of the UFs applied is dependent on the methodology used to calculate risk. The reference concentration (RfC) methodology takes into consideration the pharmacokinetic (PK) differences, but not the pharmacodynamic (PD) differences. Consequently, the UF for interspecies extrapolation may be reduced to 3x (to account for the PD differences).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to cyantraniliprole, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from cyantraniliprole in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for cyantraniliprole; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/ WWEIA). As to residue levels in food, EPA conducted a somewhat refined chronic (food and drinking water) dietary assessment assuming average field trial residues for all crops (except crop subgroup 1A which used tolerance levels). Tolerance-level residues were used to cover residues in all livestock commodities except liver and meat byproducts for which higher anticipated residue calculations were used. For processed commodities, input values included combined average residues of parent and the metabolite with relevant processing factors. It was assumed that 100% crop treated (PCT) for all crops.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that cyantraniliprole does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for cyantraniliprole in drinking water. These simulation models take into account data on the physical, chemical,

and fate/transport characteristics of cyantraniliprole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the First Index Reservoir Screening Tool (FIRST) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of cyantraniliprole for acute exposures are estimated to be 43.14 parts per billion (ppb) for surface water and 6.33 ppb for ground water. For chronic exposures for non-cancer assessments EDWCs are also estimated to be 24.45 ppb for surface water and 6.33 for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. An acute dietary risk assessment was not conducted since no acute toxicological effects were found. For chronic dietary risk assessment, the water concentration of value 24.45 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Cyantraniliprole is proposed for use on the following sites that could result in residential exposures: indoor crack/crevice application, turfgrass, golf courses, and ornamentals including both outdoors and in interior plantscapes. EPA assessed residential exposure using the following assumptions: Residential exposure may occur by the dermal, oral, and inhalation routes of exposures. However, since dermal hazard has not been identified for cyantraniliprole, the only exposures of concern are handler inhalation (for adults), and post-application incidental oral (for children). Residential handler exposure is expected to be short-term in duration. The turf and ornamental labels indicate that a maximum of two applications are allowed per season. Thus, intermediate-term exposures are not likely because of the intermittent nature of applications by homeowners. Post-application incidental oral exposures for children may occur for short- and intermediate-term durations due to the persistence of cyantraniliprole. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/opp00001/science/residential-exposure-sop.html.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found cyantraniliprole to share a common mechanism of toxicity with any other substances, and cyantraniliprole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that cyantraniliprole does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10x) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10x, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence of susceptibility in developmental toxicity studies in rats and rabbits. The developmental toxicity study in rats is tested up to the limit dose (1,000 mg/kg/day). In the rabbit developmental toxicity study decrease in fetal body weight is seen at a dose higher than that resulting in maternal effects. In the reproductive toxicity study, increased incidence of thyroid follicular epithelium hypertrophy/hyperplasia occurs in F_1 parental animals (offspring of P_0 generation) at 14 mg/kg/day which is lower than that for the parental (P_0) generation (110 mg/kg/day). A clear NOAEL (1.4 mg/kg/day) is established for F_1 parental animals, and the PODs selected for risk assessment from the dog studies (1 or 3 mg/kg/day) are protective of the effect (thyroid effect) seen in the F_1 parental animals. In addition, the submitted data support the conclusion that the effects on the thyroid are secondary to effects on the liver.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1. That decision is based on the following findings:

i. The toxicity database for cyantraniliprole is complete.

ii. There is no indication that cyantraniliprole is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. As discussed in Unit III.D.2., there is no evidence that cyantraniliprole results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and average field trial residues. The field trial data were validated against the appropriate guideline criteria and found acceptable. The field trial data reflect the maximum residues that are likely to occur on food commodities when cyantraniliprole is used according to label directions at the maximum allowed application rate and minimum allowed interval from treatment to harvest. These are farm gate residues and do not reflect decreases in residues that may occur during transport and storage prior to consumption. No corrections were made for the percentage of crops treated, that is, it was assumed that 100% of all crops for which there is a cyantraniliprole tolerance will be treated. Therefore, the data are considered unlikely to underestimate actual dietary exposure to cyantraniliprole. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to cyantraniliprole in drinking water. In addition, the residential exposure assessment is based on the updated 2012 Residential Standard Operating Procedures (SOPs) employing surrogate study data, including conservative exposure assumptions based on day 0 dermal/oral contact to turf and surfaces treated at the maximum application rate. These data are reliable and are not expected to underestimate risks to adults or children. The Residential SOPs are based upon reasonable ''worst-case'' assumptions are not expected to underestimate risk.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, cyantraniliprole is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to cyantraniliprole from food and water will utilize 50% of the cPAD for children 1–2 years old (the population group receiving the greatest exposure) and 22% of the general U.S. population.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Cyantraniliprole is proposed for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to cyantraniliprole. Residential exposure estimates of all possible scenarios are not of concern. Short-term inhalation MOEs range from 22,000 to 220,000,000. Furthermore, these calculated risk estimates are highly conservative because the inhalation exposure POD is based on an exposure duration of 24 hours per day.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 290 for children 1–2 years old (the population group receiving the greatest exposure) and 22,000 for adults. Because EPA's LOC for cyantraniliprole is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). For adults, intermediate-term exposure is not expected for the residential exposure pathway. Therefore, the intermediate-term aggregate risk would be equivalent to the chronic dietary exposure estimate. For children 1 to <2 years old, the short-term aggregate risk is protective of the intermediate-term duration.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, cyantraniliprole is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to cyantraniliprole residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate residue analytical method data have been submitted. Validation data have been provided for the proposed enforcement methods. Methods for measuring cyantraniliprole include the European Union (EU) multi-residue method DFG S19 (LC/MS/MS module, Dupont-21328) and the North American Free Trade Association (NAFTA) LC/MS/MS 1187 and 1552 methods. These methods utilize two mass ion transitions so confirmatory methods are not required. EU Method DFG S19 has been independently validated with a limit of quantification (LOQ) of 0.01 ppm for parent cyantraniliprole in cereals and dry products, matrices with high water content, acidic matrices, and fatty products. NAFTA method 1187 has been independently validated with an LOQ of 0.01 ppm for parent cyantraniliprole in almonds, onions, tomato paste, and sun dried tomatoes. NAFTA method 1552 has been independently validated with an LOQ of 0.01 ppm for parent cyantraniliprole in milk, muscle, and kidney. Note that cyantraniliprole is not recovered using the Food and Drug Administration (FDA) multi-residue methods.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. Currently there are no Codex MRLs for cyantraniliprole.

C. Response to Comments

The Agency did not receive any public comments on the May 23, 2012 **Federal Register** Notice of Filing.

D. Revisions to Petitioned-For Tolerances

Based on the residue data provided and using the Organization of Economic Cooperation and Development (OECD) statistical calculation procedures, EPA is revising the tolerance levels for the following plant commodities: Almond hulls; *Brassica* head and stem vegetables (subgroup 5A); fruit, pome (group 11–10); fruit, stone; nut, tree (group 14–12); oilseed (group 20); vegetable, cucurbit (group 9); and vegetable, leafy (except *Brassica*) (group 4).

The proposed tolerance for citrus oil was lowered from 4 ppm to 2.4 ppm, consistent with the results from application of the median processing factor to the highest average field trials (HAFT) for oranges. EPA is not establishing tolerances for the processed commodities citrus raw peel and potato wet peel. The processing studies do not show a concentration of residue in these commodities relative to the raw agricultural commodities (RAC); therefore, the tolerances on RAC are sufficient to cover residues in these processed commodities.

EPA is not establishing separate tolerances for liver of cattle, goat, horse, and sheep; hog fat, liver, meat, and meat byproducts; and milk fat. The livestock commodity tolerances are derived from consideration of the maximum reasonably balanced livestock diets and the livestock feeding studies. A tolerance value of 0.01 ppm is appropriate for liver (of cattle, goat, horse, and sheep), which is covered by the meat byproducts tolerance. The dietary exposures of hogs and poultry do not indicate a need for tolerances (residues are not anticipated), and there is no indication of significant

concentration of cyantraniliprole in milk fat relative to milk.

With the exception of the proposed tolerance for leaves of root and tuber vegetables, EPA is revising all of the proposed tolerances for inadvertent residues (with a plantback interval (PBI) of 30 days) based on available residue data and use of the OECD statistical calculation procedures. For some crop groups, more than one tolerance was proposed for various components of the group (e.g., crop group 16 which includes forage, fodder, and straw of cereal grains); however, only one tolerance is possible per group, and the tolerance is based on the member commodity with the highest residue levels.

EPA issued a final rule in the **Federal Register** of August 22, 2012 (77 FR 50617) (FRL–9354–3) that revised some crop grouping regulations. As part of that action, EPA expanded and revised the previously existing tree nut crop group 14. Changes to crop group 14 included adding pistachios plus a number of other nuts, revising the taxonomic names for several commodities, and naming the new crop group tree nut group 14–12. The representative commodities remain the same as previous almond and pecan. That final rule became effective on October 22, 2012. EPA indicated in the August 22, 2012 final rule as well as the earlier proposed rule published in the **Federal Register** of November 9, 2011 (76 FR 69693) (FRL–8887–8) that, for existing petitions for which a Notice of Filing had been published, the Agency would attempt to conform these petitions to the rule. Therefore, consistent with this rule, EPA has assessed and is establishing a tolerance for cyantraniliprole on tree nuts crop group 14–12.

V. Conclusion

Therefore, tolerances are established for residues of cyantraniliprole, 3-bromo -1-(3-chloro-2-pyridinyl)-*N*-[4-cyano-2-methyl-6-[(methylamino)carbonyl] phenyl]-1*H*-pyrazole-5-carboxamide, including its metabolites and degradates, in or on almond, hulls at 8.0 ppm; *Brassica* head and stem (subgroup 5A) at 3.0 ppm; *Brassica* leafy vegetables (subgroup 5B) at 30 ppm; bushberry (subgroup 13–07B) at 4.0 ppm; cattle, fat at 0.01 ppm; cattle, meat at 0.01 ppm; cattle, meat byproducts at 0.01 ppm; cherry (subgroup 12–12A) at 6.0 ppm; citrus, oil at 2.4 ppm; cotton, gin byproducts at 10 ppm; fruit, citrus (group 10–10) at 0.70 ppm; fruit, pome (group 11–10) at 1.5 ppm; goat, fat at 0.01 ppm; goat, meat at 0.01 ppm; goat, meat byproducts at 0.01 ppm; horse, fat at 0.01 ppm; horse, meat at 0.01 ppm; horse, meat byproducts at 0.01 ppm; milk at 0.01 ppm; nut, tree (group 14–12) at 0.04 ppm; oilseed (group 20) at 1.5 ppm; onion, bulb (subgroup 3–07A) at 0.04 ppm; onion, green (subgroup 3–07B) at 8.0 ppm; peach (subgroup 12–12B) at 1.5 ppm; plum (subgroup 12–12C) at 0.50 ppm; sheep, fat at 0.01 ppm; sheep, meat at 0.01 ppm; sheep, meat byproducts at 0.01 ppm; vegetable, cucurbit (group 9) at 0.40 ppm; vegetable, fruiting (group 8–10) at 2.0 ppm; vegetable, leafy (except *Brassica*) (group 4) at 20 ppm; vegetable, tuberous and corm (subgroup 1C) at 0.15 ppm. In addition, indirect or inadvertent tolerances for cyantraniliprole, 3-bromo -1-(3-chloro-2-pyridinyl)-*N*-[4-cyano-2-methyl-6-[(methylamino)carbonyl] phenyl]-1*H*-pyrazole-5-carboxamide), including its metabolites and degradates, in or on the following commodities: Animal feed, nongrass (group 18) at 0.20 ppm; grain, cereal, forage, fodder and straw (group 16) at 0.50 ppm; grass forage, fodder and hay (group 17) at 0.50 ppm; peanut, hay at 0.01 ppm; vegetable, foliage of legume (group 7) at 0.70 ppm; vegetable, leaves of root and tuber vegetables (group 2) at 0.04 ppm; vegetable, root (subgroup 1A) at 0.02 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 24, 2014.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add new § 180.672 to subpart C to read as follows:

§ 180.672 Cyantraniliprole; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the insecticide cyantraniliprole, 3-bromo-1-(3-chloro-2-pyridinyl)-*N*-[4-cyano-2-methyl-6-[(methylamino) carbonyl]phenyl]-1*H*-pyrazole-5-carboxamide, including its metabolites and degradates, in or on commodities in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only cyantraniliprole in or on the commodity.

Commodity	Parts per million
Almond, hulls	8.0
Brassica head and stem (subgroup 5A)	3.0
Brassica leafy vegetables (subgroup 5B)	30
Bushberry (subgroup 13–07B)	4.0
Cattle, fat	0.01
Cattle, meat	0.01
Cattle, meat byproducts	0.01
Cherry (subgroup 12–12A)	6.0
Citrus, oil	2.4
Cotton, gin byproducts	10
Fruit, citrus (group 10–10)	0.70
Fruit, pome (group 11–10)	1.5
Goat, fat	0.01
Goat, meat	0.01
Goat, meat byproducts	0.01
Horse, fat	0.01
Horse, meat	0.01
Horse, meat byproducts	0.01
Milk	0.01
Nut, tree (group 14–12)	0.04
Oilseed (group 20)	1.5
Onion, bulb (subgroup 3–07A)	0.04
Onion, green (subgroup 3–07B)	8.0
Peach (subgroup 12–12B)	1.5
Plum (subgroup 12–12C)	0.50
Sheep, fat	0.01
Sheep, meat	0.01
Sheep, meat byproducts	0.01
Vegetable, cucurbit (group 9)	0.40
Vegetable, fruiting (group 8–10)	2.0
Vegetable, leafy (except *Brassica*) (group 4)	20
Vegetable, tuberous and corm (subgroup 1C)	0.15

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent tolerances for residues of cyantraniliprole, 3-bromo-1-(3-chloro-2-pyridinyl)-*N*-[4-cyano-2-methyl-6-[(methylamino)carbonyl]phenyl]-1*H*-pyrazole-5-carboxamide, including its metabolites and degradates, in or on commodities in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only cyantraniliprole in or on the commodity.

Commodity	Parts per million
Animal feed, nongrass (group 18)	0.20
Grain, cereal, forage, fodder and straw (group 16)	0.50
Grass forage, fodder and hay (group 17)	0.50
Peanut, hay	0.01
Vegetable, foliage of legume (group 7)	0.70
Vegetable, leaves of root and tuber vegetables (group 2)	0.04
Vegetable, root (subgroup 1A)	0.02

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BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–8321]

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 IV				
Florida:				
Anna Maria, City of, Manatee County ...	125087	June 30, 1970, Emerg; June 11, 1971, Reg; March 17, 2014, Susp.	March 17, 2014	March 17, 2014.
Bradenton, City of, Manatee County	120155	June 5, 1975, Emerg; June 1, 1981, Reg; March 17, 2014, Susp.	.....do*	Do.
Bradenton Beach, City of, Manatee County.	125091	June 30, 1970, Emerg; June 11, 1971, Reg; March 17, 2014, Susp.	.....do	Do.
Brevard County, Unincorporated Areas	125092	November 13, 1970, Emerg; September 22, 1972, Reg; March 17, 2014, Susp.	.....do	Do.
Cape Canaveral, City of, Brevard County.	125094	March 19, 1971, Emerg; September 29, 1972, Reg; March 17, 2014, Susp.	.....do	Do.
Cape Canaveral Port Authority, Brevard County.	120619	October 29, 1979, Emerg; April 3, 1989, Reg; March 17, 2014, Susp.	.....do	Do.
Clay County, Unincorporated Areas	120064	February 26, 1975, Emerg; July 2, 1981, Reg; March 17, 2014, Susp.	.....do	Do.
Cocoa, City of, Brevard County	120020	July 2, 1974, Emerg; September 28, 1979, Reg; March 17, 2014, Susp.	.....do	Do.
Cocoa Beach, City of, Brevard County	125097	November 20, 1970, Emerg; June 16, 1972, Reg; March 17, 2014, Susp.	.....do	Do.
Green Cove Springs, City of, Clay County.	120065	October 11, 1974, Emerg; March 1, 1979, Reg; March 17, 2014, Susp.	.....do	Do.
Grant-Valkaria, Town of, Brevard County.	120224	N/A, Emerg; November 20, 2007, Reg; March 17, 2014, Susp.	.....do	Do.
Holmes Beach, City of, Manatee County.	125114	July 10, 1970, Emerg; June 11, 1971, Reg; March 17, 2014, Susp.	.....do	Do.
Indialantic, Town of, Brevard County	125115	October 29, 1971, Emerg; August 18, 1972, Reg; March 17, 2014, Susp.	.....do	Do.
Keystone Heights, City of, Clay County	120671	N/A, Emerg; November 13, 1998, Reg; March 17, 2014, Susp.	.....do	Do.
Longboat Key, Town of, Manatee and Sarasota Counties.	125126	April 30, 1970, Emerg; July 30, 1971, Reg; March 17, 2014, Susp.	.....do	Do.
Malabar, Town of, Brevard County	120024	August 28, 1974, Emerg; September 28, 1979, Reg; March 17, 2014, Susp.	.....do	Do.
Manatee County, Unincorporated Areas	120153	June 25, 1971, Emerg; June 25, 1971, Reg; March 17, 2014, Susp.	.....do	Do.
Melbourne, City of, Brevard County	120025	August 30, 1974, Emerg; July 1, 1979, Reg; March 17, 2014, 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
Melbourne Beach, Town of, Brevard County.	125128	January 15, 1971, Emerg; November 24, 1972, Reg; March 17, 2014, Susp.	.....do	Do.
Melbourne Village, Town of, Brevard County.	120329	August 26, 1974, Emerg; November 15, 1979, Reg; March 17, 2014, Susp.	.....do	Do.
Orange Park, City of, Clay County	120066	June 6, 1975, Emerg; March 18, 1980, Reg; March 17, 2014, Susp.	.....do	Do.
Palm Bay, City of, Brevard County	120404	July 31, 1975, Emerg; September 3, 1980, Reg; March 17, 2014, Susp.	.....do	Do.
Palm Shores, Town of, Brevard County	120612	N/A, Emerg; March 27, 1995, Reg; March 17, 2014, Susp.	.....do	Do.
Palmetto, City of, Manatee County	120159	April 25, 1975, Emerg; September 2, 1981, Reg; March 17, 2014, Susp.	.....do	Do.
Penney Farms, Town of, Clay County ..	120059	November 15, 2010, Emerg; N/A, Reg; March 17, 2014, Susp.	.....do	Do.
Rockledge, City of, Brevard County	120027	June 18, 1974, Emerg; November 15, 1979, Reg; March 17, 2014, Susp.	.....do	Do.
Satellite Beach, City of, Brevard County	120028	October 20, 1972, Emerg; February 13, 1976, Reg; March 17, 2014, Susp.	.....do	Do.
Titusville, City of, Brevard County	125152	March 12, 1971, Emerg; June 16, 1972, Reg; March 17, 2014, Susp.	.....do	Do.
West Melbourne, City of, Brevard County.	120335	January 31, 1975, Emerg; March 18, 1980, Reg; March 17, 2014, Susp.	.....do	Do.
Georgia:				
Covington, City of, Newton County	130144	April 23, 1975, Emerg; March 2, 1983, Reg; March 17, 2014, Susp.	.....do	Do.
Newton County, Unincorporated Areas	130143	May 23, 1977, Emerg; July 5, 1983, Reg; March 17, 2014, Susp.	.....do	Do.
Oxford, Town of, Newton County	130367	June 26, 2006, Emerg; September 5, 2007, Reg; March 17, 2014, Susp.	.....do	Do.
Porterdale, City of, Newton County	130145	July 31, 1975, Emerg; January 19, 1983, Reg; March 17, 2014, Susp.	.....do	Do.
Region V				
Indiana:				
Cumberland, Town of, Hancock County	180510	N/A, Emerg; March 10, 1993, Reg; March 17, 2014, Susp.	.....do	Do.
Fortville, Town of, Hancock County	180372	N/A, Emerg; May 13, 2009, Reg; March 17, 2014, Susp.	.....do	Do.
Hancock County, Unincorporated Areas	180419	April 21, 1975, Emerg; October 15, 1982, Reg; March 17, 2014, Susp.	.....do	Do.
Jay County, Unincorporated Areas	180440	April 9, 1996, Emerg; N/A, Reg; March 17, 2014, Susp.	.....do	Do.
McCordsville, Town of, Hancock County	180468	N/A, Emerg; March 18, 2005, Reg; March 17, 2014, Susp.	.....do	Do.
Portland, City of, Jay County	185178	September 24, 1971, Emerg; May 12, 1972, Reg; March 17, 2014, Susp.	.....do	Do.
Wisconsin:				
Ashwaubenon, Village of, Brown County.	550600	September 28, 1979, Emerg; September 28, 1979, Reg; March 17, 2014, Susp.	.....do	Do.
Brown County, Unincorporated Areas ...	550020	March 10, 1972, Emerg; April 17, 1978, Reg; March 17, 2014, Susp.	.....do	Do.
Green Bay, City of, Brown County	550022	August 30, 1974, Emerg; September 30, 1977, Reg; March 17, 2014, Susp.	.....do	Do.
Hawkins, Village of, Rusk County	550373	August 30, 1974, Emerg; July 15, 1988, Reg; March 17, 2014, Susp.	.....do	Do.
Hobart, Village of, Brown County	550626	N/A, Emerg; May 3, 2005, Reg; March 17, 2014, Susp.	.....do	Do.
Howard, Village of, Brown and Outagamie Counties.	550023	March 8, 1976, Emerg; February 17, 1982, Reg; March 17, 2014, Susp.	.....do	Do.
Ingram, Village of, Rusk County	550374	July 11, 1979, Emerg; January 2, 1987, Reg; March 17, 2014, Susp.	.....do	Do.
Ladysmith, City of, Rusk County	550375	February 14, 1974, Emerg; September 1, 1978, Reg; March 17, 2014, Susp.	.....do	Do.
Rusk County, Unincorporated Areas	550602	May 31, 1988, Emerg; May 31, 1988, Reg; March 17, 2014, Susp.	.....do	Do.
Suamico, Village of, Brown County	550660	N/A, Emerg; May 24, 2004, Reg; March 17, 2014, Susp.	.....do	Do.
Region VI				
Texas:				
Kingsville, City of, Kleberg County	480424	February 26, 1971, Emerg; February 26, 1971, Reg; March 17, 2014, 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
Kleberg County, Unincorporated Areas	480423	August 13, 1971, Emerg; August 13, 1971, Reg; March 17, 2014, Susp.	.....do	Do.
Region IX				
California:				
Corte Madera, Town of, Marin County ..	065023	July 17, 1970, Emerg; December 15, 1977, Reg; March 17, 2014, Susp.	.....do	Do.
Fairfax, Town of, Marin County	060175	October 9, 1973, Emerg; January 5, 1978, Reg; March 17, 2014, Susp.	.....do	Do.
Larkspur, City of, Marin County	065040	October 23, 1970, Emerg; March 15, 1984, Reg; March 17, 2014, Susp.	.....do	Do.
Ross, Town of, Marin County	060179	September 18, 1974, Emerg; February 4, 1981, Reg; March 17, 2014, Susp.	.....do	Do.
San Anselmo, Town of, Marin County ..	060180	October 24, 1973, Emerg; December 1, 1977, Reg; March 17, 2014, Susp.	.....do	Do.
Region X				
Alaska:				
Fairbanks North Star Borough	025009	May 15, 1970, Emerg; May 15, 1970, Reg; March 17, 2014, Susp.	.....do	Do.
Oregon: Bandon, City of, Coos County	410043	October 11, 1974, Emerg; August 15, 1984, Reg; March 17, 2014, Susp.	.....do	Do.
Coos Bay, City of, Coos County	410044	August 23, 1974, Emerg; August 1, 1984, Reg; March 17, 2014, Susp.	.....do	Do.
Coos County, Unincorporated Areas	410042	July 7, 1975, Emerg; November 15, 1984, Reg; March 17, 2014, Susp.	.....do	Do.
Coquille, City of, Coos County	410045	April 29, 1975, Emerg; September 28, 1984, Reg; March 17, 2014, Susp.	.....do	Do.
Lakeside, City of, Coos County	410278	June 2, 1975, Emerg; August 1, 1984, Reg; March 17, 2014, Susp.	.....do	Do.
Myrtle Point, City of, Coos County	410047	January 30, 1975, Emerg; July 16, 1984, Reg; March 17, 2014, Susp.	.....do	Do.
North Bend, City of, Coos County	410048	June 4, 1975, Emerg; August 1, 1984, Reg; March 17, 2014, Susp.	.....do	Do.
Powers, City of, Coos County	410049	August 6, 1975, Emerg; June 30, 1976, Reg; March 17, 2014, Susp.	.....do	Do.

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

Dated: January 27, 2014.

David L. Miller,

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

[FR Doc. 2014–02400 Filed 2–4–14; 8:45 am]

BILLING CODE 9110–12–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (Corporation) is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines issued by the Department of Health and Human Services (DHHS).

DATES: *Effective:* February 5, 2014.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007; (202) 295–1563; *sdavis@lsc.gov.*

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act (Act), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(c) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. 45 CFR 1611.3(c). Since 1982, the DHHS has been responsible for updating and issuing the Federal Poverty Guidelines. The figures for 2014 set out below are equivalent to 125 percent (125%) of the current Federal Poverty Guidelines as published on January 22, 2014 (79 FR 3593).

In addition, LSC is publishing charts listing income levels that are two hundred percent (200%) of the Federal Poverty Guidelines. These charts are for reference purposes only as an aid to grant recipients in assessing the financial eligibility of an applicant whose income is greater than 125 percent (125%) of the applicable Federal Poverty Guidelines amount, but less than 200 percent (200%) of the applicable Federal Poverty Guidelines amount (and who may be found to be financially eligible under duly adopted exception to the annual income ceiling in accordance with §§ 1611.3, 1611.4, and 1611.5).

List of Subjects in 45 CFR Part 1611

Grant Programs—Law, Legal Services.

For reasons set forth in the preamble, the Legal Services Corporation amends 45 CFR Part 1611 as follows:

PART 1611—ELIGIBILITY

■ 1. Revise the authority citation for part 1611 to read as follows:

Authority: 42 U.S.C. 2996e(b)(1), 2996e(b)(3), 2996f(a)(1), 2996f(a)(2), 2996g(e); Section 509(h) of Pub. L. 104–134, 110 Stat. 1321 (1996); Pub. L. 105–119, 11 Stat. 2512 (1998).

■ 2. Revise Appendix A to part 1611 to read as follows:

Appendix A to Part 1611—Income Level for Individuals Eligible for Assistance

LEGAL SERVICES CORPORATION 2013 INCOME GUIDELINES *

Size of household	48 contiguous states and the District of Columbia	Alaska	Hawaii
1	$14,588	$18,225	$16,775
2	19,663	24,575	22,613
3	24,738	30,925	28,450
4	29,813	37,275	34,288
5	34,888	43,625	40,125
6	39,963	49,975	45,963
7	45,038	56,325	51,800
8	50,113	62,675	57,638
For each additional member of the household in excess of 8, add:	5,075	6,350	5,838

* The figures in this table represent 125% of the poverty guidelines by household size as determined by DHHS.

REFERENCE CHART—200% OF DHHS FEDERAL POVERTY GUIDELINES

Size of household	48 contiguous states and the District of Columbia	Alaska	Hawaii
1	$23,340	$29,160	$26,840
2	31,460	39,320	36,180
3	39,580	49,480	45,520
4	47,700	59,640	54,860
5	55,820	69,800	64,200
6	63,940	79,960	73,540
7	72,060	90,120	82,880
8	80,180	100,280	92,220
For each additional member of the household in excess of 8, add:	8,120	10,160	9,340

Dated: January 29, 2014.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2014–02299 Filed 2–4–14; 8:45 am]

BILLING CODE 7050–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 121018563–3148–02]

RIN 0648–XD111

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

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using jig gear to catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the A season apportionment of the 2014 total allowable catch of Pacific cod to be harvested.

DATES: Effective January 31, 2014, through 2400 hours, Alaska local time (A.l.t.), December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

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

The A season apportionment of the 2014 Pacific cod total allowable catch (TAC) specified for vessels using jig gear in the BSAI is 1,905 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) and inseason adjustment (78 FR 758, January 7, 2014).

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that jig vessels will not be able to harvest 1,700 mt of the A season apportionment of the 2014 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*1*). Therefore, in accordance with § 679.20(a)(7)(iv)(C), NMFS apportions 1,700 mt of Pacific cod from the A season jig gear apportionment to the annual amount specified for catcher vessels less than 60 feet (18.3 meters(m)) length overall (LOA) using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in the final 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) and

inseason adjustment (78 FR 758, January 7, 2014) are revised as follows: 205 mt to the A season apportionment and 1,474 mt to the annual amount for vessels using jig gear, and 6,218 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from jig vessels to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 30, 2014.

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

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: January 31, 2014.

Sean F. Corson,

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

[FR Doc. 2014–02433 Filed 1–31–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 24
Wednesday, February 5, 2014

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

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2013–BT–STD–0040]

RIN 1904–AC83

Energy Efficiency Program for Consumer Products: Energy Conservation Standards for Commercial and Industrial Air Compressors

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public meeting and availability of the Framework Document.

SUMMARY: The U.S. Department of Energy (DOE) is considering establishing energy conservation standards for commercial and industrial air compressors. As part of this effort, DOE is soliciting comment and data from the public on a variety of issues related to the setting of standards for this equipment. To inform interested parties and to facilitate this process, DOE has prepared a Framework Document that details the analytical approach and scope of coverage DOE is considering for this effort. The Framework Document describes the analytical approach that DOE plans to use and identifies a number of issues on which DOE seeks comment. DOE will hold a public meeting to discuss and receive comments on its planned analytical approach and the issues it plans to address. DOE seeks written comments and relevant data from the public on any subject within the scope of this rulemaking effort. A copy of the Framework Document is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/58.*

DATES: *Meeting:* DOE will hold a public meeting on Monday, March 3, 2014, from 9:00 a.m. to 3:30 p.m. in Washington, DC. In addition, DOE plans to broadcast the public meeting via webinar. You may attend the public meeting either in person or via webinar. Registration information, participant instructions, and also information about the capabilities available to webinar participants will be published in advance on DOE's Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/58.* Webinar participants are responsible for ensuring their systems are compatible with the webinar software.

Any person requesting to present an oral statement for the record must (1) notify DOE prior to 4:00 p.m., Monday, February 17, 2014; and (2) provide to DOE an electronic copy of the statement with the presenter's name and, if appropriate, the organization the presenter represents, prior to 4:00 p.m., Monday, February 24, 2014.

Comments: DOE will accept written comments, data, and other related information about the Framework Document before and after the public meeting, but not later than March 24, 2014.

ADDRESSES: *Meeting:* The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121.

Please note that any foreign national planning to participate in the public meeting is subject to advance security screening procedures, and should so inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945. Please note further that any visitor with a personal computer who enters the Forrestal Building is required to be screened and to obtain a property pass upon entry. Such visitors should allow 45 minutes for the screening process. As noted above, persons may also attend the public meeting via webinar. See ''Public Participation'' in **SUPPLEMENTARY INFORMATION** below for additional meeting details.

Comments: Interested parties are encouraged to submit comments electronically. However, comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Compressors2013STD0040@ee.doe.gov.* Include docket number EERE–2013–BT–STD–0040 and/or regulation identifier number (RIN) 1904–AC83 in the subject line of the message. All comments should clearly identify the name, address, and, if appropriate, organization of the commenter. Submit electronic comments either in WordPerfect, Microsoft Word, portable document format (PDF), or American Standard Code for Information Interchange (ASCII) file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Framework Document for Commercial and Industrial Air Compressors, Docket No. EERE–2013–BT–STD–0040 and/or RIN 1904–AC83, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies. [Please note that comments sent by mail are often delayed and may be damaged by mail screening processes.]
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Sixth Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Instructions: All submissions received must include the agency name and docket number and/or RIN for this rulemaking. No telefacsimilies (faxes) will be accepted.

Docket: The docket is available for review at *http://www.regulations.gov,* and will include **Federal Register** notices, framework document, public meeting attendee lists and transcripts, comments, and other supporting documents/materials throughout the rulemaking process. The regulations.gov Web page contains simple instructions on how to access all documents, including public comments, in the docket. The docket can be accessed by searching for docket number EERE–2013–BT–STD–0040 on the regulations.gov Web site. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

For information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8654. Email: *compressors@ee.doe.gov.*

Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *michael.kido@hq.doe.gov.*

For information on how to submit or review public comments and on how to participate in the public meeting, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6291, *et seq.,* (EPCA) sets forth a variety of provisions designed to improve the energy efficiency of products and commercial equipment. (All references to EPCA refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA 2012), Pub. L. 112–210 (December 18, 2012)). Part C of Title III (42 U.S.C. 6311–6317), which was subsequently redesignated as Part A–1 for editorial reasons, establishes an energy conservation program for certain industrial equipment, which includes compressors, the subject of today's notice. (42 U.S.C. 6311(2)(B)(i))

Section 341 of EPCA, 42 U.S.C. 6312, provides a general statement of purpose to improve the efficiency of electric motors and pumps and certain other industrial equipment to conserve the energy resources of the Nation. Accordingly, section 341 further provides that the Secretary of Energy may, by rule, classify certain equipment as covered equipment if he determines that to do so is necessary to carry out the purposes of Part A–1 of EPCA. In considering whether to establish energy conservation standards for commercial air compressors, DOE issued a Proposed Determination of Coverage and has proposed to determine that commercial and industrial air compressors are covered equipment (77 FR 76972 (December 31, 2012)). DOE received comments from interested parties, which are available in docket number EERE–2013–BT–STD–0040, and have been considered in developing this Framework Document.[1] Also see *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/58.*

DOE has prepared the Framework Document to explain the relevant issues, analyses, and processes it anticipates using when considering new energy conservation standards for commercial and industrial air compressors. The focus of the public meeting noted above will be to discuss the information presented and issues identified in the Framework Document. At the public meeting, DOE will make presentations and invite discussion on the process as it applies to commercial and industrial air compressors. DOE will also solicit comments, data, and information from participants and other interested parties.

DOE is planning to conduct in-depth technical analyses in the following areas: (1) Engineering; (2) energy use; (3) equipment price; (4) life-cycle cost and payback period; (5) national impacts; (6) manufacturer impacts; (7) emission impacts; (8) utility impacts; (9) employment impacts; and (10) regulatory impacts. DOE will also conduct several other analyses that support those previously listed, including the market and technology assessment, the screening analysis (which contributes to the engineering analysis), and the shipments analysis (which contributes to the national impact analysis).

Public Partiticaption: DOE encourages those who wish to participate in the public meeting to obtain the Framework Document and to be prepared to discuss its contents. A copy of the Framework Document is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/58.*

Public meeting participants need not limit their comments to the issues identified in the Framework Document. DOE is also interested in comments on other relevant issues that participants believe would affect energy conservation standards for these products, applicable test procedures, or the preliminary determination on the scope of coverage. DOE invites all interested parties, whether or not they participate in the public meeting, to submit in writing by March 24, 2014, comments and information on matters addressed in the Framework Document and on other matters relevant to DOE's consideration of coverage of and standards for commercial and industrial air compressors.

The public meeting will be conducted in an informal, facilitated, conference style. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by U.S. antitrust laws. A court reporter will record the proceedings of the public meeting, after which a transcript will be available for purchase from the court reporter and placed on the DOE Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/58.*

After the public meeting and the close of the comment period on the Framework Document, DOE will collect data, conduct the analyses as discussed in the Framework Document and at the public meeting, and review the public comments it receives.

DOE considers public participation to be a very important part of the process for determining whether to establish energy conservation standards and, if so, in setting those new standards. DOE actively encourages the participation and interaction of the public during the comment period at each stage of its process. Beginning with the Framework Document, and during each subsequent public meeting and comment period, interactions with and among members of the public provide a balanced discussion of the issues to assist DOE in its efforts to ascertain whether to set standards for commercial and industrial air compressors. Accordingly, anyone who wishes to participate in the public meeting, receive meeting materials, or be added to the DOE mailing list to receive future notices and information about this effort should contact Ms. Brenda Edwards at (202) 586–2945, or via email at *Brenda.Edwards@ee.doe.gov.*

Issued in Washington, DC, on January 24, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–02403 Filed 2–4–14; 8:45 am]

BILLING CODE 6450–01–P

[1] *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0040.*

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0996; Airspace Docket No. 12–AAL–9]

Proposed Amendment of Class E Airspace; Kuparuk, AK

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace at Kuparuk, AK, to accommodate aircraft departing and arriving under Instrument Flight Rules (IFR) at Ugnu-Kuparuk Airport. The FAA is proposing this action to enhance the safety and management of aircraft operations at the airport. This action would also make an adjustment to the geographic coordinates of the airport.

DATES: Comments must be received on or before March 24, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2013–0996; Airspace Docket No. 12–AAL–9 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4517.

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–2013–0996 and Airspace Docket No. 12–AAL–9) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

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 FAA Docket No. FAA–2013–0996 and Airspace Docket No. 12–AAL–9''. 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 NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the 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 Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue 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.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface and establishing Class E airspace extending upward from 1,200 feet above the surface at Ugnu-Kuparuk Airport, Kuparuk, AK, to provide for the safety and management of aircraft departing and arriving under IFR operations at the airport. Class E airspace extending upward from 700 feet above the surface would be modified to within a 6.5mileradius of the airport, with a segment extending from the 6.5-mile radius of the airport to 9.5-miles east of the airport. Controlled airspace west of the airport would be removed as it is no longer required for aircraft arriving and departing under IFR operations. A segment of Class E airspace extending upward from 1,200 feet above the surface would be established within a 20-mile radius of the airport to allow aircraft to transition to the overlying airways. This would enhance the safety and management of aircraft operations at the airport. This action would also make an adjustment to the geographic coordinates of the airport.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9X, dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use

of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify controlled airspace at Ugnu-Kuparuk Airport, Kuparuk, AK.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Kuparuk, AK [Modified]

Ugnu-Kuparuk Airport, AK
(Lat. 70°19′50″ N., long. 149°35′53″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Ugnu-Kuparuk Airport, and within 4 miles either side of the 078° bearing extending from the Ugnu-Kuparuk Airport 6.5-mile radius to 9.5 miles east of the airport and that airspace extending upward from 1,200 feet above the surface within 20 mile radius of the Ugnu-Kuparuk Airport; excluding that airspace that extends beyond 12 miles of the shoreline.

Issued in Seattle, Washington, on January 30, 2014.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2014–02470 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2012–0851; FRL–9906–05–Region–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Georgia; Redesignation of the Macon, Georgia, 1997 Annual Fine Particulate Matter Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 21, 2012, the Georgia Department of Natural Resources, through the Georgia Environmental Protection Division (GA EPD), submitted a request to redesignate the Macon, Georgia, fine particulate matter ($PM_{2.5}$) nonattainment area (hereafter referred to as the ''Macon Area'' or ''Area'') to attainment for the 1997 annual $PM_{2.5}$ national ambient air quality standards (NAAQS) and to approve a state implementation plan (SIP) revision containing a maintenance plan for the Macon Area. The Macon Area is comprised of Bibb County and a portion of Monroe County in Georgia. EPA is proposing to approve the redesignation request and the related SIP revision for Bibb County and a portion of Monroe County in Georgia, including GA EPD's plan for maintaining attainment of the $PM_{2.5}$ standard in the Macon Area. EPA is also proposing to approve into the Georgia SIP the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and $PM_{2.5}$ for the year 2023 for the Macon Area that are included as part of Georgia's maintenance plan for the 1997 Annual $PM_{2.5}$ NAAQS.

DATES: Comments must be received on or before March 7, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0851, 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–2012–0851, 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–2012–0851. EPA policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. 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: Joydeb Majumder of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Joydeb Majumder may be reached by phone at (404) 562–9121, or via electronic mail at *majumder.joydeb@epa.gov*.

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I. What are the actions EPA is proposing to take?

In this action, EPA is proposing to make a determination that the Macon Area is continuing to attain the 1997 annual $PM_{2.5}$ NAAQS [1] and to take additional actions related to Georgia's request to redesignate the Macon Area, which are summarized as follows and described in greater detail throughout this notice of proposed rulemaking: (1) To redesignate the Macon Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS; and (2) to approve, under section 175A of the Clean Air Act (CAA or Act), Georgia's 1997 annual $PM_{2.5}$ NAAQS maintenance plan, including the associated MVEBs, for the Macon Area into the Georgia SIP.

First, EPA proposes to determine that the Macon Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. In this action, EPA is proposing to approve a request to change the legal designation of Bibb County and a portion of Monroe County from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS.

Second, EPA is proposing to approve Georgia's 1997 annual $PM_{2.5}$ NAAQS maintenance plan for the Macon Area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to help keep the Macon Area in attainment of the 1997 annual $PM_{2.5}$ NAAQS through 2023. As explained in Section V, EPA is also proposing to approve that attainment can be maintained through 2024. The maintenance plan that EPA is proposing to approve today includes on-road MVEBs for the mobile source contribution of direct $PM_{2.5}$ and NO_X to the air quality problem in the Macon Area for transportation conformity purposes. EPA is proposing to approve (into the Georgia SIP) the 2023 MVEBs that are included as part of Georgia's maintenance plan for the 1997 annual $PM_{2.5}$ NAAQS.

Further, EPA proposes to make the determination that the Macon Area is continuing to attain the 1997 annual $PM_{2.5}$ NAAQS and that all other redesignation criteria have been met for the Macon Area. The bases for EPA's determination for the Area are discussed in greater detail below.

EPA is also notifying the public of the status of EPA's adequacy process for the 2023 MVEBs for $PM_{2.5}$ and NO_X for the Macon Area. Please see section VIII of this proposed rulemaking for further explanation of this process and for more details.

Today's notice of proposed rulemaking is in response to Georgia's June 21, 2012, SIP revision, which requests redesignation of the Macon Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS and addresses the specific issues summarized above and the necessary elements for redesignation described in section 107(d)(3)(E) of the CAA.

II. What is the background for EPA's proposed actions?

Fine particle pollution can be emitted directly or formed secondarily in the atmosphere. The main precursors of secondary $PM_{2.5}$ are sulfur dioxide (SO_2), NO_X, ammonia, and volatile organic compounds (VOC). *See,* e.g., 72 FR 20586 at 20589. Sulfates are a type of secondary particle formed from SO_2 emissions of power plants and industrial facilities. Nitrates, another common type of secondary particle, are formed from NO_X emissions of power plants, automobiles, and other combustion sources.

On July 18, 1997, EPA promulgated the first air quality standards for $PM_{2.5}$. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annual mean $PM_{2.5}$ concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006, at 71 FR 61144, EPA retained the annual average NAAQS at 15 $\mu g/m^3$ but revised the 24-hour NAAQS to 35 $\mu g/m^3$, based again on the 3-year average of the 98th percentile of 24-hour concentrations.[2] Under EPA regulations at 40 CFR Part 50, the primary and secondary 1997 annual $PM_{2.5}$ NAAQS are attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 15.0 $\mu g/m^3$ at all relevant monitoring sites in the subject area over a 3-year period.

On January 5, 2005, at 70 FR 944, and supplemented on April 14, 2005, at 70 FR 19844, EPA designated the Macon Area as nonattainment for the annual 1997 $PM_{2.5}$ NAAQS. In that action, EPA defined the 1997 $PM_{2.5}$ Macon Area to include Bibb County and a portion of Monroe County in Georgia. On November 13, 2009, at 74 FR 58688, EPA promulgated designations for the 24-hour standard established in 2006, designating the Macon Area as attainment for that NAAQS. That action clarified that the Macon Area was classified unclassifiable/attainment for the 1997 24-hour $PM_{2.5}$ NAAQS. EPA did not promulgate designations for the

[1] On September 8, 2011, at 76 FR 55774, EPA determined that the Macon Area attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date of April 5, 2010, and that the Area was continuing to attain the $PM_{2.5}$ standard with monitoring data that was currently available.

[2] In response to legal challenges of the annual standard promulgated in 2006, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded that NAAQS to EPA for further consideration. *See American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA,* 559 F.3d 512 (D.C. Cir. 2009). However, given that the 1997 and 2006 Annual NAAQS are essentially identical, attainment of the 1997 annual NAAQS would also indicate attainment of the remanded 2006 annual NAAQS.

2006 annual $PM_{2.5}$ NAAQS because that NAAQS was essentially identical to the 1997 annual $PM_{2.5}$ NAAQS. Therefore, the Macon Area is designated nonattainment for the annual $PM_{2.5}$ NAAQS promulgated in 1997, and today's action only addresses this designation.

All 1997 $PM_{2.5}$ NAAQS areas were designated under subpart 1 of title I, part D, of the CAA. Subpart 1 contains the general requirements for nonattainment areas for any pollutant governed by a NAAQS and is less prescriptive than the other subparts of title I, part D. On April 25, 2007, at 72 FR 20586, EPA promulgated its Clean Air Fine Particle Implementation Rule, codified at 40 CFR Part 51, subpart Z, in which the Agency provided guidance for state and tribal plans to implement the 1997 $PM_{2.5}$ annual NAAQS. This rule, at 40 CFR 51.1004(c), specifies some of the regulatory results of attaining the NAAQS, as discussed below. The D.C. Circuit remanded the Clean Air Fine Particle Implementation Rule and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule'') to EPA on January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013). The court found that EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of Part D of Title I of the CAA, rather than the particulate-matter-specific provisions of subpart 4 of Part D of Title I. The effect of the court's ruling on this proposed redesignation action is discussed in detail in Section VI of this notice.

The 3-year ambient air quality data for 2007–2009 indicated no violations of the 1997 $PM_{2.5}$ annual NAAQS for the Macon Area. As a result, on June 21, 2012, Georgia requested redesignation of the Macon Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS. The redesignation request includes three years of complete, quality-assured ambient air quality data for the 1997 annual $PM_{2.5}$ NAAQS for 2007–2009, indicating that the 1997 $PM_{2.5}$ NAAQS had been achieved for the Macon Area. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient, complete, quality-assured data is available for the Administrator to determine that the area has attained the standard and the area meets the other CAA redesignation requirements in section 107(d)(3)(E). The Macon Area design value based on data from 2007 through 2009 is 13.5 ug/m^3, which demonstrates attainment of the standard. While annual $PM_{2.5}$ concentrations are dependent on a variety of conditions, the overall improvement in annual $PM_{2.5}$ concentrations in the Macon Area can be attributed to the reduction of pollutant emissions, as discussed in more detail in section V of this proposed rulemaking.

III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided the following criteria are met: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area under section 110 and part D of title I of the CAA.

EPA has provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (April 16, 1992, 57 FR 13498, and supplemented on April 28, 1992, 57 FR 18070) and has provided further guidance on processing redesignation requests in the following documents:

1. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter referred to as the ''Calcagni Memorandum'');

2. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

3. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and

4. ''Next Steps for Pending Redesignation Requests and State Implementation Plan Actions Affected by the Recent Court Decision Vacating the 2011 Cross-State Air Pollution Rule,'' Memorandum from Gina McCarthy, Assistant Administrator, November 19, 2012.

IV. Why is EPA proposing these actions?

On June 21, 2012, GA EPD requested the redesignation of the Macon Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS. The Macon Area has attained the 1997 annual $PM_{2.5}$ NAAQS, and EPA's preliminary evaluation indicates that the Area has met the requirements for redesignation set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. EPA is also announcing the status of its adequacy determination for direct $PM_{2.5}$ and NO_X MVEBs for the Macon Area.

V. What is EPA's analysis of the request?

As stated above, in accordance with the CAA, EPA proposes in today's action to: (1) Redesignate the Macon Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS; and (2) approve into the Georgia SIP the 1997 annual $PM_{2.5}$ NAAQS maintenance plan, including the associated MVEBs, for the Macon Area. Further, EPA proposes to make the determination that the Macon Area is continuing to attain the 1997 annual $PM_{2.5}$ NAAQS and that all other redesignation criteria have been met for the Macon Area. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

Criteria (1)—The Macon Area Has Attained the 1997 Annual $PM_{2.5}$ NAAQS

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). EPA is proposing to determine that the Macon Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS since the September 8, 2011, attainment determination. For $PM_{2.5}$, an area may be considered to be attaining the 1997 annual $PM_{2.5}$ NAAQS if it meets the 1997 annual $PM_{2.5}$ NAAQS, as determined in accordance with 40 CFR 50.13 and Appendix N of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain these NAAQS, the 3-year average of the annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, Appendix N, must be less than or equal to 15.0 μg/m^3 at all relevant monitoring sites in the subject area over a 3-year period. The relevant data must be collected and quality-assured in

accordance with 40 CFR Part 58 and recorded in the EPA Air Quality System (AQS) database. The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment. On June 2, 2011, at 76 FR 31858, EPA determined that the Macon Area was attaining the 1997 annual $PM_{2.5}$ NAAQS. For that action, EPA reviewed $PM_{2.5}$ monitoring data from monitoring stations in the Macon Area for the 1997 annual $PM_{2.5}$ NAAQS for 2007–2009. These data have been quality-assured and are recorded in AQS. On September 8, 2011, at 76 FR 55774, EPA finalized a determination that the Macon Area attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010. EPA has reviewed more recent data which indicates that the Macon Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS beyond the submitted 3-year attainment period of 2007–2009. The most recent year available with complete, quality-assured and certified ambient air monitoring is 2012, during which the Area recorded an annual average $PM_{2.5}$ concentration of 13.1 μg/m³. EPA has also reviewed the available data in AQS for 2013 which, although not yet complete or certified, indicates the Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. As summarized in Table 1 below, the 3-year average of annual arithmetic mean concentrations (i.e., design values) for the years 2009, 2010, 2011, and 2012 for the Macon Area are below the 1997 annual $PM_{2.5}$ NAAQS.

TABLE 1—DESIGN VALUE CONCENTRATIONS FOR THE MACON AREA FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS (μg/m³)

Location	County	Site ID	3-Year design values			
			2007–2009	2008–2010	2009–2011	2010–2012
Allied Chemical	Bibb	13–021–0007	13.5	12.8	13.4	13.1
Georgia Forestry	Bibb	13–021–0012	11.8	11.4	11.0	10.5

As discussed above, the design value for an area is the highest 3-year average annual mean concentration recorded at any monitor in the area for a 3-year period. Therefore, the 3-year design value for the period on which Georgia based its redesignation request (2007–2009) for the Macon Area is 13.5 μg/m³, which meets the NAAQS as described above. Additional details can be found in EPA's final clean data determination for the Macon Area (76 FR 31858, June 2, 2011). If the Area does not continue to attain before EPA finalizes the redesignation, EPA will not go forward with the redesignation. As discussed in more detail below, GA EPD has committed to continue monitoring in this Area in accordance with 40 CFR Part 58.

Criteria (5)—Georgia Has Met All Applicable Requirements Under Section 110 and Part D of the CAA; and Criteria (2)—Georgia Has a Fully Approved SIP Under Section 110(k) for the Macon Area

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Georgia has met all applicable SIP requirements for the Macon Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that the Georgia SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA (requirements specific to 1997 annual $PM_{2.5}$ nonattainment areas) in accordance with section 107(d)(3)(E)(v). Further, EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. The Macon Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP requirements. Section 110(a)(2) of title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques; provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality; and programs to enforce the limitations. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (Nonattainment New Source Review (NNSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation. However, as discussed later in this notice, addressing pollutant transport from other states is an important part of an area's maintenance demonstration.

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

On June 15, 2012 (77 FR 35909) and February 20, 2013 (78 FR 11805), EPA proposed approval on a submittal from Georgia, addressing ''infrastructure SIP'' elements required under the CAA section 110(a)(2) for the 1997 annual $PM_{2.5}$ NAAQS.[3] However, these are statewide requirements that are not a consequence of the nonattainment status of the Macon Area. As stated above, EPA believes that section 110 elements not linked to an area's nonattainment status are not applicable for purposes of redesignation. Therefore, notwithstanding the fact that EPA has not yet completed rulemaking on Georgia's submittal for the $PM_{2.5}$ infrastructure SIP elements of section 110(a)(2), EPA believes that it has approved all SIP elements that must be approved as a prerequisite for redesignating the Macon Area to attainment.

Title I, Part D, subpart 1 applicable SIP requirements. EPA proposes to determine that the Georgia SIP meets the applicable SIP requirements for the Macon Area for purposes of redesignation under part D of the CAA. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. All areas that were designated nonattainment for the 1997 annual $PM_{2.5}$ NAAQS were designated under subpart 1 of the CAA. For purposes of evaluating this redesignation request, the applicable part D, subpart 1 SIP requirements are contained in sections 172(c)(1)–(9) and in section 176. A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of title I (57 FR 13498, April 16, 1992). Section VI of this proposed rulemaking notice discusses the relationship between this proposed redesignation action and subpart 4 of Part D.

Subpart 1 Section 172 Requirements. Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable and to provide for attainment of the NAAQS. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements. However, pursuant to 40 CFR 51.1004(c), EPA's final determination that the Macon Area is attaining the annual $PM_{2.5}$ standard suspended Georgia's obligation to submit most of the attainment planning requirements that would otherwise apply. Specifically, the determination of attainment suspended Georgia's obligation to submit an attainment demonstration and planning SIPs to provide for reasonable further progress (RFP), RACM, and contingency measures under section 172(c)(9).

The General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992) also discusses the evaluation of section 172 requirements in the context of EPA's consideration of a redesignation request. The General Preamble sets forth EPA's view of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard.

Because attainment has been reached in the Macon Area, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements for an attainment demonstration and RACM are no longer considered to be applicable for purposes of redesignation as long as the Area continues to attain the standard until redesignation. *See* also 40 CFR 51.1004(c).

Pursuant to section 172(c)(2), nonattainment plans must contain provisions that require reasonable further progress toward attainment. This requirement is not relevant for purposes of redesignation because EPA has determined that the Macon Area has monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. *See* General Preamble, 57 FR 13564. *See also* 40 CFR 51.1004(c). In addition, because the Macon Area has attained the 1997 annual $PM_{2.5}$ NAAQS and is no longer subject to a RFP requirement, the requirement to submit the section 172(c)(9) contingency measures is not applicable for purposes of redesignation. *Id.*

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. On March 2, 2012, EPA approved Georgia's 2002 base-year emissions inventory for the Macon Area as part of the SIP revision submitted by GA EPD to provide for attainment of the 1997 $PM_{2.5}$ NAAQS in the Area. *See* 77 FR 12724. No comments, adverse or otherwise, were received on EPA's proposed approval of the emissions inventory for the Macon Area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Georgia has demonstrated that the Macon Area will be able to maintain the NAAQS without part D NSR in effect, and therefore, Georgia need not have fully approved part D NSR programs prior to approval of the redesignation request. Georgia's PSD program will become

[3] The June 15, 2012 proposed approval (77 FR 35909) addressed all infrastructure SIP elements required under section 110(a)(2) for the 1997 annual $PM_{2.5}$ NAAQS with the exception of the visibility element under section 110(a)(2)(D)(i)(II) (also known as ''prong 4''). EPA finalized the June 15, 2012 proposed action on October 25, 2012 (77 FR 65125). EPA proposed approval of prong 4 for the 1997 annual $PM_{2.5}$ NAAQS on February 20, 2013 (78 FR 11805) but has not yet taken final action on this element.

effective in the Macon Area upon redesignation to attainment.

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes that the Georgia SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally-supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally-supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA believes that it is reasonable to interpret the conformity SIP requirements[4] as not applying for purposes of evaluating the redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have been approved. *See Wall* v. *EPA,* 265 F.3d 426 (upholding this interpretation) (6th Cir. 2001); *see also* 60 FR 62748 (December 7, 1995, Tampa, Florida). Thus, the Macon Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of the CAA.

b. The Macon Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable Georgia SIP for the Macon Area for the 1997 annual $PM_{2.5}$ nonattainment area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (see Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance v. Browner,* 144 F.3d 984 (6th Cir. 1998); *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action (see 68 FR 25426 (May 12, 2003) and citations therein). Following passage of the CAA of 1970, Georgia has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various SIP elements applicable for the 1997 annual $PM_{2.5}$ NAAQS in the Macon Area (e.g., 77 FR 35909, June 15, 2012).

As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. In addition, EPA believes that since the part D subpart 1 requirements did not become due prior to submission of the redesignation request, they are also not applicable requirements for purposes of redesignation. *Sierra Club v. EPA,* 375 F.3d 537 (7th Cir. 2004); 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis-East St. Louis Area to attainment of the 1-hour ozone NAAQS). EPA has previously approved all part D subpart 1 requirements applicable for purposes of this redesignation. See Section VI of this notice for a discussion of the relationship between part D subpart 4 and this action.

Criteria (3)—The Air Quality Improvement in the Macon Area 1997 Annual $PM_{2.5}$ NAAQS Nonattainment Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable federal air pollution control regulations and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA believes that Georgia has demonstrated that the observed air quality improvement in the Macon Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state adopted measures.

Fine particulate matter, or $PM_{2.5}$, refers to airborne particles less than or equal to 2.5 micrometers in diameter. Although treated as a single pollutant, fine particles come from many different sources and are composed of many different compounds. In the Macon Area, one of the largest components of $PM_{2.5}$ is sulfate, which is formed through various chemical reactions from the precursor SO_2. The other major component of $PM_{2.5}$ is organic carbon, which originates predominantly from biogenic emission sources. Nitrate, which is formed from the precursor NO_X, is also a component of $PM_{2.5}$. Crustal materials from windblown dust and elemental carbon from combustion sources are less significant contributors to total $PM_{2.5}$.

State and federal measures enacted in recent years have resulted in permanent emission reductions in particulate matter and its precursors. Most of these emission reductions are enforceable through regulations. A few non-regulatory measures also result in emission reductions. The federal measures that have been implemented include:

Tier 2 vehicle standards and low-sulfur gasoline. In addition to requiring NO_X controls, the Tier 2 rule reduced the allowable sulfur content of gasoline to 30 parts per million (ppm) starting in January of 2006. Most gasoline sold prior to this had a sulfur content of approximately 300 ppm.

Heavy-duty gasoline and diesel highway vehicle standards and Ultra Low-Sulfur Diesel Rule. On October 6, 2000, the U.S. EPA promulgated a rule to reduce NO_X and VOC emissions from heavy-duty gasoline and diesel highway vehicles that began to take effect in 2004. 65 FR 59896. A second phase of standards and testing procedures began in 2007 to reduce particulate matter from heavy-duty highway engines, and reduce highway diesel fuel sulfur content to 15 ppm since the sulfur in fuel damages high efficiency catalytic exhaust emission control devices. The total program should achieve a 90 percent reduction PM emissions and a 95 percent reduction in NO_X emission for new engines using low-sulfur diesel, compared to existing engines using higher-content sulfur diesel.

Nonroad large spark-ignition engines and recreational engines standards. The nonroad spark-ignition and recreational engine standards, effective in July 2003, regulate NO_X, hydrocarbons, and carbon monoxide from groups of previously unregulated nonroad engines. These engine standards apply to large spark-

[4] CAA Section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

ignition engines (e.g., forklifts and airport ground service equipment), recreational vehicles (e.g., off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards.

When all of the nonroad spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO_X, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls will help reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

Large nonroad diesel engine standards. Promulgated in 2004, this rule is being phased in between 2008 and 2014. This rule will reduce sulfur content in nonroad diesel fuel and, when fully implemented, will reduce NO_X and direct $PM_{2.5}$ emissions by over 90 percent from these engines.

Reciprocating Internal Combustion Engine standard. Promulgated in 2010, this rule regulates emissions of air toxics from existing diesel powered stationary reciprocating internal combustion engines that meet specific site rating, age, and size criteria. When all of the reciprocating internal combustion engine standards are fully implemented in 2013, EPA estimates that $PM_{2.5}$ emissions from these engines will be reduced by approximately 2,800 tons per year (tpy).

Category 3 Marine Diesel Engine standard. Promulgated in 2010, this rule establishes more stringent exhaust emission standards for new large marine diesel engines with per cylinder displacement at or above 30 liters (commonly referred to as Category 3 compression-ignition marine engines) as part of a coordinated strategy to address emissions from all ships that affect U.S. air quality. Near-term standards for newly built engines will apply beginning in 2011, and long-term standards requiring an 80 percent reduction in NO_X emissions will begin in 2016.

NO_X SIP Call. On October 27, 1998 (63 FR 57356), EPA issued a NO_X SIP Call requiring the District of Columbia and 22 states to reduce emissions of NO_X. Affected states were required to comply with Phase I of the SIP Call beginning in 2004 and Phase II beginning in 2007. Emission reductions resulting from regulations developed in response to the NO_X SIP Call are permanent and enforceable.

CAIR and CSAPR. EPA recently promulgated the Cross-State Air Pollution Rule (CSAPR) (76 FR 48208, August 8, 2011), to replace the Clean Air Interstate (CAIR), which has been in place since 2005. *See* 76 FR 59517. CAIR requires significant reductions in emissions of SO_2 and NO_X from electric generating units (EGUs) to limit the interstate transport of these pollutants and the ozone and fine particulate matter they form in the atmosphere. *See* 76 FR 70093. The D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008).

On December 30, 2011, the D.C. Circuit issued an order addressing the status of CSAPR and CAIR in response to motions filed by numerous parties seeking a stay of CSAPR pending judicial review. In that order, the court stayed CSAPR pending resolution of the petitions for review of that rule in *EME Homer City Generation, L.P.* v. *EPA* (No. 11–1302 and consolidated cases). The court also indicated that EPA was expected to continue to administer CAIR in the interim until judicial review of CSAPR was completed.

On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR. In that decision, it also ordered EPA to continue administering CAIR ''pending . . . development of a valid replacement.'' *EME Homer City,* 696 F.3d at 38. The D.C. Circuit denied all petitions for rehearing on January 24, 2013. EPA and other parties have filed petitions for certiorari to the U.S. Supreme Court on March 29, 2013, to review the D.C. Circuit's decision in *EME Homer City,* and on June 24, 2013, the U.S. Supreme Court granted the United States' petition asking the Court to review the D.C. Circuit's decision on CSAPR. Nonetheless, EPA intends to continue to act in accordance with the *EME Homer City* opinion.

In light of these unique circumstances and for the reasons explained below, EPA proposes to approve the redesignation request and the related SIP revision for Bibb and a portion of Monroe County in Georgia, including Georgia's plan for maintaining attainment of the 1997 annual $PM_{2.5}$ NAAQS in the Macon Area. To the extent that attainment is due to emission reductions associated with CAIR, EPA is here determining that those reductions are sufficiently permanent and enforceable for purposes of CAA sections 107(d)(3)(E)(iii) and 175A. The air quality modeling analysis conducted for CSAPR demonstrates that the Macon Area would be able to maintain the 1997 annual $PM_{2.5}$ NAAQS even in the absence of either CAIR or CSAPR. *See* ''Air Quality Modeling Final Rule Technical Support Document,'' App. B, B–39. This modeling is available in the docket for this proposed redesignation action. Nothing in the D.C. Circuit's August 2012 decision disturbs or calls into question that conclusion or the validity of the air quality analysis on which it is based.

In addition, as directed by the D.C. Circuit, CAIR remains in place and enforceable until substituted by a valid replacement rule. EPA approved a modification to Georgia's SIP on October 9, 2007, that addressed the requirements of CAIR for the purpose of reducing SO_2 and NO_X emissions (*see* 72 FR 57202), and Georgia's SIP submittal for redesignation request lists CAIR as a control measure. CAIR was thus in place and getting emission reductions when the Macon Area began monitoring attainment of the 1997 Annual $PM_{2.5}$ NAAQS. The quality-assured, certified monitoring data used to demonstrate the area's attainment of the 1997 Annual $PM_{2.5}$ NAAQS by the April 5, 2010 attainment deadline was also impacted by CAIR.

To the extent that Georgia is relying on CAIR in its maintenance plan, the recent directive from the D.C. Circuit in *EME Homer City* ensures that the reductions associated with CAIR will be permanent and enforceable for the necessary time period. EPA has been ordered by the Court to develop a new rule to address interstate transport to replace CSAPR and the opinion makes clear that after promulgating that new rule EPA must provide states an opportunity to draft and submit SIPs to implement that rule. Thus, CAIR will remain in place until EPA has promulgated a final rule through a notice-and-comment rulemaking process, States have had an opportunity to draft and submit SIPs, EPA has reviewed the SIPs to determine if they can be approved, and EPA has taken action on the SIPs, including promulgating a FIP if appropriate. The Court's clear instruction to EPA that it must continue to administer CAIR until a valid replacement exists provides an additional backstop: By definition, any rule that replaces CAIR and meets the Court's direction would require upwind states to have SIPs that eliminate significant contributions to downwind nonattainment and prevent interference with maintenance in downwind areas.

Further, in vacating CSAPR and requiring EPA to continue administering CAIR, the D.C. Circuit emphasized that the consequences of vacating CAIR

''might be more severe now in light of the reliance interests accumulated over the intervening four years.'' *EME Homer City,* 696 F.3d at 38. The accumulated reliance interests include the interests of states who reasonably assumed they could rely on reductions associated with CAIR which brought certain nonattainment areas into attainment with the NAAQS. If EPA were prevented from relying on reductions associated with CAIR in redesignation actions, states would be forced to impose additional, redundant reductions on top of those achieved by CAIR. EPA believes this is precisely the type of irrational result the court sought to avoid by ordering EPA to continue administering CAIR. For these reasons also, EPA believes it is appropriate to allow states to rely on CAIR, and the existing emissions reductions achieved by CAIR, as sufficiently permanent and enforceable for purposes such as redesignation. Following promulgation of the replacement rule, EPA will review SIPs as appropriate to identify whether there are any issues that need to be addressed.

Criteria (4)—Macon Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Macon Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS, GA EPD submitted a SIP revision to provide for the maintenance of the 1997 annual $PM_{2.5}$ NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, GA EPD must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, as EPA deems necessary, to assure prompt correction of any future 1997 annual $PM_{2.5}$ NAAQS violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed below, EPA finds that GA EPD's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Georgia SIP.

b. Attainment Emissions Inventory

The Macon Area attained the 1997 annual $PM_{2.5}$ NAAQS based on monitoring data for the 3-year period from 2007–2009. GA EPD has selected 2007 as the attainment emission inventory year. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 1997 annual $PM_{2.5}$ NAAQS. GA EPD began development of the attainment inventory by first generating a baseline emissions inventory for the Macon Area. As noted above, the year 2007 was chosen as the base year for developing a comprehensive emissions inventory for direct $PM_{2.5}$ and the $PM_{2.5}$ precursors SO_2 and NO_X. Emissions projections to support maintenance through 2023 have been prepared for the years 2017 and 2023. In addition, emissions have been calculated by interpolation for the years 2014 and 2020. The projected inventory included with the maintenance plan estimates emissions forward to 2023, which satisfies the 10-year interval required in section 175(A) of the CAA.

The emissions inventories are composed of four major types of sources: Point, area, on-road mobile, and non-road mobile. The 2007 inventory, with the exception of on-road emissions, was prepared for Georgia by the contractor for the Southeastern Modeling, Analysis, and Planning (SEMAP) project. Under the SEMAP project, emissions estimates are reported by county and source classification code. The SEMAP emissions inventories were developed using data from a number of sources, including state and local agencies and EPA's National Emissions Inventory (NEI). The Georgia Department of Transportation developed the 2007 inventory of on-road mobile emissions.

The 2007 SO_2, NO_X, and $PM_{2.5}$ emissions for the Macon Area, as well as the emissions for other years, were developed consistent with EPA guidance and are summarized in Table 2 through 6 of the following subsection discussing the maintenance demonstration.

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the Area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Calcagni Memorandum, p. 9. Where the emissions inventory method of showing maintenance is used, the purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni Memorandum, pp. 9–10.

As discussed in detail in the subsection below, Georgia's maintenance plan submission expressly documents that the Area's emissions inventories will remain below the attainment year inventories through 2023. Projected emissions inventory levels in 2023 are well below the attainment year inventory levels, and it is highly improbable that they will suddenly increase and exceed attainment year inventory levels in 2024. In addition, for the reasons set forth below, EPA believes that the Georgia's submission, in conjunction with additional supporting information, further demonstrates that the Area will continue to maintain the 1997 Annual $PM_{2.5}$ NAAQS at least through 2024. Thus, if EPA finalizes its proposed approval of the redesignation request and maintenance plans in 2014, the approval will be based upon this showing, in accordance with section 175A, and EPA's analysis described herein, that the Georgia's maintenance plan provides for maintenance for at least ten years after redesignation.

c. Maintenance Demonstration

The June 21, 2012, final submittal includes a maintenance plan for the Macon Area. This demonstration:

(i) Shows compliance with and maintenance of the annual $PM_{2.5}$ standard by providing information to support the demonstration that current and future emissions of SO_2, NO_X, and $PM_{2.5}$ remain at or below 2007 emissions levels.

(ii) Uses 2007 as the attainment year and includes future emissions inventory projections for 2017 and 2023.

(iii) Identifies an ''out year'' at least 10 years after EPA review and potential approval of the maintenance plan. Per 40 CFR part 93, NO_X and $PM_{2.5}$ MVEBs were established for the last year (2023) of the maintenance plan.

(iv) Provides, as shown in Tables 2, 3, 4, 5, and 6 below, the actual and projected

emissions inventories, in tpy, for the Macon Area.

The State's submittal credits Georgia Rule 391–3–1–.02(2)(sss) as requiring flue gas desulfurization (FGD) and selective catalytic reduction (SCR) controls on the majority of coal-fired electric generating units (EGUs) in the State. The submittal also credits Georgia Rule 391–3–1–.02(2)(uuu) as requiring a 95 percent reduction in SO_2 emissions from the majority of Georgia's coal-fired EGUs, with the requirement being phased in from 2010 through 2016. Within the Macon Area, this rule requires a 95 percent reduction of SO_2 emissions from all four EGUs at Plant Scherer, which is being phased in on individual units between 2011 and 2015. The rule also requires SO_2 emission reductions from other coal-fired EGUs in Georgia.

EPA has not approved Georgia Rules 391–3–1–.02(2)(sss) and 391–3–1–.02(2)(uuu) into Georgia's SIP, and therefore, these rules are not federally enforceable. However, CAIR was one measure that led to air quality improvement in the Macon Area. As discussed above, EPA is interpreting CAA section 107(d)(3)(E)(iii)'s requirement that emission reductions be due to permanent and federally enforceable measures to include CAIR, because of the D.C. Circuit's directive to leave CAIR in place until it is replaced by a new rule. Although modeling completed as part of the CSAPR rulemaking showed that the Area would continue to maintain the standard even in the absence of CAIR or CSAPR, to the extent that the Area's maintenance of the standard relies on CAIR, EPA is proposing to find CAIR may be relied upon under CAA section 175A as well. Unlike the state-only rules discussed above, CAIR was approved into Georgia's SIP. Although the state-only rules have more specific unit control requirements than the provisions of CAIR, the State implemented them in response to CAIR and they require emission reductions in NO_X and SO_2 consistent with CAIR's original schedule starting in 2009. Since the controls are already in the process of being installed to comply with both CAIR and these state-only rules, EPA regards the emission estimates based on the installation and operation of these controls to be both an accurate projection of how CAIR will continue to be implemented in the Macon Area and an appropriate basis upon which to project the emission inventory.

TABLE 2—ACTUAL (2007) AND PROJECTED POINT SOURCE EMISSIONS FOR THE MACON AREA

[tons]

Pollutant	2007	2014	2017	2020	2023
SO_2	76,903	26,137	4,739	4,471	4,563
NO_X	20,586	16,229	14,362	14,671	14,981
$PM_{2.5}$	1,539	1,187	1,037	1,073	1,110

TABLE 3—ACTUAL (2007) AND PROJECTED NONPOINT SOURCE EMISSIONS FOR THE MACON AREA

[tons]

Pollutant	2007	2014	2017	2020	2023
SO_2	753	779	790	802	815
NO_X	958	1,060	1,103	1,147	1,192
$PM_{2.5}$	1,516	1,715	1,801	1,878	1,954

TABLE 4—ACTUAL (2007) AND PROJECTED ONROAD MOBILE SOURCES EMISSIONS FOR THE MACON AREA

[tons]

Pollutant	2007	2014	2017	2020	2023
SO_2	53	44	31	25	18
NO_X	7,539	6,022	4,072	3,031	1,991
$PM_{2.5}$	266	213	144	70	70

TABLE 5—ACTUAL (2007) AND PROJECTED NONROAD MOBILE SOURCE EMISSIONS FOR THE MACON AREA

[tons]

Pollutant	2007	2014	2017	2020	2023
SO_2	48	15	1	1	1
NO_X	1,428	1,071	917	828	739
$PM_{2.5}$	98	73	63	55	48

TABLE 6—ACTUAL (2007) AND PROJECTED EMISSIONS FOR ALL SECTORS FOR THE MACON AREA

[tons]

Pollutant	2007	2014	2017	2020	2023
SO_2	77,757	26,975	5,201	5,299	5,397
NO_X	30,511	24,382	20,454	19,677	18,903
$PM_{2.5}$	3,419	3,188	3,045	3,113	3,182

As reflected in Table 6, future emissions for the relevant pollutants and precursors are expected to be below the ''attainment level'' emissions in 2007, thus illustrating that the Macon Area is expected to continue to attain the 1997 annual $PM_{2.5}$ NAAQS through 2023. In situations such as this where local emissions are the primary contributor to nonattainment, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the 1997 annual $PM_{2.5}$ NAAQS should not be violated in the future.

A maintenance plan requires the state to show that projected future year emissions will not exceed the level of emissions which led the Area to attain the NAAQS. Georgia has projected emissions as described previously and determined that emissions in the Macon Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As noted above, EPA believes that several pertinent factors demonstrate that the Macon Area will continue to maintain the 1997 Annual $PM_{2.5}$ NAAQS at least through the year 2024. These include the circumstances that (1) all of the state and federal regulatory requirements that enabled the Area to attain the NAAQS will continue to be in effect and enforceable after the 10-year maintenance period; (2) the most recent complete, quality-assured and certified annual $PM_{2.5}$ design value (for the period 2010 to 2012) for the Area of 13.1 $\mu g/m^3$ is well below the standard of 15.0 $\mu g/m^3$; (3) as discussed in detail below, EPA is proposing in this action to approve Georgia's determination that the direct $PM_{2.5}$ and NO_X contribution from motor vehicle emissions for the Area and thus does not expect such emissions to contribute significantly to future ambient $PM_{2.5}$ levels; and (4) as noted above, several of the largest sources in the Area have been required by permanent and enforceable consent decrees to install controls that achieve reductions in SO_2 and NO_X emissions as well as reductions in direct $PM_{2.5}$ emissions. Therefore, EPA expects the projected downward trend in pollutant emissions in the Macon Area from the 2007 attainment year through the 2023 maintenance year, as shown in Table 6 above, to continue for at least the one additional year past 2023.

d. Monitoring Network

There are currently two monitors measuring $PM_{2.5}$ in the Macon Area (Macon Allied Chemical and Macon Forestry in Bibb County). GA EPD has committed to continue operation of the monitors in the Macon Area in compliance with 40 CFR part 58 and have thus addressed the requirement for monitoring. EPA approved Georgia's 2012 monitoring plan on October 16, 2012.

e. Verification of Continued Attainment

GA EPD has the legal authority to enforce and implement the requirements of the Macon Area 1997 annual $PM_{2.5}$ maintenance plan. This includes the authority to adopt, implement and enforce any subsequent emissions control contingency measures determined to be necessary to correct future $PM_{2.5}$ attainment problems.

GA EPD will track the progress of the maintenance plan by performing future reviews of triennial emission inventories for the Macon Area as required in the Air Emissions Reporting Rule (AERR) and Consolidated Emissions Reporting Rule (CERR). For these periodic inventories, GA EPD will review the assumptions made for the purpose of the maintenance demonstration concerning projected growth of activity levels. If any of these assumptions appear to have changed substantially, then GA EPD will re-project emissions for the Macon Area.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by GA EPD. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

The contingency plan included in the submittal includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. GA EPD will use actual ambient monitoring data to determine whether a trigger event has occurred and when contingency measures should be implemented.

Georgia has identified a Tier 1 trigger as occurring when any of the following conditions occurs, as described in the State's submittal for the Macon Area:

- The previous calendar year's annual mean $PM_{2.5}$ concentration exceeds the NAAQS by 1.5 ug/m^3 or more;
- The annual mean $PM_{2.5}$ concentration in each of the previous two consecutive calendar years exceeds the NAAQS by 0.5 ug/m^3 or more;
- The total maintenance area SO_2 emissions in the most recent NEI exceeds the corresponding attainment-year inventory by more than 10.0 percent;
- The total maintenance area $PM_{2.5}$ emissions in the most recent NEI exceed the corresponding attainment-year inventory by more than 30.0 percent.

GA EPD will evaluate a Tier I condition, if it occurs, as expeditiously as practicable to determine the causes of the ambient $PM_{2.5}$ or emissions inventory increase and to determine if a Tier II condition is likely to occur. A Tier II trigger will be activated when any violation of the annual $PM_{2.5}$ NAAQS at any federal reference method monitor in the Macon maintenance area is recorded, based on quality-assured monitoring data. In this event, GA EPD will conduct a comprehensive study to determine the cause of the ambient $PM_{2.5}$ increase and to determine if the increase is likely to continue and will implement any required measures as expeditiously as practicable, taking into consideration the ease of implementation and the technical and economic feasibility of selected measures.

The comprehensive study will be completed and submitted to EPA as expeditiously as practical but no later than nine months after the Tier I or Tier II trigger is activated, and the appropriate corrective measures will be adopted and implemented within 18 to 24 months after the trigger occurs. If the study determines that additional measures are required, the State will adopt rules no later than 18 months following the date that the trigger is activated.[5] The comprehensive measures will be selected from the following types of measures or from any other measure deemed appropriate and effective at the time the selection is made by GA EPD:

- RACM for sources of SO_2 and $PM_{2.5}$;
- Reasonably Available Control Technologies (RACT) for point sources of SO_2 and $PM_{2.5}$;
- Expansion of RACM/RACT to areas of transport within the State;

[5] In a September 23, 2013, letter to EPA, the State reaffirmed its commitment to address and correct any violation of the 1997 annual $PM_{2.5}$ NAAQS as expeditiously as practicable and no later than 24 months from the trigger activation.

- Mobile source measures; and
- Additional SO_2 and/or $PM_{2.5}$ reduction measures yet to be identified.

In addition to the triggers indicated above, Georgia will monitor regional emissions through the CERR and AERR and compare them to the projected inventories and the attainment year inventory. In the June 21, 2012, submittal, the State acknowledges that the contingency plan requires the implementation of all measures contained in the SIP for the Area prior to redesignation. The State also notes that these measures are currently in effect and may be evaluated by the State to determine if they are adequate or up-to-date.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: attainment emission inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. Therefore, the maintenance plan SIP revision submitted by GA EPD for the Macon Area meets the requirements of section 175A of the CAA and is approvable.

VI. What is the effect of the January 4, 2013, D.C. Circuit decision regarding $PM_{2.5}$ implementation under subpart 4?

a. Background

As discussed in Section I of this action, the D.C. Circuit remanded the 1997 $PM_{2.5}$ Implementation Rule to EPA on January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428. The court found that EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of Part D of Title I of the CAA, rather than the particulate matter-specific provisions of subpart 4 of Part D of Title I.

b. Proposal on This Issue

In this portion of the proposed redesignation, EPA addresses the effect of the court's January 4, 2013, ruling on the proposed redesignation. As explained below, EPA is proposing to determine that the Court's January 4, 2013, decision does not prevent EPA from redesignating the Macon Area to attainment. Even in light of the Court's decision, redesignation for this area is appropriate under the CAA and EPA's longstanding interpretations of the CAA's provisions regarding redesignation. EPA first explains its longstanding interpretation that requirements that are imposed, or that become due, after a complete redesignation request is submitted for an area that is attaining the standard, are not applicable for purposes of evaluating a redesignation request. Second, EPA then shows that, even if EPA applies the subpart 4 requirements to the Macon Area redesignation request and disregards the provisions of its 1997 $PM_{2.5}$ Implementation Rule recently remanded by the Court, the State's request for redesignation of this area still qualifies for approval. EPA's discussion takes into account the effect of the Court's ruling on the area's maintenance plan, which EPA views as approvable when subpart 4 requirements are considered.

c. Applicable Requirements for the Purpose of Evaluating the Redesignation Request

With respect to the 1997 $PM_{2.5}$ Implementation Rule, the Court's January 4, 2013, ruling rejected EPA's reasons for implementing the $PM_{2.5}$ NAAQS solely in accordance with the provisions of subpart 1, and remanded that matter to EPA so that it could address implementation of the 1997 $PM_{2.5}$ NAAQS under subpart 4 of Part D of the CAA, in addition to subpart 1. For the purposes of evaluating the Georgia's redesignation request for the area, to the extent that implementation under subpart 4 would impose additional requirements for areas designated nonattainment, EPA believes that those requirements are not ''applicable'' for the purposes of CAA section 107(d)(3)(E), and thus EPA is not required to consider subpart 4 requirements with respect to the Macon Area of redesignation. Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are ''applicable'' and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memorandum). *See also* ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for the plan and Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael Shapiro, Acting Assistant Administrator, Air and Radiation, September 17, 1993 (Shapiro memorandum); Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club* v. *EPA,* 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of ''applicable'' under the statute is ''whatever should have been in the plan at the time of attainment rather than whatever actually was in already implemented or due at the time of attainment'').[6] In this case, at the time that Georgia submitted its redesignation request, requirements under subpart 4 were not due, and indeed, were not yet known to apply.

EPA's view that, for purposes of evaluating the Macon Area redesignation, the subpart 4 requirements were not due at the time the State submitted the redesignation request is in keeping with the EPA's interpretation of subpart 2 requirements for subpart 1 ozone areas redesignated subsequent to the D.C. Circuit's decision in *South Coast Air Quality Mgmt. Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). In *South Coast,* the Court found that EPA was not permitted to implement the 1997 8-hour ozone standard solely under subpart 1, and held that EPA was required under the statute to implement the standard under the ozone-specific requirements of subpart 2 as well. Subsequent to the *South Coast* decision, in evaluating and acting upon redesignation requests for the 1997 8-hour ozone standard that were submitted to EPA for areas under subpart 1, EPA applied its longstanding interpretation of the CAA that ''applicable requirements,'' for purposes of evaluating a redesignation, are those that had been due at the time the redesignation request was submitted. *See, e.g.,* Proposed Redesignation of Manitowoc County and Door County Nonattainment Areas (75 FR 22047, 22050, April 27, 2010). In those actions, EPA therefore did not consider subpart 2 requirements to be ''applicable'' for the purposes of evaluating whether the area should be redesignated under section 107(d)(3)(E).

EPA's interpretation derives from the provisions of CAA Section 107(d)(3). Section 107(d)(3)(E)(v) states that, for an area to be redesignated, a state must meet ''all requirements 'applicable' to the area under section 110 and part D.'' Section 107(d)(3)(E)(ii) provides that the EPA must have fully approved the

[6] Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of

''applicable'' SIP for the area seeking redesignation. These two sections read together support EPA's interpretation of ''applicable'' as only those requirements that came due prior to submission of a complete redesignation request. First, holding states to an ongoing obligation to adopt new CAA requirements that arose after the state submitted its redesignation request, in order to be redesignated, would make it problematic or impossible for EPA to act on redesignation requests in accordance with the 18-month deadline Congress set for EPA action in section 107(d)(3)(D). If ''applicable requirements'' were interpreted to be a continuing flow of requirements with no reasonable limitation, states, after submitting a redesignation request, would be forced continuously to make additional SIP submissions that in turn would require EPA to undertake further notice-and-comment rulemaking actions to act on those submissions. This would create a regime of unceasing rulemaking that would delay action on the redesignation request beyond the 18-month timeframe provided by the Act for this purpose.

Second, a fundamental premise for redesignating a nonattainment area to attainment is that the area has attained the relevant NAAQS due to emission reductions from existing controls. Thus, an area for which a redesignation request has been submitted would have already attained the NAAQS as a result of satisfying statutory requirements that came due prior to the submission of the request. Absent a showing that unadopted and unimplemented requirements are necessary for future maintenance, it is reasonable to view the requirements applicable for purposes of evaluating the redesignation request as including only those SIP requirements that have already come due. These are the requirements that led to attainment of the NAAQS. To require, for redesignation approval, that a state also satisfy additional SIP requirements coming due after the state submits its complete redesignation request, and while EPA is reviewing it, would compel the state to do more than is necessary to attain the NAAQS, without a showing that the additional requirements are necessary for maintenance.

In the context of this redesignation, the timing and nature of the Court's January 4, 2013, decision in *NRDC* v. *EPA* compound the consequences of imposing requirements that come due after the redesignation request is submitted. The State submitted its redesignation request on June 21, 2012, but the Court did not issue its decision remanding EPA's 1997 $PM_{2.5}$ implementation rule concerning the applicability of the provisions of subpart 4 until January 2013.

To require the State's fully-completed and pending redesignation request to comply now with requirements of subpart 4 that the Court announced only in January 2013 would be to give retroactive effect to such requirements when the State had no notice that it was required to meet them. The D.C. Circuit recognized the inequity of this type of retroactive impact in *Sierra Club* v. *Whitman,* 285 F.3d 63 (D.C. Cir. 2002),[7] where it upheld the District Court's ruling refusing to make retroactive EPA's determination that the St. Louis area did not meet its attainment deadline. In that case, petitioners urged the Court to make EPA's nonattainment determination effective as of the date that the statute required, rather than the later date on which EPA actually made the determination. The Court rejected this view, stating that applying it ''would likely impose large costs on States, which would face fines and suits for not implementing air pollution prevention plans . . . even though they were not on notice at the time.'' *Id.* at 68. Similarly, it would be unreasonable to penalize the State of Georgia by rejecting its redesignation request for an area that is already attaining the 1997 $PM_{2.5}$ standard and that met all applicable requirements known to be in effect at the time of the request. For EPA now to reject the redesignation request solely because the state did not expressly address subpart 4 requirements of which it had no notice would inflict the same unfairness condemned by the Court in *Sierra Club v. Whitman.*

d. Subpart 4 Requirements and the Macon Area Redesignation Request

Even if EPA were to take the view that the Court's January 4, 2013, decision requires that, in the context of pending redesignations, subpart 4 requirements were due and in effect at the time the State submitted its redesignation request, EPA proposes to determine that the Macon Area still qualifies for redesignation to attainment. As explained below, EPA believes that the redesignation request for the Macon Area, though not expressed in terms of subpart 4 requirements, substantively meets the requirements of that subpart for purposes of redesignating the area to attainment.

With respect to evaluating the relevant substantive requirements of subpart 4 for purposes of redesignating the Macon Area, EPA notes that subpart 4 incorporates components of subpart 1 of part D, which contains general air quality planning requirements for areas designated as nonattainment. *See* Section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for PM_{10} [8] nonattainment areas, and under the Court's January 4, 2013, decision in *NRDC v. EPA,* these same statutory requirements also apply for $PM_{2.5}$ nonattainment areas. EPA has longstanding general guidance that interprets the 1990 amendments to the CAA, making recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas. *See,* ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clear Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992) (the ''General Preamble''). In the General Preamble, EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements and pointed out that subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific PM–10 requirements.'' 57 FR 13538 (April 16, 1992). The subpart 1 requirements include, among other things, provisions for attainment demonstrations, reasonably available control measures (RACM), reasonable further progress (RFP), emissions inventories, and contingency measures.

For the purposes of this redesignation, in order to identify any additional requirements which would apply under subpart 4, we are considering the Macon Area to be a ''moderate'' $PM_{2.5}$ nonattainment area. Under section 188 of the CAA, all areas designated nonattainment areas under subpart 4 would initially be classified by operation of law as ''moderate'' nonattainment areas and would remain moderate nonattainment areas unless and until EPA reclassifies the area as a ''serious'' nonattainment area. Accordingly, EPA believes that it is appropriate to limit the evaluation of the potential impact of subpart 4 requirements to those that would be applicable to moderate nonattainment areas. Sections 189(a) and (c) of subpart 4 apply to moderate nonattainment areas and include the following: (1) An approved permit program for

[7] *Sierra Club* v. *Whitman* was discussed and distinguished in a recent D.C. Circuit decision that addressed retroactivity in a quite different context, where, unlike the situation here, EPA sought to give its regulations retroactive effect. *National Petrochemical and Refiners Ass'n* v. *EPA.* 630 F.3d 145, 163 (D.C. Cir. 2010), rehearing denied 643 F.3d 958 (D.C. Cir. 2011), cert denied 132 S. Ct. 571 (2011).

[8] PM_{10} refers to particles nominally 10 micrometers in diameter or smaller.

construction of new and modified major stationary sources (section 189(a)(1)(A)); (2) an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); and (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)).

The permit requirements of subpart 4, as contained in section 189(a)(1)(A), refer to and apply the subpart 1 permit provisions requirements of sections 172 and 173 to PM_{10}, without adding to them. Consequently, EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in subpart 1.[9] In any event, in the context of redesignation, EPA has long relied on the interpretation that a fully approved nonattainment new source review program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a PSD program after redesignation. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' *See also* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

With respect to the specific attainment planning requirements under subpart 4,[10] when EPA evaluates a redesignation request under either subpart 1 and/or 4, any area that is attaining the $PM_{2.5}$ standard is viewed as having satisfied the attainment planning requirements for these subparts. For redesignations, EPA has for many years interpreted attainment-linked requirements as not applicable for areas attaining the standard. In the General Preamble for the Implementation of title I, EPA stated that:

> The requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no eaning at that point. ''General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, 13564, April 16, 1992).

The General Preamble also explained that

> [t]he section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans . . . provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas. *Id.*

EPA similarly stated in its 1992 Calcagni memorandum that, ''The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.''

It is evident that even if we were to consider the Court's January 4, 2013, decision in *NRDC* v. *EPA* to mean that attainment-related requirements specific to subpart 4 should be imposed retroactively [11] and thus are now past due, those requirements do not apply to an area that is attaining the 1997 $PM_{2.5}$ standard for the purpose of evaluating a pending request to redesignate the area to attainment. EPA has consistently enunciated this interpretation of applicable requirements under section 107(d)(3)(E) since the General Preamble was published more than twenty years ago. Courts have recognized the scope of EPA's authority to interpret ''applicable requirements'' in the redesignation context. *See Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004).

Moreover, even outside the context of redesignations, EPA has viewed the obligations to submit attainment-related SIP planning requirements of subpart 4 as inapplicable for areas that EPA determines are attaining the standard. EPA's prior ''Clean Data Policy'' rulemakings for the PM_{10} NAAQS, also governed by the requirements of subpart 4, explain EPA's reasoning. They describe the effects of a determination of attainment on the attainment-related SIP planning requirements of subpart 4. *See* ''Determination of Attainment for Coso Junction Nonattainment Area,'' (75 FR 27944, May 19, 2010). *See also* Coso Junction proposed PM_{10} redesignation, (75 FR 36023, 36027, June 24, 2010); Proposed and Final Determinations of Attainment for San Joaquin Nonattainment Area (71 FR 40952, 40954–55, July 19, 2006; and 71 FR 63641, 63643–47 October 30, 2006). In short, EPA in this context has also long concluded that to require states to meet superfluous SIP planning requirements is not necessary and not required by the CAA, so long as those areas continue to attain the relevant NAAQS.

Elsewhere in this notice, EPA proposes to determine that the area has attained the 1997 $PM_{2.5}$ standard. Under its longstanding interpretation, EPA is proposing to determine here that the area meets the attainment-related plan requirements of subparts 1 and 4.

Thus, EPA is proposing to conclude that the requirements to submit an attainment demonstration under 189(a)(1)(B), a RACM determination under section 172(c)d section 189(a)(1)(c), a RFP demonstration under 189(c)(1), and contingency measure requirements under section 172(c)(9) are satisfied for purposes of evaluating the redesignation request.

e. Subpart 4 and Control of $PM_{2.5}$ Precursors

The D.C. Circuit in *NRDC* v. *EPA* remanded to EPA the two rules at issue in the case with instructions to EPA to re-promulgate them consistent with the requirements of subpart 4. EPA in this section addresses the Court's opinion with respect to $PM_{2.5}$ precursors. While past implementation of subpart 4 for PM_{10} has allowed for control of PM_{10} precursors such as NO_X from major stationary, mobile, and area sources in order to attain the standard as expeditiously as practicable, CAA section 189(e) specifically provides that control requirements for major stationary sources of direct PM_{10} shall also apply to PM_{10} precursors from those sources, except where EPA determines that major stationary sources of such precursors ''do not contribute significantly to PM_{10} levels which exceed the standard in the area.''

EPA's 1997 $PM_{2.5}$ implementation rule, remanded by the D.C. Circuit, contained rebuttable presumptions concerning certain $PM_{2.5}$ precursors applicable to attainment plans and control measures related to those plans. Specifically, in 40 CFR 51.1002, EPA provided, among other things, that a state was ''not required to address VOC [and ammonia] as . . . $PM_{2.5}$ attainment plan precursor[s] and to evaluate sources of VOC [and ammonia] emissions in the State for control measures.'' EPA intended these to be rebuttable presumptions. EPA established these presumptions at the time because of uncertainties regarding the emission inventories for these

[9] The potential effect of section 189(e) on section 189(a)(1)(A) for purposes of evaluating this redesignation is discussed below.

[10] i.e., attainment demonstration, RFP, RACM, milestone requirements, contingency measures.

[11] As explained above, EPA does not believe that the Court's January 4, 2013, decision should be interpreted so as to impose these requirements on the states retroactively. *Sierra Club v. Whitman, supra.*

pollutants and the effectiveness of specific control measures in various regions of the country in reducing $PM_{2.5}$ concentrations. EPA also left open the possibility for such regulation of VOC and ammonia in specific areas where that was necessary.

The Court in its January 4, 2013, decision made reference to both section 189(e) and 40 CFR 51.1002, and stated that, ''In light of our disposition, we need not address the petitioners' challenge to the presumptions in [40 CFR 51.1002] that volatile organic compounds and ammonia are not $PM_{2.5}$ precursors, as subpart 4 expressly governs precursor presumptions.'' *NRDC* v. *EPA,* at 27, n.10.

Elsewhere in the Court's opinion, however, the Court observed:

> Ammonia is a precursor to fine particulate matter, making it a precursor to both $PM_{2.5}$ and PM_{10}. For a PM_{10} nonattainment area governed by subpart 4, a precursor is presumptively regulated. See 42 U.S.C. § 7513a(e) [section 189(e)]. *Id.* at 21, n.7.

For a number of reasons, EPA believes that its proposed redesignation of the Macon Area is consistent with the Court's decision on this aspect of subpart 4. First, while the Court, citing section 189(e), stated that ''for a PM_{10} area governed by subpart 4, a precursor is 'presumptively regulated,' '' the Court expressly declined to decide the specific challenge to EPA's 1997 $PM_{2.5}$ implementation rule provisions regarding ammonia and VOC as precursors. The Court had no occasion to reach whether and how it was substantively necessary to regulate any specific precursor in a particular $PM_{2.5}$ nonattainment area, and did not address what might be necessary for purposes of acting upon a redesignation request.

However, even if EPA takes the view that the requirements of subpart 4 were deemed applicable at the time that the state submitted the redesignation request, and disregards the implementation rule's rebuttable presumptions regarding ammonia and VOC as $PM_{2.5}$ precursors, the regulatory consequence would be to consider the need for regulation of all precursors from any sources in the area to demonstrate attainment and to apply the section 189(e) provisions to major stationary sources of precursors. In the case of the Macon Area, EPA believes that doing so is consistent with proposing redesignation of the area for the $PM_{2.5}$ standard. The Macon Area has attained the standard without any specific additional controls of VOC and ammonia emissions from any sources in the area.

Precursors in subpart 4 are specifically regulated under the provisions of section 189(e), which requires, with important exceptions, control requirements for major stationary sources of PM_{10} precursors.[12] Under subpart 1 and EPA's prior implementation rule, all major stationary sources of $PM_{2.5}$ precursors were subject to regulation, with the exception of ammonia and VOC. Thus, we must address here whether additional controls of ammonia and VOC from major stationary sources are required under section 189(e) of subpart 4 in order to redesignate the area for the 1997 $PM_{2.5}$ standard. As explained below, we do not believe that any additional controls of ammonia and VOC are required in the context of this redesignation.

In the General Preamble, EPA discusses its approach to implementing section 189(e). *See* 57 FR 13538–13542. With regard to precursor regulation under section 189(e), the General Preamble explicitly stated that control of VOCs under other Act requirements may suffice to relieve a state from the need to adopt precursor controls under section 189(e). 57 FR 13542. EPA in this proposal proposes to determine that the SIP has met the provisions of section 189(e) with respect to ammonia and VOCs as precursors. This proposed determination is based on our findings that: (1) The Macon Area contains no major stationary sources of ammonia, and (2) existing major stationary sources of VOC are adequately controlled under other provisions of the CAA regulating the ozone NAAQS.[13] In the alternative, EPA proposes to determine that, under the express exception provisions of section 189(e), and in the context of the redesignation of the area, which is attaining the 1997 annual $PM_{2.5}$ standard, at present ammonia and VOC precursors from major stationary sources do not contribute significantly to levels exceeding the 1997 $PM_{2.5}$ standard in the Macon Area. *See* 57 FR 13539–42.

EPA notes that its 1997 $PM_{2.5}$ implementation rule provisions in 40 CFR 51.1002 were not directed at evaluation of $PM_{2.5}$ precursors in the context of redesignation, but at SIP plans and control measures required to bring a nonattainment area into attainment of the 1997 $PM_{2.5}$ NAAQS. By contrast, redesignation to attainment primarily requires the area to have already attained due to permanent and enforceable emission reductions, and to demonstrate that controls in place can continue to maintain the standard. Thus, even if we regard the Court's January 4, 2013, decision as calling for ''presumptive regulation'' of ammonia and VOC for $PM_{2.5}$ under the attainment planning provisions of subpart 4, those provisions in and of themselves do not require additional controls of these precursors for an area that already qualifies for redesignation. Nor does EPA believe that requiring the State to address precursors differently than they have already would result in a substantively different outcome.

Although, as EPA has emphasized, its consideration here of precursor requirements under subpart 4 is in the context of a redesignation to attainment, EPA's existing interpretation of subpart 4 requirements with respect to precursors in attainment plans for PM_{10} contemplates that states may develop attainment plans that regulate only those precursors that are necessary for purposes of attainment in the area in question, i.e., states may determine that only certain precursors need be regulated for attainment and control purposes.[14] Courts have upheld this approach to the requirements of subpart 4 for PM_{10}.[15] EPA believes that application of this approach to $PM_{2.5}$ precursors under subpart 4 is reasonable. Because the Macon Area has already attained the 1997 $PM_{2.5}$ NAAQS with its current approach to regulation of $PM_{2.5}$ precursors, EPA believes that it is reasonable to conclude in the context of this redesignation that there is no need to revisit the attainment control strategy with respect to the treatment of precursors. Even if the court's decision is construed to impose an obligation, in evaluating this redesignation request, to consider additional precursors under subpart 4, it would not affect EPA's approval here of Georgia's request for redesignation of the Macon Area. In the context of a redesignation, Georgia has shown that the Macon Area has attained the standard. Moreover, the State has shown, and EPA has proposed to determine, that attainment in this area

[12] Under either subpart 1 or subpart 4, for purposes of demonstrating attainment as expeditiously as practicable, a state is required to evaluate all economically and technologically feasible control measures for direct PM emissions and precursor emissions, and adopt those measures that are deemed reasonably available.

[13] The Macon Area has reduced VOC emissions through the implementation of various control programs including VOC RACT regulations and various on-road and non-road motor vehicle control programs.

[14] *See, e.g.,* ''Approval and Promulgation of Implementation Plans for California—San Joaquin Valley PM–10 Nonattainment Area; Serious Area Plan for Nonattainment of the 24-Hour and Annual PM–10 Standards,'' 69 FR 30006 (May 26, 2004) (approving a PM_{10} attainment plan that impose controls on direct PM_{10} and NO_X emissions and did not impose controls on SO_2, VOC, or ammonia emissions).

[15] *See, e.g., Assoc. of Irritated Residents* v. *EPA et al.,* 423 F.3d 989 (9th Cir. 2005).

is due to permanent and enforceable emissions reductions on all precursors necessary to provide for continued attainment. It follows logically that no further control of additional precursors is necessary. Accordingly, EPA does not view the January 4, 2013, decision of the court as precluding redesignation of the Macon Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS at this time.

In sum, even if Georgia were required to address precursors for the Macon Area under subpart 4 rather than under subpart 1, EPA would still conclude that the area had met all applicable requirements for purposes of redesignation in accordance with section 107(d)(3(E)(ii) and (v).

f. Maintenance Plan and Evaluation of Precursors

With regard to the redesignation of the Macon Area, in evaluating the effect of the court's remand of EPA's implementation rule, which included presumptions against consideration of VOC and ammonia as $PM_{2.5}$ precursors, EPA in this proposal is also considering the impact of the decision on the maintenance plan required under sections 175A and 107(d)(3)(E)(iv). To begin with, EPA notes that the Area has attained the 1997 annual $PM_{2.5}$ NAAQS and that the State has shown that attainment of that standard is due to permanent and enforceable emission reductions.

EPA proposes to determine that the State's maintenance plan shows continued maintenance of the standard by tracking the levels of the precursors whose control brought about attainment of the 1997 $PM_{2.5}$ standard in the Macon Area. EPA therefore believes that the only additional consideration related to the maintenance plan requirements that results from the Court's January 4, 2013, decision is that of assessing the potential role of VOC and ammonia in demonstrating continued maintenance in this area. As explained below, based upon documentation provided by Georgia and supporting information, EPA believes that the maintenance plan for the Macon Area need not include any additional emission reductions of VOC or ammonia in order to provide for continued maintenance of the standard.

First, as noted above in EPA's discussion of section 189(e), VOC emission levels in this area have historically been well-controlled under SIP requirements related to ozone and other pollutants. Second, total ammonia emissions throughout the Macon area are very low, estimated to be approximately 1,000 tons per year. *See* Table 7 below. This amount of ammonia emissions appears especially small in comparison to the total amounts of SO_2, NO_X, and even direct $PM_{2.5}$ emissions from sources in the Area. Third, as described below, available information shows that no precursor, including VOC and ammonia, is expected to increase over the maintenance period so as to interfere with or undermine the State's maintenance demonstration.

Georgia's maintenance plan shows that emissions of direct $PM_{2.5}$, SO_2, and NO_X are projected to decrease in the Macon Area by 237 tons, 72,360 tons, and 11,608 tons, respectively, from 2007 to 2023. *See* Table 6, above. In addition, emissions inventories used in the regulatory impact analysis (RIA) for the 2012 $PM_{2.5}$ NAAQS show that VOC and ammonia emissions are projected to decrease by 4,377 tons and 70 tons, respectively between 2007 and 2020. *See* Table 7 below. While the RIA emissions inventories are only projected out to 2020, there is no reason to believe that this downward trend would not continue through 2023. Given that the Macon Area is already attaining the 1997 annual $PM_{2.5}$ NAAQS even with the current level of emissions from sources in the Area, the downward trend of emissions inventories would be consistent with continued attainment. Indeed, projected emissions reductions for the precursors that the State is addressing for purposes of the 1997 $PM_{2.5}$ NAAQS indicate that the Area should continue to attain the NAAQS following the precursor control strategy that the State has already elected to pursue. Even if VOC and ammonia emissions were to increase unexpectedly between 2020 and 2023, the overall emissions reductions projected in direct $PM_{2.5}$, SO_2, and NO_X would be sufficient to offset any increases. For these reasons, EPA believes that local emissions of all of the potential $PM_{2.5}$ precursors will not increase to the extent that they will cause monitored $PM_{2.5}$ levels to violate the 1997 annual $PM_{2.5}$ standard during the maintenance period.

TABLE 7—COMPARISON OF 2007 AND 2020 VOC AND AMMONIA EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE AREA [16]

Sector	VOC			Ammonia		
	2007	2020	Net change	2007	2020	Net change
Nonpoint	4,375.93	4,374.67	−1.26	506.31	577.29	70.98
Nonroad	1,425.48	816.24	−609.24	1.21	1.44	0.23
Onroad	5,413.17	1,855.45	−3,557.72	164.53	93.29	−71.24
Point	1,303.46	1,094.59	−208.87	370.09	299.78	−70.31
Total	12,518.04	8,140.95	−4,377.09	1,042.14	971.8	−70.34

In addition, available air quality data and modeling analyses show continued maintenance of the standard during the maintenance period. As noted in section V, above, the Macon Area recorded a $PM_{2.5}$ design value of 13.1 μg/m^3 during 2012, the most recent year available with complete, quality-assured and certified ambient air monitoring data. This is well below the 1997 annual $PM_{2.5}$ NAAQS of 15 μg/m^3. Moreover, the modeling analysis conducted for the RIA for the 2012 $PM_{2.5}$ NAAQS indicates that the design value for this area is expected to continue to decline through 2020. In the RIA analysis, the 2020 modeled design value for the Macon Area is 10.9 μg/m^3. Given the significant decrease in overall precursor emissions projected through 2023, it is reasonable to conclude that monitored $PM_{2.5}$ levels in this area will also continue to decrease through 2023.

Thus, EPA believes that there is ample justification to conclude that the Macon Area should be redesignated, even taking into consideration the

[16] These emissions estimates were taken from the emissions inventories developed for the RIA for the 2012 $PM_{2.5}$ NAAQS.

emissions of VOC and ammonia potentially relevant to $PM_{2.5}$. After consideration of the D.C. Circuit's January 4, 2013, decision, and for the reasons set forth in this notice, EPA continues to propose approval of the State's maintenance plan and its request to redesignate the Macon Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS.

VII. What is EPA's analysis of Georgia's proposed NO_X and $PM_{2.5}$ MVEBs for the Macon area?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must ''conform'' to (i.e., be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, MVEBs must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEBs is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEBs serve as a ceiling on emissions from an area's planned transportation system. The MVEBs concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEBs in the SIP and how to revise the MVEBs.

After interagency consultation with the transportation partners for the Macon Area, Georgia has elected to develop MVEBs for NO_X and $PM_{2.5}$ for the entire nonattainment area. Georgia has developed these MVEBs, as required, for the last year of its maintenance plan, 2023. The MVEBs reflect the total on-road emissions for 2023, plus an allocation from the available NO_X and $PM_{2.5}$ safety margin. Under 40 CFR 93.101, the term ''safety margin'' is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. The NO_X and $PM_{2.5}$ MVEBs and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled and new emission factor models. The NO_X and $PM_{2.5}$ MVEBs for the Macon Area are identified in Table 8 below.

TABLE 8—MACON AREA $PM_{2.5}$ AND NO_X MVEBS

[tpy]

	$PM_{2.5}$	NO_X
2023 Mobile Emissions	70.2	1,991
2023 Safety Margin Allocated	10.3	196
2023 Total Mobile Budget	80.5	2,187

In an effort to accommodate future variations in Travel Demand Models (TDM) and the vehicle miles traveled forecast when no change to the network is planned, GA EPD consulted with the interagency consultation group, including U.S. EPA Region 4, to determine a reasonable approach to address this variation. The projected 2023 on-road motor vehicle emissions for direct $PM_{2.5}$ and NO_X are 70 tons and 1,991 tons, respectively. On-road emissions of SO_2 are considered *de minimis* (70 FR 24280 at 24283, May 6, 2005); therefore, no budget for SO_2 is required.

A safety margin is necessary to accommodate the variabilities, or worst-case scenarios, that can occur due to future planning assumptions. The worst-case daily motor vehicle emissions projection for $PM_{2.5}$ is 14.7 percent above the projected 2023 on-road emissions. In a worst-case scenario, the needed annual safety margin for the MVEB would be 10.3 tons resulting in an overall MVEB of 80.5 tons per year. The worst-case daily motor vehicle emissions projection for NO_X is 9.8 percent above the projected 2023 on-road emissions. In a worst-case scenario, the needed annual safety margin for the MVEB would be 196 tons resulting in an overall MVEB of 2,187 tons per year.

Through this rulemaking, EPA is proposing to approve the MVEBs for NO_X and $PM_{2.5}$ for 2023 for the Macon Area into the Georgia SIP because EPA has determined that the Area maintains the 1997 annual $PM_{2.5}$ NAAQS with the emissions at the levels of the budgets. Once the MVEBs for the Macon Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations. In addition, as discussed in Section V above, EPA is proposing that if this approval is finalized in 2014, the Area will continue to maintain the 1997 Annual $PM_{2.5}$ NAAQS through at least 2024. After thorough review, EPA is proposing to approve the budgets because they are consistent with maintenance of the 1997 annual $PM_{2.5}$ NAAQS through 2023.

VIII. What is the status of EPA's adequacy determination for the proposed NO_X and $PM_{2.5}$ MVEBs for 2023 for the Macon area?

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEBs, EPA may affirmatively find the MVEBs contained therein adequate for use in determining transportation conformity. Once EPA affirmatively finds that the submitted MVEBs are adequate for transportation conformity purposes, the MVEBs must

be used by state and federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEBs are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change,'' on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled, ''Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes,'' 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Georgia's maintenance plan submission includes NO_X and $PM_{2.5}$ MVEBs for the Macon Area for 2023, the last year of the maintenance plan. EPA reviewed the NO_X and $PM_{2.5}$ MVEBs through the adequacy process, and the adequacy of the MVEBs was open for public comment on EPA's adequacy Web site on July 26, 2012, found at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm*. The EPA public comment period on adequacy for the 2023 MVEBs for the Macon Area closed on August 27, 2012. EPA did not receive any comments on the adequacy of the MVEBs, nor did EPA receive any requests for the SIP submittal.

EPA intends to make its determination on the adequacy of the 2023 MVEBs for the Macon Area for transportation conformity purposes in the near future by completing the adequacy process that was started on July 26, 2012. After EPA finds the 2023 MVEBs adequate or takes final action to approve them into the Georgia SIP, the new MVEBs for NO_X and $PM_{2.5}$ must be used for future transportation conformity determinations. For required regional emissions analysis years that involve 2023 or beyond, the applicable budgets will be the new 2023 MVEBs established in the maintenance plan.

IX. Proposed Actions on the Redesignation Request and Maintenance Plan SIP Revisions Including Approval of the NO_X and $PM_{2.5}$ MVEBs for 2023 for the Macon Area

On June 2, 2011, EPA determined that the Macon Area was attaining the 1997 $PM_{2.5}$ NAAQS. 76 FR 31858. EPA is now taking two separate but related actions regarding the Area's redesignation and maintenance of the 1997 annual $PM_{2.5}$ NAAQS.

First, EPA is proposing to determine, based on complete, quality-assured and certified monitoring data for the 2007–2009 monitoring period, and after review of all available data since 2009 in AQS, that the Macon Area continues to attain the 1997 Annual $PM_{2.5}$ NAAQS. EPA is also proposing to determine that the Macon Area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. On this basis, EPA is proposing to approve Georgia's redesignation request for the Macon Area.

Second, EPA is proposing to approve the maintenance plan for the Macon Area, including the $PM_{2.5}$ and NO_X MVEBs for 2023 submitted by Georgia into the State's SIP (under section 175A). The maintenance plan demonstrates that the Area will continue to maintain the 1997 annual $PM_{2.5}$ NAAQS, and the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5). Further, as part of today's action, EPA is describing the status of its adequacy determination for transportation conformity purposes for the $PM_{2.5}$ and NO_X MVEBs for 2023 under 40 CFR 93.118(f)(1). Within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the effective date for the final rule approving the MVEBs into the Georgia SIP, whichever is earlier, the transportation partners will need to demonstrate conformity to the new NO_X and $PM_{2.5}$ MVEBs pursuant to 40 CFR 93.104(e).

If finalized, approval of the redesignation request would change the official designation of Bibb County and the portion of Monroe County in the Macon Area for the 1997 annual $PM_{2.5}$ NAAQS, found at 40 CFR part 81, from nonattainment to attainment.

X. What is the effect of EPA's proposed actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval today. Approval of Georgia's redesignation request would change the legal designation of Bibb County and the portion of Monroe County in the Macon Area for the 1997 annual $PM_{2.5}$ NAAQS, found at 40 CFR part 81, from nonattainment to attainment. Approval of GA EPD's request would also incorporate a plan for maintaining the 1997 annual $PM_{2.5}$ NAAQS in the Macon Area through 2024 into the Georgia SIP. This maintenance plan includes contingency measures to remedy any future violations of the 1997 annual $PM_{2.5}$ NAAQS and procedures for evaluation of potential violations. The maintenance plan also includes NO_X and $PM_{2.5}$ MVEBs for the Macon Area. Additionally, EPA is notifying the public of the status of its adequacy determination for the NO_X and $PM_{2.5}$ MVEBs for 2023 under 40 CFR 93.118(f)(1).

XI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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, these proposed actions merely approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not ''significant regulatory action[s]'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Are 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.*);

• Do 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);

• Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Are 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

• Do 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 Georgia, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401 et seq.

Dated: January 14, 2014.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

[FR Doc. 2014–02480 Filed 2–4–14; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1626

Restrictions on Legal Assistance to Aliens

AGENCY: Legal Services Corporation.

ACTION: Further notice of proposed rulemaking.

SUMMARY: This further notice of proposed rulemaking (FNPRM) proposes modifications to the rule under consideration by the Operations and Regulations Committee (Committee) of the Legal Services Corporation (LSC or Corporation) Board of Directors (Board). The FNPRM revises 45 CFR Part 1626, which governs restrictions on legal assistance to aliens. LSC seeks comments limited to the revisions to § 1626.4(c) and the proposed program letter to replace the Appendix to Part 1626. Additional information on the requests for comments is located in the **SUPPLEMENTARY INFORMATION** section.

DATES: Comments on § 1626.4(c) and the proposed Program Letter replacing the Appendix to Part 1626 are due March 7, 2014.

ADDRESSES: Written comments must be submitted to Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; (202) 337–6519 (fax) or *1626rulemaking@lsc.gov.* Electronic submissions are preferred via email with attachments in Acrobat PDF format. Written comments sent to any other address or received after the end of the comment period may not be considered by LSC.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, (202) 295–1563 (phone), (202) 337–6519 (fax), *1626rulemaking@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. General Authorities, Impetus for Rulemaking, and Existing Rules

LSC's current appropriation restrictions, including those governing the assistance that may be provided to aliens, were enacted in 1996 and have been reincorporated annually with amendments. Section 504(a)(11) of the FY 1996 LSC appropriation prohibits the Corporation from providing funds to any person or entity (recipient) that provides legal assistance to aliens other than those covered by statutory exceptions. Sec. 504(a)(11), Public Law 104–134, Title V, 110 Stat. 1321, 1321–54 (1996).

In subsequent years, Congress expanded eligibility to discrete categories of aliens. In 1997, Congress passed the Kennedy Amendment, which allowed LSC recipients to use non-LSC funds to provide related legal assistance to aliens who were battered or subjected to extreme cruelty in the United States by family members. Sec. 502(a)(2)(C), Public Law 104–208, Div. A, Title V, 110 Stat. 3009, 3009–60 (1996). Congress limited the type of assistance that recipients could provide to ''legal assistance directly related to the prevention of, or obtaining relief from, the battery or cruelty described in'' regulations issued pursuant to VAWA (hereinafter ''related assistance''). Sec. 502(b)(2), Public Law 104–208, Div. A, Title V, 110 Stat. 3009–60. Congress renewed the Kennedy Amendment in the FY 1998 reincorporation and modification of the LSC appropriation restrictions. Sec. 502(a)(2)(C), Public Law 105–119, Title V, 111 Stat. 2440, 2511 (1997). Thereafter, LSC's annual appropriation has incorporated the FY 1998 restrictions by reference. *See, e.g.,* Public Law 113–6, Div. B, Title IV, 127 Stat. 198, 268 (2013) (LSC FY 2013 appropriation). The next expansions of eligibility came through the passage of the Victims of Trafficking and Violence Protection Act of 2000 (TVPA) and its progeny. Public Law 106–386, 114 Stat. 1464 (2000) (22 U.S.C. 7101 note). Through the TVPA, Congress directed the Board of Directors of LSC, along with Federal benefits granting agencies, to ''expand benefits and services to victims of severe forms of trafficking in persons in the United States, without regard to the immigration status of such victims.'' Sec. 107(b)(1)(B), Public Law 106–386, 114 Stat. 1475 (22 U.S.C. 7105(b)(1)(B)). Congress passed the Trafficking Victims Protection Reauthorization Act (TVPRA) in 2003, which made certain family members of victims of severe forms of trafficking (''derivative T-visa holders'') eligible to receive legal services from LSC-funded recipients. Sec. 4(a)(2)(B)(i), Public Law 108–193, 117 Stat. 2875, 2877 (2003) (22 U.S.C. 7105(b)(1)(B)).

In January 2006, Congress passed the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005). VAWA 2005 further amended section 502(a)(2)(C) of the FY 1998 LSC appropriation to expand the categories of aliens to whom recipients may provide related assistance by adding aliens who (1) are victims of sexual assault or trafficking in the United States; or (2) qualify for U-visas under section 101(a)(15)(U) of the Immigration and Nationality Act (INA).

Sec. 104, Public Law 109–162, 119 Stat. 2960, 2978 (2006). The U-visa provision of the INA allows aliens who are victims of one or more of the crimes listed therein and who may assist in law enforcement investigations or prosecutions related to such crimes, or who are family members of such victims, to remain in the United States for a limited period. 8 U.S.C. 1101(a)(15)(U). Additionally, VAWA 2005 removed the Kennedy Amendment's restriction on the use of LSC funds to provide representation to aliens who are eligible for services under VAWA 2005. Sec. 104(a)(1)(A), Public Law 109–162, 119 Stat. 2979–80. The amended text of section 502 is not codified, but the pertinent portion is available at *http://www.lsc.gov/about/lsc-act-other-laws/violence-against-women-act-public-law-109-162-2006.*

The final expansion of eligibility occurred in 2007. The FY 2008 LSC appropriation amended section 504(a)(11) of the FY 1996 LSC appropriation to extend eligibility for assistance to forestry workers admitted to the United States under the H–2B temporary worker provision in section 101(a)(15)(H)(ii)(b) of the INA. Sec. 540, Public Law 110–161, Div. B, Title V, 121 Stat. 1844, 1924 (2007).

LSC last revised Part 1626 in 1997. After the alienage restrictions were enacted in 1996, LSC adopted an interim rule to implement the restrictions. 61 FR 45750, Aug. 29, 1996. While this rule was pending for comment, Congress passed the Kennedy Amendment. LSC subsequently revised Part 1626 to implement the Kennedy Amendment. 62 FR 19409, Apr. 21, 1997, amended by 62 FR 45755, Aug. 29, 1997. In 2003, LSC added a list of documents establishing the eligibility of aliens for legal assistance from LSC grant recipients as an appendix to Part 1626. 68 FR 55540, Sept. 26, 2003. The appendix has not been changed since 2003.

After 1997, LSC apprised recipients through program letters of certain statutory changes expanding alien eligibility for legal assistance provided by LSC-funded recipients. Program Letter 02–5 (May 15, 2002) (TVPA); Program Letter 05–2 (Oct. 6, 2005) (TVPRA; superseded Program Letter 02–5); Program Letter 06–2 (Feb. 21, 2006) (VAWA 2005). The final rule would incorporate the policies set forth in Program Letters 05–2 and 06–2. Both letters will be superseded upon publication of the final rule and will be removed from the ''Current Program Letters'' page of LSC's Web site.

II. Procedural Background

As a result of the numerous amendments to the alien eligibility provisions of the FY 1996 LSC appropriation, the Corporation determined that rulemaking to update Part 1626 was appropriate. On April 14, 2013, the Operations and Regulations Committee (the Committee) of the LSC Board of Directors (the Board) recommended that the Board authorize rulemaking to conform Part 1626 to statutory authorizations. On April 16, 2013, the Board authorized the initiation of rulemaking.

Pursuant to the LSC Rulemaking Protocol, LSC staff prepared a proposed rule amending Part 1626 with an explanatory rulemaking options paper. On July 22, 2013, the Committee recommended that the Board approve the proposed rule for notice and comment rulemaking. On July 23, 2013, the Board approved the proposed rule for publication in the **Federal Register** for notice and comment. LSC published the notice of proposed rulemaking (the NPRM) in the **Federal Register** on August 21, 2013. 78 FR 51696, Aug. 21, 2013. The comment period remained open for sixty days and closed on October 21, 2013.

On January 23, 2014, the Committee considered the draft final rule for publication. After hearing from staff and stakeholders about changes to section 1626.4(c) in the final rule and the possible consequences of those changes, the Committee voted to recommend delaying final consideration of the rule pending an opportunity for public comment on those changes. On January 25, 2014, the Board voted to proceed with a further notice of proposed rulemaking. LSC is seeking comment on only that section of the final rule and does not anticipate revising the rest of the rule.

All of the comments and related memos submitted to the LSC Board regarding this rulemaking are available in the open rulemaking section of LSC's Web site at *http://www.lsc.gov/about/regulations-rules/open-rulemaking.* After the effective date of the rule, those materials will appear in the closed rulemaking section at *http://www.lsc.gov/about/regulations-rules/closed-rulemaking*

III. Discussion of Comments and Regulatory Provisions

LSC received fifteen comments in response to the NPRM. Eight comments were submitted by LSC-funded recipients, four were submitted by non-LSC funded non-profit organizations, and three were submitted by individuals. All of the comments are posted on the rulemaking page of LSC's Web site: *www.lsc.gov/about/regulations-rules.* Most commenters supported the revisions to conform Part 1626 to the statutes expanding eligibility for legal services to certain crime victims, victims of severe forms of trafficking, and H–2B forestry workers. LSC received the greatest number of comments in response to the three issues the Corporation specifically sought comment on: The distinction between the VAWA 2005 and TVPA definitions of ''trafficking,'' the geographic location of the predicate activity for eligibility, and the geographic location of the victim.

Organizational Note

In the final rule, definitions that the proposed rule placed in section 1626.4(c) would be moved to section 1626.2. As a result, paragraphs (d) through (g) of section 1626.4 would be relabeled as paragraphs (c) through (f). In the following discussion of the comments and the changes to the proposed rule, the relabeled paragraphs will be referred to by the number to be used in the final rule, except where the proposed rule is explicitly referenced.

Specific Areas in Which LSC Requested Comments

1. LSC Specifically Sought Comment on Whether the VAWA Term ''Trafficking'' Differed From the TVPA/TVPRA/INA Term ''Severe Forms of Trafficking,'' and, if so, How the Terms Are Different and What Evidence LSC Recipients Should Rely on in Distinguishing Between These Two Terms

LSC received seven comments in response to this request. Of the seven, one observed a trend of linking the VAWA and INA definitions of trafficking to the TVPA term ''severe forms of trafficking'' and suggested that the term ''severe forms of trafficking'' should control all uses of the term ''trafficking.'' The other six commenters generally agreed that the VAWA 2005 term ''trafficking'' differs from the term ''severe forms of trafficking'' used in the TVPA and the INA. All six of those commenters believed that ''trafficking'' as used in VAWA 2005 is a broader term than the TVPA's ''severe forms of trafficking.'' This belief applied to both the plain term ''trafficking'' in VAWA 2005 and the qualifying crime of trafficking for purposes of U-visa eligibility under section 101(a)(15)(U) of the INA. One commenter noted that ''the term 'trafficking' was included in the U-visa provisions to cover forms of human trafficking'' in which persons

were being trafficked, but would have difficulty meeting the ''severe forms of trafficking'' standard to obtain eligibility for benefits under the TVPA. By making trafficking a crime for which individuals could qualify for related legal assistance or a U-visa, the commenter continued, Congress extended ''protection and help [to] both the trafficking victims who could meet the severe forms test and those who could not.''

Commenters differed, however, in how they believed LSC should account for the difference in definitions. Five commenters recommended that LSC adopt VAWA 2005's broader term ''trafficking'' over the TVPA's ''severe forms of trafficking.'' A sixth commenter asserted that in determining eligibility, ''a LSC funded organization should be able to rely on the applicable state statute which would make the applicant eligible for a U visa or the federal statute which defines 'severe form of trafficking,' whichever is broader. Moreover, LSC funded organizations should be able to rely on any evidence that supports the applicable definition in a particular case.''

In order to qualify for a U-visa, an alien must be a victim of at least one of the types of criminal activity listed in section 101(a)(15)(U)(iii) of the INA. The listed crimes, which include ''trafficking,'' must ''violate[ ] the laws of the United States or occur[ ] in the United States (including in Indian country and military installations) or the territories and possessions of the United States[.]'' 8 U.S.C. 1101(a)(15)(U)(i)(IV). Neither the INA nor VAWA 2005 defines the term ''trafficking.''

The TVPA also fails to define ''trafficking,'' although it does define and use the terms ''severe forms of trafficking in persons'' and ''sex trafficking.'' 22 U.S.C. 7102. The TVPA defines ''sex trafficking'' as ''the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.'' 22 U.S.C. 7102(9). ''Severe forms of trafficking in persons'' means (a) ''sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age;'' or (b) ''the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.'' 22 U.S.C. 7102(8). The TVPA does not reference state, tribal, or territorial laws that criminalize trafficking.

LSC agrees with the commenters that the VAWA term ''trafficking,'' incorporating as it does crimes that would constitute trafficking if they violated state or federal law, is broader than both ''sex trafficking'' and ''severe forms of trafficking in persons'' as defined in the TVPA. Indeed, ''trafficking'' as used in VAWA 2005 would include both sex trafficking and severe forms of trafficking in persons, as both are defined as crimes by a federal law, the TVPA. For purposes of eligibility for services under section 1626.4, LSC would retain the proposed definitions of ''victim of trafficking'' and ''victim of severe forms of trafficking'' with minor revisions to track the relevant statutes more closely. The reason for using these definitions is that victims of trafficking under VAWA 2005 and victims of severe forms of trafficking under the TVPA are eligible for differing types of legal assistance. Trafficking victims eligible under VAWA may receive legal assistance related to battery, cruelty, sexual assault, or trafficking and other specified crimes, while victims of severe forms of trafficking under the TVPA may receive any legal assistance that is not otherwise restricted and is within the recipient's priorities. It is therefore important to retain the distinction between the two in order to ensure that individuals receive the legal assistance that is appropriate for their basis of eligibility.

LSC also sought comment on the types of evidence that recipients should rely on to distinguish between victims of trafficking under VAWA 2005 and victims of severe forms of trafficking under the TVPA. Only one commenter responded to this request, stating that the organization was unclear about what kind of information LSC sought. The commenter also stated that ''recipients should be able to rely on the definition in the statute that is applicable to the crime involved and evidence that meets that definition.'' In response to this comment, LSC would revise proposed section 1626.4(e), renumbered as section 1626.4(d) in the final rule, to separate the evidence that may be presented by individuals eligible for legal assistance under VAWA 2005 from forms of evidence that may be presented by victims of severe forms of trafficking under the TVPA. For individuals who claim eligibility based on being a victim of trafficking under VAWA 2005, section 1626.4(d)(2) would incorporate the list used in proposed section 1626.4(e). LSC notes that this list is nonexclusive, and that recipients may accept other types of credible evidence. Evidence may also include an application for a U-visa or evidence that the individual was granted a U-visa.

Section 1626.4(d)(3) would set forth the types of evidence that are unique to victims of severe forms of trafficking. These forms of evidence include a certification letter issued by the U.S. Department of Health and Human Services (HHS) or, in the case of a minor victim of severe forms of trafficking, an interim or final eligibility letter issued by HHS. Recipients may also call the HHS trafficking verification line at (202) 401–5510 or (866) 401–5510 to confirm that HHS has issued an alien a certification letter. HHS is the only federal agency authorized to certify victims of severe forms of trafficking to receive public benefits or to issue eligibility letters to minors. It is important to note that minors do not need to have an eligibility letter to be eligible for services. Recipients only need to determine that a minor meets the definition of a victim of severe forms of trafficking in 22 U.S.C. 7105(b)(1)(C).

2. LSC Specifically Sought Comment on the Geographic Location in Which the Predicate Activity Takes Place

LSC proposed to interpret the VAWA 2005 phrase ''victim of trafficking in the United States'' and the TVPA phrase ''victim of severe forms of trafficking in the United States'' to require that an alien be trafficked into or experience trafficking within the United States to be eligible for legal assistance from LSC-funded recipients. LSC believed that this interpretation was necessary because LSC read the qualifier ''in the United States'' to apply to the activity of trafficking, rather than to the victim of trafficking.

With regard to the geographical restriction as it applied to trafficking under VAWA 2005, LSC received eight comments. One commenter simply stated that LSC's interpretation was correct. Seven commenters disagreed with LSC's proposed interpretation, arguing in all instances that ''in the United States'' modified ''victim of trafficking'' or ''victim of severe forms of trafficking,'' rather than just ''trafficking.'' Of the commenters who disagreed with LSC's interpretation, four linked the VAWA 2005 language to the language in section 7105(b)(1)(B) of the TVPA authorizing LSC and federal benefits granting agencies to expand benefits and services to ''victims of severe forms of trafficking in the United States[.]'' These commenters understood the phrase ''in the United States'' to ''refer to the location of the victim, rather than the location of the abuse,'' and relied on the heading of section

7105(b), ''Victims in the United States,'' in support of their reading. One commenter noted that trafficking is a qualifying crime for U-visa eligibility, and that section 101(a)(15)(U) of the INA does not require that an alien have been a victim of one of the qualifying crimes within the United States to be eligible to receive a U-visa. Two commenters noted that VAWA 2005 authorizes the use of LSC funds to provide legal assistance to both ''victims of sexual assault or trafficking in the United States'' and aliens who qualify for a U-visa, which they asserted meant that even if LSC's interpretation were correct, LSC-funded recipients could still provide assistance to aliens who were victims of sexual assault or trafficking outside the United States because both crimes are qualifying crimes under section 101(a)(15)(U)(iii). The last commenter opposing LSC's interpretation observed that the VAWA 2005 amendments to section 502 made that section ''internally inconsistent.'' The commenter remarked that VAWA 2005 created two categories of eligibility—one for victims of battery, extreme cruelty, sexual assault, or trafficking ''in the United States,'' and one for aliens qualified for U-visa status, which specifically contemplates that qualifying crimes are those that ''violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States[.]'' 8 U.S.C. 1101(a)(15)(U)(i)(IV). Because trafficking is a qualifying crime for U-visa eligibility, the commenter continued, VAWA 2005 appears to treat trafficking inconsistently. Finally, the commenter noted that by treating trafficking as requiring activity to occur in the United States, but not placing the same requirement on sexual assault and domestic violence, which are also qualifying crimes for U-visa eligibility, the regulation is unnecessarily internally inconsistent.

The same seven commenters likewise opposed LSC's proposed interpretation of the TVPA term ''victims of severe forms of trafficking in the United States.'' Most of the commenters pointed to the plain language of the TVPA and the INA in support of their argument. First, they noted that the TVPA definition of ''severe form of trafficking in persons'' does not include a geographical limitation to trafficking activities that occur in the United States. Second, they assert that the title of section 107(b) of the TVPA, ''Victims in the United States,'' makes clear that it is the victims, rather than the activities, that must be in the United States. 22 U.S.C. 7105(b). Finally, they relied on the INA criteria for T-visa eligibility. In order to qualify for a T-visa, an alien must be a victim of a severe form of trafficking in persons; must be willing to cooperate with law enforcement, unable to cooperate due to physical or psychological trauma, or be under the age of 18; and must be ''physically present in the United States . . . on account of such trafficking, including physical presence on account of the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or a perpetrator of trafficking[.]'' 8 U.S.C. 1101(a)(15)(T).

LSC has considered all comments and has reviewed the relevant section of the INA, section 101(a)(15)(T). Section 101(a)(15)(T)(i)(II) requires that to qualify for a T visa, an alien must be a victim of severe forms of trafficking and be ''physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking, including physical presence on account of the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or a perpetrator of trafficking[.]'' 8 U.S.C. 1101(a)(15)(T)(i)(II). The United States Citizenship and Immigration Service's (USCIS) information page for T nonimmigrant status reflects this language in a simplified form, stating that in order to be eligible for a T-visa, an alien must be ''in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or at a port of entry *due to trafficking*[.]'' Victims of Human Trafficking: T Nonimmigrant Status, *www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status* (emphasis added). The INA clearly requires that a victim of severe forms of trafficking be present in the United States as a result of trafficking activity in order to qualify for immigration relief, but it does not require that the trafficking itself occur within the United States.

It would be inconsistent with the plain language of the INA, VAWA 2005, and the TVPA and its progeny to require that an alien have been trafficked into or within the United States to qualify for legal assistance from an LSC-funded recipient. For this reason, and for the reasons stated by the commenters, LSC would revise the language in proposed section 1626.4(d)(1) to remove the requirement that an alien have been subjected to trafficking activity in the United States in order to be eligible to receive legal assistance from an LSC recipient.

LSC would also make two technical amendments to proposed section 1626.4(d). The first would rename proposed section 1626.4(d) ''Relationship to the United States,'' and section 1626.4(d)(1) ''Relation of activity to the United States.'' LSC would make these changes to reflect that although the criminal activity giving rise to eligibility under VAWA does not need to occur in the United States, the crime must have violated the laws of the United States. The second change would restate in section 1626.4(d)(1) the language from section 101(a)(15)(U)(i)(IV) of the INA that a listed crime must have violated the laws of the United States or occurred within the United States in order to be a qualifying crime for purposes of U-visa eligibility.

3. LSC Specifically Sought Comment Regarding Whether an Alien Must Be Physically Present in the United States To Receive Legal Assistance

LSC proposed that aliens eligible to receive legal assistance under one of the anti-abuse statutes would be eligible for such assistance regardless of whether they were present in the United States. LSC reasoned that the anti-abuse statutes, viewed collectively, did not require an alien to be present in the United States to be eligible to receive legal assistance. LSC received eight comments on this issue. Seven commenters agreed with LSC's proposed position. One commenter opposed.

The seven commenters responding in support of LSC's position generally noted that the position was consistent with section 101(a)(15)(U) of the INA, which contemplates that an alien who qualifies for U-visa relief may have been a victim of a qualifying crime that occurred outside the United States. One commenter pointed out that Congress amended VAWA to allow eligible victims to file petitions for relief from outside the United States. Another commenter remarked that victims of abuse may find themselves outside the United States for reasons related to the abuse if suffered here, and that the legal assistance provided by an LSC-funded recipient may be essential to ensuring that the victims are able to petition successfully for legal status.

The commenter opposing LSC's proposal first argued that LSC is improperly ''tying the removal of geographical presence in with the new applicability of assistance to aliens

receiving U visas.'' The commenter believed that the ability of aliens who were victims of qualifying crimes that occurred outside the United States to apply for U-visa relief from outside the United States ''has no bearing on territorial requirements for individuals receiving assistance from the VAWA amendments.'' Secondly, the commenter argued that allowing recipients to represent aliens not present in the United States would significantly increase the case work of LSC recipients and would likely lead to the expenditure of scarce resources in pursuit of frivolous petitions for immigration relief. None of the LSC recipients who commented on the NPRM indicated that they were unable to serve adequately aliens eligible under the anti-abuse statutes or were otherwise compromising their representation of other eligible clients.

LSC continues to believe that the proposed language is consistent with USCIS's interpretation of the U-visa provisions and with Congressional intent in removing the requirement that an alien have been a victim of battery, extreme cruelty, or sexual abuse in the United States. As discussed in the preceding section, however, the VAWA 2005 amendment to section 502(a)(2)(C) of the FY 1998 LSC appropriation is internally inconsistent with respect to whether victims of trafficking must be in the United States in order to be eligible for benefits. This is because the U-visa provision of the INA, which includes trafficking as a qualifying crime, contemplates that the trafficking may occur outside the United States, *see* 8 U.S.C. 1101(a)(15)(U)(i)(IV) (''the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States . . . .''), while the amendment to section 502(a)(C) uses the phrase ''victim of . . . trafficking in the United States.'' Sec. 104(a), Public Law 109–162, 119 Stat. 2960, 2979.

Because the modifier ''in the United States'' must be given some meaning, LSC is interpreting the VAWA 2005 term ''victim of . . . trafficking in the United States'' to mean that an alien who is seeking legal assistance as a victim of trafficking under VAWA does not need to show that the trafficking activity occurred in the United States, but must be present in the United States to be eligible for assistance. This reading is consistent with the reading that LSC is applying to the term ''victim of severe forms of trafficking in the United States'' in the TVPA.

Section 101(a)(15)(T)(i)(II) of the INA, discussed above, requires a victim of severe forms of trafficking to be present in the United States on account of such trafficking in order to be eligible for a T-visa. ''On account of such trafficking'' includes, but is not limited to, having been allowed entry to assist law enforcement in the investigation and prosecution of an act or perpetrator of trafficking. 8 U.S.C. 1101(a)(15)(T)(i)(II). LSC believes that this language also includes a victim of severe forms of trafficking abroad who flees into the United States to escape the trafficking. Under these circumstances, the victim is in the United States ''on account of such trafficking,'' and would be eligible for LSC-funded legal assistance.

Based on the comments received and the subsequent review of the INA, LSC would modify the language in proposed section 1626.4(d), renumbered as section 1626.4(c), to reflect the distinction between eligibility for victims of trafficking who qualify for a U-visa and those who are eligible under VAWA or under the TVPA. LSC would add subsection 1626.4(c)(2), ''Relationship of alien to the United States,'' to describe the circumstances under which an alien must be present in the United States to be eligible for legal assistance under the anti-abuse statutes. Section 1626.4(c)(2)(i) would state that victims of battery, extreme cruelty, or sexual abuse, or who are qualified for a U-visa, do not need to be present in the United States to receive legal assistance from LSC-funded recipients. Section 1626.4(c)(2)(ii) would address victims of severe forms of trafficking, who must be present in the United States on account of such trafficking to be eligible for LSC-funded legal assistance. Finally, Section 1626.4(c)(2)(iii) would address victims of trafficking under VAWA, who only need to be present in the United States to be eligible for assistance.

During the Committee meeting on January 23, 2014, LSC heard concerns from stakeholders. Two primary concerns were identified regarding the modified language in Section 1626.4(c)(2). The first concern was that the distinctions between victims of trafficking under VAWA, aliens qualified for a U-visa on the basis of trafficking, and victims of severe forms of trafficking under the TVPA in the final rule could have unintended consequences. The second concern was that the explicit reference to a presence requirement for victims of trafficking and severe forms of trafficking could be interpreted as precluding recipients from continuing to provide legal assistance to client victims of trafficking in the event the client left the United States after the commencement of services.

With respect to the first concern, stakeholders stated that while they had supported the language in the proposed rule, which did not contain a presence requirement for aliens eligible under any of the anti-abuse statutes, they were concerned that the field had not been given an opportunity to react to the language requiring that certain victims of trafficking be present in the United States to be eligible for LSC-funded legal assistance. They requested an additional opportunity to comment on the changes to Section 1626.4(c).

LSC believes that the distinctions drawn in Section 1626.4(c) are consistent with the interpretations of VAWA, the INA, and the TVPA that the agencies responsible for administering those statutes have adopted. However, LSC understands that these interpretations may not be the only reasonable interpretations. As a result of the discussion, the Committee recommended postponing consideration of the final rule to provide an opportunity for public comment on the changes to Section 1626.4(c). The comment period will be open for thirty days and run concurrently with the comment period for the proposed program letter to replace the Appendix to Part 1626.

LSC seeks comments regarding the interpretation of the phrase ''in the United States'' as it applies to the eligibility for services of victims of trafficking under VAWA and victims of severe forms of trafficking under the TVPA. LSC specifically requests comments on the application of the term that LSC has proposed in Section 1626.4(c)(2). Additionally, LSC specifically requests comments about whether the term ''in the United States'' as used in the VAWA amendments to section 502 of the FY 1996 LSC appropriation act applies solely to the qualifying crime of trafficking; to the qualifying crimes of battery, extreme cruelty, sexual assault, and trafficking; or to victims of the qualifying crimes, regardless of whether the crime itself occurred in the United States.

With respect to the second concern, Section 1626.4(c) would apply to the initial determination of an alien's eligibility for legal assistance under the anti-abuse statutes. Once services have commenced, a client's subsequent departure from the United States does not necessarily render the client ineligible to continue receiving services. Consistent with the Corporation's longstanding policy, the specific circumstances presented by the client's situation will determine whether representation may continue if the client is absent from the United States.

LSC determined in Program Letter 2000–2 that temporary absence from the United States does not change eligibility for aliens covered by the Section 1626.5 presence requirement. Similarly, LSC determined that the H–2A presence requirement does not require a client to continue to be in the United States beyond the H–2A employment in order to continue receiving legal assistance. *See* LSC Board of Directors Meeting, November 20, 1999, 49, *http://go.usa.gov/B3D9* (implementing the recommendations of the *Erlenborn Commission Report, http://go.usa.gov/B3Tj*).

General Comments

Comments not directed at a specific question or section of the regulations are discussed below.

LSC's Objective Regarding Inclusion of Eligible Aliens

LSC received comments during the open comment period and during the January 23, 2014 Committee meeting pertaining to the criteria that LSC established for determining the eligibility of victims of trafficking for legal assistance by LSC-funded entities and the inclusion or exclusion from eligibility of certain categories of aliens. LSC is addressing each of those comments in the discussion of the section giving rise to the comments. As an overall policy, LSC has drafted the regulation to give effect to Congress's intent that certain categories of aliens should be eligible to receive legal services from LSC recipients. In some cases, such as for victims of qualifying crimes under VAWA or H–2 visa holders, those services are limited to assistance related to the basis for eligibility. LSC's policy is to permit LSC recipients to provide all categories of eligible aliens with procedural assistance in the form of legal services to pursue the substantive rights, such as immigration relief, that Congress has given them.

Establishing Requirements for Recipient Compliance With VAWA 2005

One commenter expressed concern that the regulatory language used to expand eligibility to the categories of aliens covered by VAWA 2005 was too weak. The commenter stated that VAWA 2005 and its subsequent reauthorization acts generally contain provisions requiring DHS to issue regulations and entities receiving funding through VAWA 2005 to take certain actions within prescribed time limits after passage of the statute. The commenter recommended that LSC revise the final rule to require that recipients

- Include in their next funding or renewal of funding applications a copy of their written plans for implementing the changes called for in the final rule;
- Identify and consult with domestic violence, sexual assault, and victim services programs working to serve immigrant crime victims in the recipient's service area; and
- Submit with each funding application a copy of the recipient's plan implementing section 1626.4, including a statement of the work the recipient has done to conduct outreach to, consult with, and collaborate with victim services providers with expertise providing assistance to underserved populations.

VAWA 2005 amended section 502 of the FY 1996 LSC appropriation to authorize LSC recipients to provide legal assistance, using LSC funds or non-LSC funds, to alien victims of battery, extreme cruelty, sexual assault, or trafficking in the United States, and aliens qualified for a U-visa. VAWA 2005 does not require LSC to undertake any actions to implement the expanded authority, nor does it require LSC funding recipients to provide legal assistance to the new categories of eligible aliens. Because VAWA 2005 places no obligations on either LSC or its recipients and contains no timeframes within which they must take action, LSC would not place implementation requirements on its recipients.

Publication of Interlineated Statute

One commenter recommended that LSC should publish an interlineated statute showing the changes to section 502 of the FY 1996 LSC appropriation made by VAWA 2005 and republish an updated version each time it is amended. LSC publishes interlineated versions of the relevant statutes on the LSC Web site (*http://www.lsc.gov/about/lsc-act-other-laws/lsc-appropriations-acts-committee-reports*) and updates the page as necessary to reflect changes to the statutes. LSC believes that its practice of posting the interlineated statutes on its Web site addresses the commenter's recommendation and is sufficient to address changes to the laws affecting LSC and its recipients until the Corporation can undertake any necessary rulemaking.

Correcting Incorrect References

One commenter noted that the NPRM incorrectly referred to the ''Customs and Immigration Service,'' rather than the agency's proper name, ''Citizenship and Immigration Service.'' The references would be corrected.

Extension of the Comment Period

Four commenters recommended that LSC extend the comment period to allow other interested organizations the opportunity to comment. The commenters were three LSC-funded recipients and one national non-profit. Commenters stated that they had learned of the rulemaking shortly before the close of the comment period and that they believed the complex nature of the issues raised by the rulemaking required additional time to develop proper responses.

LSC does not believe an extension of the comment period for the August 21, 2013 NPRM is warranted. The comment period was open for sixty days, and recipients were advised of the rulemaking via email the day the NPRM was published in the **Federal Register**. For the three specific questions on which LSC sought comment, commenters overwhelmingly reached the same conclusion. On the other issues for which comments were received, commenters generally made the same recommendation. None of the four commenters requesting an extension identified any specific issue they intended to address if given additional time to respond. For these reasons, LSC does not believe it is necessary to reopen the comment period; however, as discussed previously, LSC is seeking public comments on revisions to Section 1626.4(c) only.

Section-by-Section Discussion of Comments and the Final Rule

Proposed 1626.2 Definitions

1. *Comment:* One commenter stated that the list of anti-abuse statutes in section 1626.2(f) was incomplete. The commenter recommended adding the battered spouse waiver in the Immigration and Nationality Act (INA), 8 U.S.C. 1186a(c)(4)(C), the 2013 VAWA reauthorization, and the 2005, 2008, and 2013 reauthorizations of the TVPA to the list.

Response: As a matter of law, LSC does not have the authority to extend eligibility for legal assistance provided by LSC-funded recipients to aliens eligible for the battered spouse waiver under 8 U.S.C. 1186a(c)(4)(C). Of the statutes reauthorizing VAWA and the TVPA, only the 2005 VAWA reauthorization and the TVPRA of 2003 affected the eligibility of certain aliens to receive legal assistance from LSC-funded providers. LSC will revise the references to VAWA and the TVPA to

indicate that LSC considers those statutes, as amended, as the anti-abuse statutes.

LSC would make several changes to section 1626.2. In the final rule, LSC would move the definitions of ''battered or extreme cruelty,'' ''victim of sexual assault or trafficking,'' ''victim of severe forms of trafficking,'' and ''qualifies for immigration relief'' to section 1626.2 from proposed section 1626.4(c) to consolidate definitions in Part 1626 for ease of reference and delete proposed section 1626.4(c). LSC believes that removing the definitions from the operational text of section 1626.4 will improve the readability and comprehensibility of the rule.

With respect to the definition of ''battered or extreme cruelty,'' LSC would reinstate the definition used in existing subsection 1626.2(f) in the final rule. LSC determined that the cross-reference to agency regulations defining the term did not clarify or add anything to the existing definition and could result in confusion if agencies differed in their definitions of the term.

The Corporation would also insert a definition for the term ''certification.'' ''Certification'' is a term created by the TVPA and is defined at 22 U.S.C. 7105(b)(1)(E). Certification refers to the determination made by the Secretary of HHS that an individual was subjected to severe forms of trafficking, is willing to provide all reasonable assistance to law enforcement in the investigation or prosecution of a trafficker, and has either filed a bona fide application for a T-visa that has not been rejected or has been granted continued presence to assist law enforcement by DHS.

In the final rule, LSC would make a technical amendment to the definition of ''victim of sexual assault.'' In the NPRM, proposed section 1626.4(c)(2)(i) defined ''a victim of sexual assault'' as an individual ''subjected to any conduct included in the definition of sexual assault or sexual abuse in VAWA, including but not limited to sexual abuse, aggravated sexual abuse, abusive sexual contact, or sexual abuse of a minor or ward[.]'' However, the term ''sexual abuse'' is not defined in VAWA, and the VAWA definition of ''sexual assault'' does not track the examples provided in the proposed definition. To avoid confusion, LSC would revise the definition to remove the reference to a definition of ''sexual abuse'' in VAWA and adopt by incorporation the VAWA definition of ''sexual assault.''

Finally, LSC would alphabetize the definitions in section 1626.2 for ease of reference.

Proposed 1626.3 Prohibition

LSC received no comments on the proposed technical corrections to this section.

Proposed 1626.4 Aliens Eligible for Assistance Under Anti-Abuse Laws

As stated earlier in this preamble, LSC would delete proposed section 1626.4(c) and move the definitions contained therein to section 1626.2. Proposed subsections 1626.4(d) through (g) will be renumbered as subsections 1626.4(c) through (f) in the final rule.

Proposed 1626.4(a)(2) Legal Assistance to Victims of Severe Forms of Trafficking and Certain Family Members

Paragraph (a)(2) would incorporate the policies established in Program Letter 02–5 and Program Letter 05–2. Individuals eligible for legal assistance under the TVPA and the 2003 TVPRA include individuals applying for certification as victims of severe forms of trafficking and certain family members seeking immigration relief under section 101(a)(15)(T)(ii) of the INA (8 U.S.C. 1101(a)(15)(T)(ii)).

Proposed 1626.4(b)(2) Types of Cases Constituting ''Related Legal Assistance''

1. *Comment:* One commenter suggested that LSC include within ''related legal assistance'' assistance ensuring that clients are protected by the privacy and confidentiality provisions of VAWA 2005 and are able to access the protections and benefits of education laws, including access to post-secondary educational grants and loans. According to the commenter, ''a significant component of effective representation of sexual assault victims and domestic violence victims in many cultural communities is ensuring privacy and confidentiality.'' Additionally, ''access to educational benefits and remedies under education laws to address the subsequent problems that stem from the abuse and accommodations sexual assault survivors may need in the educational context'' is an integral part of helping immigrant victims of sexual assault to move on with their lives, to stay in school, and to settle successfully in the United States.

By email dated November 25, 2013, LSC sought additional information from the commenter explaining the types of related legal assistance the commenter believed LSC recipients could provide in the context of VAWA confidentiality and privacy provisions. The commenter responded by email on December 13, 2013 with examples of assistance. The examples included ''preventing discovery of shelter records or mental health records of a victim in a custody, protection order, or criminal court proceeding,'' ''assistance with change of identity for crime victims who are witnesses eligible to participate in victim protection programs,'' and keeping information about the victim's immigration status and information contained in a victim's application for immigration relief under VAWA, 8 U.S.C. 1101(a)(15)(T), or 8 U.S.C. 1101(a)(15)(U), out of a family court case.

Response: LSC would retain the language in the proposed rule. LSC intended the examples of ''related legal assistance,'' including the list in the parenthetical, to be illustrative rather than exhaustive. LSC understands that there may be types of assistance, including assistance protecting confidentiality and privacy rights or ensuring access to education, that may constitute ''related legal assistance.'' The key factor for recipients to consider in determining whether a requested service is ''related legal assistance'' is the connection between the assistance and the purposes for which assistance can be given: escaping abuse, ameliorating the effects of the abuse, or preventing future abuse. To the extent that ensuring clients are protected by the privacy and confidentiality provisions of VAWA and the protections and benefits of education laws is necessary to help the clients escape, ameliorate the effects of, or prevent future abuse, legal assistance to secure those protections and benefits would constitute ''related legal assistance.''

Proposed 1626.4(c) Definitions of Categories of Eligible Aliens Under Anti-Abuse Statutes

As stated in the discussion of section 1626.2, LSC would delete this section and move the definitions to section 1626.2.

Proposed 1626.4(e) Evidentiary Support

1. *Comment:* LSC received four comments regarding the types of evidence that recipients may consider in support of a showing that an alien is eligible for legal assistance under one of the anti-abuse statutes. All of the comments supported the use of the list of evidentiary types taken directly from VAWA.

Response: LSC would retain the proposed text of section 1626.4(e) with respect to types of evidentiary support.

2. *Comment:* One commenter recommended that LSC revise proposed paragraphs (e) and (f) to ''clearly state that where programs may represent

individuals without regard to their citizenship or immigration status . . . programs are not required to inquire into the citizenship or immigration status of these clients.'' Another commenter similarly suggested that LSC should include language in the final rule shifting the eligibility focus at intake from citizenship or eligible alien status to victimization.

Response: LSC would retain the language of the proposed rule. VAWA 2005 authorizes, rather than requires, LSC funds to be used to represent victims of battery, extreme cruelty, sexual assault, and trafficking, or aliens who are qualified for a U-visa. Recipients are responsible for setting their own priorities and may choose not to prioritize the types of assistance that are authorized under VAWA 2005. LSC believes that recipients should retain the discretion to conduct their intake processes in the ways that they determine are the most effective at identifying clients who are eligible for services and whose cases are within the recipients' priority areas.

LSC reminds recipients that Advisory Opinion AO–2009–1008 addressed the question whether recipients must determine the immigration status of aliens who qualify for assistance under one of the anti-abuse statutes. In that opinion, the Office of Legal Affairs stated that once a recipient determined that an individual has a legal need that would qualify for the exceptions of the anti-abuse statutes to the alienage requirement, the recipient does not need to inquire into the citizenship or immigration status of that individual. The final rule does not affect the validity of the conclusion stated in AO–2009–1008.

3. *Comment:* Two commenters recommended revising the examples of changes in eligibility in section 1626.4(e). One recommended including examples of when an alien's eligibility for legal assistance may change from eligibility under an anti-abuse statute to eligibility by reason of the alien's immigration status and vice versa in the preamble to the final rule. The other recommended removing or revising the examples in section 1626.4. The commenter believed that the examples provided in proposed section 1626.4(e) were ''problematic'' because they suggested that an individual whose application for status was rejected would subsequently be deemed ineligible to receive legal assistance under the anti-abuse statutes or they were too vague about which component of the Department of Homeland Security (DHS) made the determination of ineligibility and at which stage of review the determination of ineligibility was made. The commenter also opined that the requirement in the draft rule and in Program Letter 06–2 that recipients terminate representation of an individual once DHS issued a final denial of the individual's petition for a U-visa is without basis in law. The commenter reasoned that the VAWA 2005 amendment to section 502 of the FY 1996 LSC appropriation based eligibility for services on an individual's ''qualifying'' for a U-visa, which the commenter stated ''arguably applies when there is a need for corrected documents or there is after-acquired evidence.''

Response: LSC would remove the examples from the text of the regulation. However, LSC wishes to clarify two points in response to the comments. The existing regulation defines ''rejected'' as ''an application that has been denied by DHS and is not subject to further administrative appeal. In the example of the ''final denial'' of a petition for a U-visa, LSC did not intend to create ambiguity and should have used the regulatory term ''rejected.''

With respect to subsequent eligibility, LSC did not intend the examples to suggest that an individual whose application for status was rejected because of insufficient or incomplete evidence would be ineligible for related legal assistance at a later date if the individual returned with additional evidence that he or she was a victim of battery or extreme cruelty, sexual assault, trafficking, or one of the qualifying crimes for a U-visa. The example was intended only to explain how an individual's eligibility for services may change when the application in connection with which the individual qualified for services is rejected.

LSC is sensitive to the difficulties that alien victims of abuse may have in developing and documenting credible evidence of the abuse. For purposes of eligibility, however, LSC's policy is that once the petition for a U-visa upon which an individual was determined to be eligible for services has been rejected and no further avenues of appeal are available for that petition, the individual must be deemed not qualified for a U-visa and the recipient must terminate representation consistent with applicable rules of professional responsibility unless there is another basis upon which the alien can be found eligible. The individual may be found eligible for services based on qualifying for a U-visa at a later time if the individual can provide additional evidence supporting his or her claim for eligibility.

LSC would remove the statement at the end of proposed section 1626.4(e) that recipient staff should review the evidence presented at intake to support an individual's basis for eligibility under the anti-abuse statutes. Upon further consideration, LSC determined that this sentence was unduly prescriptive about how recipients assess eligibility and appeared to set up a different rule for reviewing eligibility under the anti-abuse statutes. Recipients should have mechanisms in place for evaluating a client's continued eligibility for services, regardless of the basis of eligibility

Proposed 1626.4(f) Recordkeeping

1. *Comment:* Two commenters opposed the requirement in proposed paragraphs (f)(1) and (f)(2) that if an alien provides a visa or visa application as evidence to support his eligibility for legal services under the anti-abuse statutes, the recipient must keep a copy of the document in its files. One commenter noted that the requirement was a change in LSC policy, which currently does not require applicants to keep copies of immigration documents to prove alien eligibility. The other commenter stated that such a requirement is contrary to ''motivations and the direction of the evolution of federal VAWA confidentiality law.'' The commenter described the confidentiality provisions of VAWA as protecting not only the information contained within a VAWA, T, or U visa application, but also as preventing a third party from obtaining information about the existence of such applications except in certain carefully circumscribed cases.

Response: LSC agrees with these comments. In the final rule, LSC would replace proposed subparagraph (f) with language substantially similar to existing subsection (b): ''Recipients are not required by § 1626.12 to maintain records regarding the immigration status of clients represented pursuant to this section.'' The Corporation would include a sentence in the final rule stating that if an alien presents an immigration document as evidence of eligibility under the anti-abuse statutes, recipients shall document eligibility under the anti-abuse statutes by making a note in the client's file stating that the recipient has seen the visa or the application for a visa that supports the recipient's claim for eligibility and identifying the type of document, the applicant's alien registration number (''A number''), the date of the document, and the date of the review. The note should be signed by the staff member who reviewed the document. LSC understands the confidentiality

concerns that this approach may raise; however, recipients must be able to document the basis for an individual's eligibility. In the event an alien presents an immigration document, LSC believes that documenting the basis for eligibility by recording the type of immigration document presented is reasonable and accommodates the commenters' concern.

Proposed Section 1626.4(g) Changes in Basis for Eligibility

Because LSC would delete paragraph (c), this subsection would be relocated to paragraph (f). No other changes would be made to this subsection.

Proposed 1626.5 Aliens Eligible for Assistance Based on Immigration Status

1. *Comment:* LSC received four comments regarding proposed section 1626.5(e). The proposed change to this section updated the reference to withholding of removal under section 243(h) of the INA to section 241(b)(3) of the INA to reflect the transfer of the provision from one section of the INA to the other. The comments were substantially similar in their recommendation and rationale. The commenters recommended that persons granted withholding of deportation under prior section 243(h) of the INA should not be removed from the regulation because some persons are still subject to deportation proceedings or orders of deportation and cannot obtain withholding of removal under section 241(b)(3) of the INA.

Response: LSC made this change to the rule to reflect an update to the INA. Further research showed that Congress intended individuals with orders of exclusion or deportation to be treated the same as individuals with orders of removal. In the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Congress recharacterized the actions of deportation (expulsion from the United States) and exclusion (barring from entry into the United States) into a single action—removal. Sec. 304, Public Law 104–208, Div. C, Tit. III, 110 Stat. 3009–589 (1996) (8 U.S.C. 1229a) (establishing ''removal proceedings'' as the proceedings in which an immigration judge would decide the admissibility or deportability of an alien); *see also* 8 U.S.C. 1229(e)(2) (defining ''removable'' to mean that an alien is either inadmissible under section 212 of the INA or deportable under section 237 of the INA); Sec. 308, Public Law 104–208, Div. C, Tit. III, 110 Stat. 3009–614–3009–625 (amending various sections of the INA to change references to ''deportation'' or ''exclusion'' to ''removal''). Section 309(d)(2) of IIRIRA explicitly states that for carrying out the purposes of the INA, ''any reference in law to an order of removal shall be deemed to include a reference to an order of exclusion and deportation or an order of deportation.'' Sec. 309(d)(2), Public Law 104–208, Div. C, Tit. III, 110 Stat. 3009–627 (8 U.S.C. 1101 note).

LSC does not believe that, when Congress passed IIRIRA, it intended to bar individuals granted withholding of deportation under prior section 243(h) of the INA from continued eligibility for legal services from an LSC-funded recipient. Rather, the various provisions in IIRIRA consolidating ''deportation'' and ''exclusion'' under the umbrella of ''removal,'' combined with the deeming provision in section 309(d)(2), suggest that Congress intended the rights, remedies, and obligations attending deportation and exclusion to carry over to removal. Consequently, LSC would accept the comment and would revise section 1626.5(e) to restore the references to individuals who received withholding of deportation under prior INA section 243(h).

2. *Comment:* The same four commenters recommended that LSC include in section 1626.5 ''withholding of removal under the Convention Against Torture (CAT)'' and ''deferral of removal under CAT'' as bases for eligibility. Their reasons for the recommendation were twofold. First, withholding and deferral of removal under the CAT are ''extremely similar'' to withholding of deportation or removal under either prior section 243(h) or current section 241(b) of the INA because each type of withholding is intended to prevent an individual from being involuntarily returned to a country where his or her life or freedom would be endangered. The second reason was a practical one—that individuals may not have documentation specifying which type of withholding of removal they have received. The commenters stated that USCIS uses the same code for all three types of withholding.

Response: LSC is sensitive to the fact that individuals who have obtained withholding of removal under the CAT may need legal assistance in much the same way that individuals who have received withholding of removal under section 243(h) of the INA or deportation under prior section 241(b) of the INA do. However, Congress has not authorized LSC to extend eligibility to individuals who have obtained withholding of removal under the CAT. Because LSC has neither the authority nor the discretion to extend eligibility for LSC-funded legal assistance to these individuals, LSC would retain the text from the proposed rule.

LSC would make a technical amendment to section 1626.5(c). The first sentence of the section states that an alien who has been granted asylum by the Attorney General under Section 208 of the INA is eligible for assistance. LSC would insert the phrase ''or the Secretary of DHS'' to reflect the fact that Section 208 of the INA, 8 U.S.C. 1158, has been amended to give the Secretary of DHS the authority to grant asylum, in addition to the Attorney General. Sec. 101(a)(1), (2), Public Law 109–13; 119 Stat. 231, 302 (2005).

Proposed 1626.6 Verification of Citizenship

No comments were received on the proposed changes to this section.

Proposed 1626.7 Verification of Eligible Alien Status

LSC received comments on the proposal to remove the appendix to Part 1626 and publish the contents as a program letter or equivalent document, which will be discussed in the section on the appendix. LSC received no comments on the other proposed changes to this section.

Proposed 1626.8 Emergencies

No comments were received on the proposed changes to this section.

Proposed 1626.11 H–2 Forestry and Agricultural Workers

1. *Comment:* LSC received two comments in response to the proposed revisions to section 1626.11. LSC proposed to amend section 1626.11 to add H–2B forestry workers as a new category of aliens eligible for legal assistance from LSC-funded recipients, consistent with the FY 2008 LSC appropriation's amendment to section 504(a)(11)(E) of the FY 1996 LSC appropriation. Both comments supported the amendment, stating that the ability to represent H–2A agricultural and H–2B forestry workers enables recipients to engage more fully in investigating and enforcing labor laws, particularly wage and conditions laws. One commenter recommended that Congress should act to expand eligibility for LSC-funded legal assistance to ''all low-income workers, regardless of their immigration status.''

Response: LSC appreciates the comments in support of the revisions to section 1626.11.

LSC would make technical amendments to sections 1626.11(a) and (b) in the final rule. The original version of section 1626.11 stated that

agricultural workers ''admitted under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii)'' were eligible for legal assistance related to certain issues arising under the workers' employment contracts. 53 FR 40194, 40196, Oct. 19, 1988 (NPRM); 54 FR 18109, 18112, Apr. 27, 1989 (final rule). This language omitted the full relevant text of the statute that made nonimmigrant workers ''admitted to, *or permitted to remain in the United States under,*'' 8 U.S.C. 1101(a)(15)(h)(ii)(A) eligible for legal services. Sec. 305, Public Law 99–603, 100 Stat. 3359, 3434 (1986) (emphasis added). Congress used the same ''admitted to, or permitted to remain in'' language when it expanded eligibility to H–2B forestry workers. Sec. 540, Public Law 110–161, Div. B, Title V, 121 Stat. 1844, 1924 (2007). This same omission was made in the NPRM for this rule. 78 FR 51696, 51704, Aug. 21, 2013. The omission of this language was an oversight and LSC would amend sections 1626.11(a) and (b) to include it.

Proposed Appendix to Part 1626—Examples of Documents and Other Information Establishing Alien Eligibility for Representation by LSC Programs

1. *Comment:* LSC received seven comments in response to the proposal to remove the appendix to Part 1626 and instead publish the list of documents establishing alien eligibility as program letters or equivalent policy documents. Six commenters supported the proposal, and one commenter objected. The six commenters supporting the proposal agreed with LSC's assessment that the frequently changing nature of immigration documents and forms requires a more flexible means of disseminating up-to-date information to LSC recipients than the rulemaking procedure allows. One of the comments in support, however, recommended that LSC publish the initial program letter for public comment and establish a comment and feedback procedure for issuance of subsequent program letters. The desire for notice and comment was reflected in the one comment opposing the proposal. The commenter opposing the removal of the appendix asserted that experienced immigration practitioners are often in the best position to understand fully the types of documentation that can adequately demonstrate an eligible alien status. The commenter stated that because rulemaking is the only way to ensure an opportunity for public comment and obtaining public comment is consistent with LSC's policy of engaging in open dialogue with its stakeholders, LSC should continue publishing the list of documentary evidence as the Appendix to Part 1626.

Response: LSC agrees that practitioner input is essential to ensuring that the list of documents and other evidence of alien eligibility is complete, accurate, and useful. As stated in the preamble to the NPRM, LSC is publishing the initial program letter replacing the Appendix to Part 1626 under the LSC Rulemaking Protocol. The Rulemaking Protocol requires the Corporation to provide a comment period of at least thirty days for any regulatory changes that occur through notice and comment rulemaking. 67 FR 69762, 69764, Nov. 19, 2002. LSC does not intend that removal of the list of documents from the regulation will limit the ability of recipients to provide input into future versions of the list.

The program letter replacing the Appendix to Part 1626 is being published for public comment along with this FNPRM. The comment period will be open for thirty days from the date of publication in the **Federal Register**.

List of Subjects in 45 CFR Part 1626

Aliens, Grant programs-law, Legal services, Migrant labor, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Legal Services Corporation proposes to revise 45 CFR part 1626 to read as follows:

PART 1626—RESTRICTIONS ON LEGAL ASSISTANCE TO ALIENS

Sec.

1626.1 Purpose.
1626.2 Definitions.
1626.3 Prohibition.
1626.4 Aliens eligible for assistance under anti-abuse laws.
1626.5 Aliens eligible for assistance based on immigration status.
1626.6 Verification of citizenship.
1626.7 Verification of eligible alien status.
1626.8 Emergencies.
1626.9 Change in circumstances.
1626.10 Special eligibility questions.
1626.11 H–2 forestry and agricultural workers.
1626.12 Recipient policies, procedures, and recordkeeping.

Authority: 42 U.S.C. 2996g(e).

§ 1626.1 Purpose.

This part is designed to ensure that recipients provide legal assistance only to citizens of the United States and eligible aliens. It is also designed to assist recipients in determining the eligibility and immigration status of persons who seek legal assistance.

§ 1626.2 Definitions.

(a) *Anti-abuse statutes* means the Violence Against Women Act of 1994, Pub. L. 103–322, 108 Stat. 1941, as amended, and the Violence Against Women and Department of Justice Reauthorization Act of 2005, Public Law 109–162, 119 Stat. 2960 (collectively referred to as ''VAWA''); Section 101(a)(15)(U) of the INA, 8 U.S.C. 1101(a)(15)(U); and the incorporation of these statutory provisions in section 502(a)(2)(C) of LSC's FY 1998 appropriation, Pub. L. 105–119, Title V, 111 Stat. 2440, 2510 as incorporated by reference thereafter; the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106–386, 114 Stat. 1464 (''TVPA''), as amended; and Section 101(a)(15)(T) of the Immigration and Nationality Act (''INA''), 8 U.S.C. 1101(a)(15)(T).

(b) *Battered or subjected to extreme cruelty* includes, but is not limited to, being the victim, of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution may be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.

(c) *Certification* means the certification prescribed in 22 U.S.C. 7105(b)(1)(E).

(d) *Citizen* means a person described or defined as a citizen or national of the United States in 8 U.S.C. 1101(a)(22) and Title III of the Immigration and Nationality Act (INA), Chapter 1 (8 U.S.C. 1401 *et seq.*) (citizens by birth) and Chapter 2 (8 U.S.C. 1421 *et seq.*) (citizens by naturalization) or antecedent citizen statutes.

(e) *Eligible alien* means a person who is not a citizen but who meets the requirements of § 1626.4 or § 1626.5.

(f) *Ineligible alien* means a person who is not a citizen and who does not meet the requirements of § 1626.4 or § 1626.5.

(g) *On behalf of* an ineligible alien means to render legal assistance to an eligible client that benefits an ineligible alien and does not affect a specific legal right or interest of the eligible client.

(h)(1) *Qualifies for immigration relief under section 101(a)(15)(U) of the INA* means:

(i) A person who has been granted relief under that section;

(ii) A person who has applied for relief under that section and who the recipient determines has evidentiary support for such application; or

(iii) A person who has not filed for relief under that section, but who the recipient determines has evidentiary support for filing for such relief.

(2) A person who ''qualifies for immigration relief'' includes any person who may apply for primary U visa relief under subsection (i) of section 101(a)(15)(U) of the INA or for derivative U visa relief for family members under subsection (ii) of section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)). Recipients may provide assistance for any person who qualifies for derivative U visa relief regardless of whether such a person has been subjected to abuse.

(i) *Rejected* refers to an application for adjustment of status that has been denied by DHS and is not subject to further administrative appeal.

(j) *Victim of severe forms of trafficking* means any person described at 22 U.S.C. 7105(b)(1)(C).

(k) *Victim of sexual assault or trafficking* means:

(1) *A victim of sexual assault* subjected to any conduct included in the definition of sexual assault in VAWA, 42 U.S.C. 13925(a)(29); and

(2) *A victim of trafficking* subjected to any conduct included in the definition of ''trafficking'' under law, including, but not limited to, local, state, and federal law, and T-visa holders regardless of certification from the U.S. Department of Health and Human Services (HHS).

(l) *United States,* for purposes of this part, has the same meaning given that term in 8 U.S.C. 1101(a)(38) of the INA.

§ 1626.3 Prohibition.

Recipients may not provide legal assistance for or on behalf of an ineligible alien. For purposes of this part, legal assistance does not include normal intake and referral services.

§ 1626.4 Aliens eligible for assistance under anti-abuse laws.

(a) Subject to all other eligibility requirements and restrictions of the LSC Act and regulations and other applicable law:

(1) A recipient may provide related legal assistance to an alien who is within one of the following categories:

(i) An alien who has been battered or subjected to extreme cruelty, or is a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)); or

(ii) An alien whose child, without the active participation of the alien, has been battered or subjected to extreme cruelty, or has been a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)).

(2)(i) A recipient may provide legal assistance, including but not limited to related legal assistance, to:

(A) An alien who is a victim of severe forms of trafficking of persons in the United States, or

(B) An alien classified as a non-immigrant under section 101(a)(15)(T)(ii) of the INA (8 U.S.C. 1101(a)(15)(T)(ii) regarding others related to the victim).

(ii) For purposes of this part, aliens described in paragraphs (a)(1)(i) and (a)(1)(ii) of this section include individuals seeking certification as victims of severe forms of trafficking and certain family members applying for immigration relief under 8 U.S.C. 1101(a)(15)(T)(ii).

(b) (1) *Related legal assistance* means legal assistance directly related:

(i) To the prevention of, or obtaining relief from, the battery, cruelty, sexual assault, or trafficking;

(ii) To the prevention of, or obtaining relief from, crimes listed in section 101(a)(15)(U)(iii) of the INA (8 U.S.C. 1101(a)(15)(U)(iii));

(iii) To an application for relief:

(A) Under Section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)); or

(B) Under section 101(a)(15)(T) of the INA (8 U.S.C. 1101(a)(15)(T)).

(2) Such assistance includes representation in matters that will assist a person eligible for assistance under this part to escape from the abusive situation, ameliorate the current effects of the abuse, or protect against future abuse, so long as the recipient can show the necessary connection of the representation to the abuse. Such representation may include immigration law matters and domestic or poverty law matters (such as obtaining civil protective orders, divorce, paternity, child custody, child and spousal support, housing, public benefits, employment, abuse and neglect, juvenile proceedings and contempt actions).

(c) *Relationship to the United States.* (1) *Relation of activity to the United States.* An alien is eligible under this section if the activity giving rise to eligibility violated a law of the United States, regardless of where the activity occurred, or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States.

(2) *Relationship of alien to the United States.* (i) An alien defined in § 1626.2(b), (h), or (k)(1) need not be present in the United States to be eligible for assistance under this section.

(ii) An alien defined in § 1626.2(j) must be present in the United States on account of such trafficking to be eligible for assistance under this section.

(iii) An alien defined in § 1626.2 (k)(2) must be present in the United States to be eligible for assistance under this section.

(d) *Evidentiary support.* (1) *Intake and subsequent evaluation.* A recipient may determine that an alien is qualified for assistance under this section if there is evidentiary support that the alien falls into any of the eligibility categories or if the recipient determines there will likely be evidentiary support after a reasonable opportunity for further investigation. If the recipient determines that an alien is eligible because there will likely be evidentiary support, the recipient must obtain evidence of support as soon as possible and may not delay in order to provide continued assistance.

(2) *Documentary evidence.* Evidentiary support may include, but is not limited to, affidavits or unsworn written statements made by the alien; written summaries of statements or interviews of the alien taken by others, including the recipient; reports and affidavits from police, judges, and other court officials, medical personnel, school officials, clergy, social workers, other social service agency personnel; orders of protection or other legal evidence of steps taken to end abuse; evidence that a person sought safe haven in a shelter or similar refuge; photographs; documents or other evidence of a series of acts that establish a pattern of qualifying abuse.

(3) *Victims of severe forms of trafficking.* Victims of severe forms of trafficking may present any of the forms of evidence listed in paragraph (d)(2) of this section or any of the following:

(i) A certification letter issued by the Department of Health and Human Services (HHS).

(ii) Verification that the alien has been certified by calling the HHS trafficking verification line, (202) 401–5510 or (866) 401–5510.

(iii) An interim eligibility letter issued by HHS, if the alien was subjected to severe forms of trafficking while under the age of 18.

(iv) An eligibility letter issued by HHS, if the alien was subjected to severe forms of trafficking while under the age of 18.

(e) *Recordkeeping.* Recipients are not required by § 1626.12 to maintain

records regarding the immigration status of clients represented pursuant to this section. If a recipient relies on an immigration document for the eligibility determination, the recipient shall document that the alien presented an immigration document by making a note in the client's file stating that a staff member has seen the document, the type of document, the client's alien registration number (''A number''), the date of the document, the date of the review, and containing the signature of the staff member that reviewed the document.

(f) *Changes in basis for eligibility.* If, during the course of representing an alien eligible pursuant to § 1626.4(a)(1), a recipient determines that the alien is also eligible under § 1626.4(a)(2) or § 1626.5, the recipient should treat the alien as eligible under that section and may provide all the assistance available pursuant to that section.

§ 1626.5 Aliens eligible for assistance based on immigration status.

Subject to all other eligibility requirements and restrictions of the LSC Act and regulations and other applicable law, a recipient may provide legal assistance to an alien who is present in the United States and who is within one of the following categories:

(a) An alien lawfully admitted for permanent residence as an immigrant as defined by section 101(a)(20) of the INA (8 U.S.C. 1101(a)(20));

(b) An alien who is either married to a United States citizen or is a parent or an unmarried child under the age of 21 of such a citizen and who has filed an application for adjustment of status to permanent resident under the INA, and such application has not been rejected;

(c) An alien who is lawfully present in the United States pursuant to an admission under section 207 of the INA (8 U.S.C. 1157) (relating to refugee admissions) or who has been granted asylum by the Attorney General or the Secretary of DHS under section 208 of the INA (8 U.S.C. 1158).

(d) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7), as in effect on March 31, 1980) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity;

(e) An alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation or exclusion under section 243(h) of the INA (8 U.S.C. 1253(h), as in effect on Apr. 16, 1996) or withholding of removal pursuant to section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)); or

(f) An alien who meets the requirements of § 1626.10 or § 1626.11.

§ 1626.6 Verification of citizenship.

(a) A recipient shall require all applicants for legal assistance who claim to be citizens to attest in writing in a standard form provided by the Corporation that they are citizens, unless the only service provided for a citizen is brief advice and consultation by telephone, or by other non-in-person means, which does not include continuous representation.

(b) When a recipient has reason to doubt that an applicant is a citizen, the recipient shall require verification of citizenship. A recipient shall not consider factors such as a person's accent, limited English-speaking ability, appearance, race, or national origin as a reason to doubt that the person is a citizen.

(1) If verification is required, a recipient may accept originals, certified copies, or photocopies that appear to be complete, correct, and authentic of any of the following documents as evidence of citizenship:

(i) United States passport;

(ii) Birth certificate;

(iii) Naturalization certificate;

(iv) United States Citizenship Identification Card (INS Form 1–197 or I–197); or

(v) Baptismal certificate showing place of birth within the United States and date of baptism within two months after birth.

(2) A recipient may also accept any other authoritative document, such as a document issued by DHS, by a court, or by another governmental agency, that provides evidence of citizenship.

(3) If a person is unable to produce any of the above documents, the person may submit a notarized statement signed by a third party, who shall not be an employee of the recipient and who can produce proof of that party's own United States citizenship, that the person seeking legal assistance is a United States citizen.

§ 1626.7 Verification of eligible alien status.

(a) An alien seeking representation shall submit appropriate documents to verify eligibility, unless the only service provided for an eligible alien is brief advice and consultation by telephone, or by other non-in-person means, which does not include continuous representation of a client.

(1) As proof of eligibility, a recipient may accept originals, certified copies, or photocopies that appear to be complete, correct, and authentic, of any documents establishing eligibility. LSC will publish a list of examples of such documents from time to time, in the form of a program letter or equivalent.

(2) A recipient may also accept any other authoritative document issued by DHS, by a court, or by another governmental agency, that provides evidence of alien status.

(b) A recipient shall upon request furnish each person seeking legal assistance with a current list of documents establishing eligibility under this part as is published by LSC.

§ 1626.8 Emergencies.

In an emergency, legal services may be provided prior to compliance with § 1626.4, § 1626.6 and § 1626.7 if:

(a) An applicant cannot feasibly come to the recipient's office or otherwise transmit written documentation to the recipient before commencement of the representation required by the emergency, and the applicant provides oral information to establish eligibility which the recipient records, and the applicant submits the necessary documentation as soon as possible; or

(b) An applicant is able to come to the recipient's office but cannot produce the required documentation before commencement of the representation, and the applicant signs a statement of eligibility and submits the necessary documentation as soon as possible; and

(c) The recipient informs clients accepted under paragraph (a) or (b) of this section that only limited emergency legal assistance may be provided without satisfactory documentation and that, if the client fails to produce timely and satisfactory written documentation, the recipient will be required to discontinue representation consistent with the recipient's professional responsibilities.

§ 1626.9 Change in circumstances.

If, to the knowledge of the recipient, a client who was an eligible alien becomes ineligible through a change in circumstances, continued representation is prohibited by this part and a recipient must discontinue representation consistent with applicable rules of professional responsibility.

§ 1626.10 Special eligibility questions.

(a) (1) This part is not applicable to recipients providing services in the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, or the Republic of the Marshall Islands.

(2) All citizens of the Republic of Palau, the Federated States of

Micronesia, and the Republic of the Marshall Islands residing in the United States are eligible to receive legal assistance provided that they are otherwise eligible under the Act.

(b) All Canadian-born American Indians at least 50% Indian by blood are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(c) Members of the Texas Band of Kickapoo are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(d) An alien who qualified as a special agricultural worker and whose status is adjusted to that of temporary resident alien under the provisions of the Immigration Reform and Control Act (''IRCA'') is considered a permanent resident alien for all purposes except immigration under the provisions of section 302 of 100 Stat. 3422, 8 U.S.C. 1160(g). Since the status of these aliens is that of permanent resident alien under section 1101(a)(20) of Title 8, these workers may be provided legal assistance. These workers are ineligible for legal assistance in order to obtain the adjustment of status of temporary resident under IRCA, but are eligible for legal assistance after the application for adjustment of status to that of temporary resident has been filed, and the application has not been rejected.

(e) A recipient may provide legal assistance to indigent foreign nationals who seek assistance pursuant to the Hague Convention on the Civil Aspects of International Child Abduction and the Federal implementing statute, the International Child Abduction Remedies Act, 42 U.S.C. 11607(b), provided that they are otherwise financially eligible.

§ 1626.11 H–2 agricultural and forestry workers.

(a) Nonimmigrant agricultural workers admitted to, or permitted to remain in, the United States under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii)(a), commonly called H–2A agricultural workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(b) Nonimmigrant forestry workers admitted to, or permitted to remain in, the United States under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii)(b), commonly called H–2B forestry workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(c) The following matters which arise under the provisions of the worker's specific employment contract may be the subject of legal assistance by an LSC-funded program:

(1) Wages;

(2) Housing;

(3) Transportation; and

(4) Other employment rights as provided in the worker's specific contract under which the nonimmigrant worker was admitted.

§ 1626.12 Recipient policies, procedures and recordkeeping.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

Stefanie K. Davis,

Assistant General Counsel.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2013–0010: 4500030114]

RIN 1018–AZ42

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Spring Pygmy Sunfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on our October 2, 2012, proposed designation of critical habitat for the spring pygmy sunfish (*Elassoma alabamae*) under the Endangered Species Act of 1973, as amended (Act). In accordance with section 4(b)(2) of the Act, we are considering excluding from the final designation of critical habitat lands covered by three candidate conservation agreements with assurances (CCAAs), based on the conservation benefit these agreements provide the species, the positive relationship we have with these landowners, and the potential that this action would provide an incentive for the establishment of additional CCAAs in the future. This comment period will allow all interested parties an opportunity to comment on the benefits of the exclusion or inclusion of lands covered by these existing CCAAs, particularly those lands under two recently established CCAAs. We will also accept comments on any other aspect of the proposed critical habitat rule. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: We will consider comments received or postmarked on or before March 7, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: *Document availability:* You may obtain copies of the October 2, 2012, proposed rule and the April 29, 2013, publication on the Internet at *http://www.regulations.gov* at Docket Number FWS–R4–ES–2013–0010. Copies of established CCAAs within proposed critical habitat can be found at *http://www.fws.gov/mississippiES/.* Documents may also be obtained by mail from the Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Written comments: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2013–0010, which is the docket number for the critical habitat portion of the proposed rulemaking. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2013–0010; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more details).

FOR FURTHER INFORMATION CONTACT: Stephen Ricks, Field Supervisor, Mississippi Ecological Services Field Office, 6578 Dogwood View Parkway, Jackson, MS 39213; by telephone (601–321–1122); or by facsimile (601–965–4340). If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed designation of critical habitat for the spring pygmy sunfish that was published in the **Federal Register** on October 2, 2012 (77 FR 60180), and the revision to the proposed boundaries of Unit 1 described in our April 29, 2013, publication (78 FR 25033). We will consider information and recommendations we receive from all interested parties. We intend that any final action resulting from this proposal will be based on the best scientific and commercial data available and be as accurate and as effective as possible.

We request comments or information from the public or from any interested party on any aspect of the proposed designation of critical habitat. However, we particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(2) Information on whether the benefits of the exclusion of lands covered by existing CCAAs (Belle Mina Farms Ltd., McDonald Farm, Horton Farm), or any other particular area, outweigh the benefits of inclusion under section 4(b)(2) of the Act.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

If you submitted comments or information on the proposed rule (77 FR 60180) during the initial comment period from October 2, 2012, to December 3, 2012, or during the second comment period from April 29, 2013, to May 29, 2013 (78 FR 25033), please do not resubmit them. We have incorporated them into the public record as part of the previous two comment periods, and we will fully consider them in the preparation of our final determination.

You may submit your comments and materials concerning the proposed critical habitat rule by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, are available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0010, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for the spring pygmy sunfish in this document. For more information on previous Federal actions concerning the spring pygmy sunfish, or information regarding its biology, status, distribution, and habitat, refer to the proposed rule published in the **Federal Register** on October 2, 2012 (77 FR 60180), and the April 29, 2013, publication reopening the comment period and announcing the availability of a draft economic analysis (78 FR 25033), both of which are available online at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0010 or by mail from the Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

In our October 2, 2012, proposed rule (77 FR 60180), we proposed to list the spring pygmy sunfish as threatened and to designate two critical habitat units, totaling approximately 8 stream miles (mi) (12.9 kilometers (km)) and 1,617 acres (ac) (654.4 hectares (ha)) spring system habitat and adjacent upland buffer in Limestone County, Alabama. On April 29, 2013 (78 FR 25033), we re-opened the comment period on our proposal for 30 days to allow public comment on the amended required determinations section of the proposal, the draft economic analysis, and a proposed size reduction in critical habitat based on information we received during the original public comment period. Specifically, we proposed to reduce the size of Unit 1 by 67.6 ac (27.6 ha), resulting in a revised proposed critical habitat designation totaling approximately 8 stream mi (12.9 km) and 1,549.4 ac (627.02 ha). In that document, we also announced that we would prepare separate final rules for the proposed listing and the proposed critical habitat designation. On October 2, 2013, we published a final rule designating the spring pygmy sunfish as a threatened species under the Act (78 FR 60766).

Candidate Conservation Agreements With Assurances (CCAAs)

We have worked with key landowners over the years on the conservation of this species and its habitat on their lands. In June 2012, we entered into a CCAA with Belle Mina Farms Ltd. The CCAA provides conservation benefits to the sunfish in 24 percent of the habitat occupied by the species. On October 1, 2013, we published a notice of availability in the **Federal Register** (78 FR 60307) and requested comments on issuance of enhancement of survival permits and associated CCAAs for the spring pygmy sunfish for two additional landowners: Mr. Albert C. McDonald of Greenbriar Enterprises LLC (applicant McDonald Farm) and Ms. Katherine H. Garrett of Greenbrier Enterprises LLC (applicant Horton Farm). In November 2013, following the close of the comment period on October 31, 2013, and after review by the Service of all comments, the Service and the landowners signed the CCAAs. Conservation measures set forth in these CCAAs are similar to those in the Belle Mina Farms Ltd. CCAA and provide protection for 19 percent of the species' habitat within the middle reach of the Beaverdam Spring/Creek system. Specific information on the contents of the McDonald and Horton Farms CCAAs can be found in our October 1, 2013 (78 FR 60307), notice of availability and at *http://www.fws.gov/mississippiES/*.

In our October 2, 2012, proposed rule, we presented information on the Belle Mina Farms Ltd. CCAA, and specifically requested comments on the benefits of including or excluding these lands from critical habitat designation. Since the McDonald and Horton Farms CCAAs were executed after the close of both earlier comment periods on the proposed critical habitat designation, we are again reopening the comment period to ensure that the public has an adequate opportunity to review and comment on the benefits of including or excluding the lands covered by the McDonald and Horton Farms CCAAs from the designation of critical habitat for this species. As a reference, we have included a map below showing the location of lands covered by all three CCAAs in relation to the proposed

critical habitat boundaries for Unit 1. Except for the overlay with the CCAA areas, the boundaries of Unit 1 shown in the map below are not changed from what we proposed in the April 29, 2013, publication (78 FR 25033). We intend to issue a final critical habitat determination in 2014.

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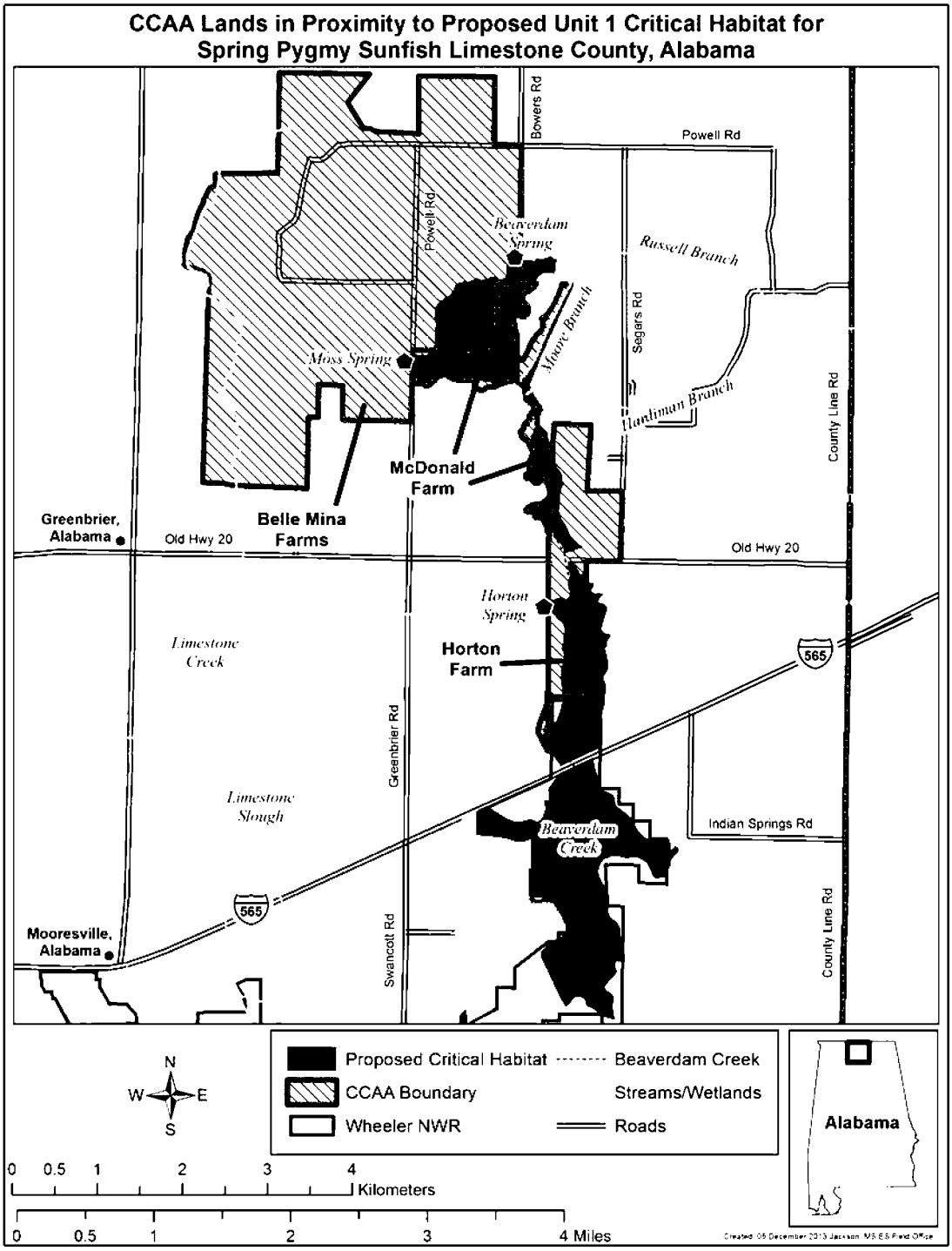

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Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult

with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of the spring pygmy sunfish, the benefits of critical habitat include public awareness of the presence of the species and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for this species due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

We are considering excluding all areas covered by the Belle Mina Farms Ltd., McDonald Farm, and Horton Farm CCAAs based on our partnerships with the landowners and the conservation benefits that these agreements afford the sunfish. However, the final decision on whether to exclude any areas will be based on the best scientific and commercial data available at the time of the final designation, including information obtained during the comment periods and information about the economic impact of designation.

Authors

The primary authors of this notice are the staff members of the Mississippi Ecological Services Field Office and the Regional Office-Ecological Services Program, Southeast Region, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 29, 2014.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–02415 Filed 2–4–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2012–0107; 4500030113]

RIN 1018–AY26

Endangered and Threatened Wildlife and Plants; 6-Month Extension of Final Determination for the Proposed Listing of the Distinct Population Segment of the North American Wolverine Occurring in the Contiguous United States as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 6-month extension of the final determination of whether to list the distinct population segment of the North American wolverine (*Gulo gulo luscus*) occurring in the contiguous United States as a threatened species. We also reopen the comment period on the proposed rule to list that distinct population segment. We are taking this action based on substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the proposed listing, making it necessary to solicit additional information by reopening the comment period for 90 days. We will publish a final listing determination on or before August 4, 2014.

DATES: The comment period end date is May 6, 2014. If you comment using the Federal eRulemaking Portal (see **ADDRESSES**), you must submit you comment by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R6–ES–2012–0107, which is the docket number for the proposed rule to list the contiguous United States distinct population segment of the wolverine as threatened. Then, in the Search panel on the left side of the screen, under the Document Type heading, check on the Proposed Rules link to locate the proposed rule. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R6–ES–2012–0107; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Jodi Bush, Field Supervisor, Montana Ecological Services Office, 465 Shepard Dr., Helena, MT 59601; by telephone at (406) 449–5225; or by facsimile at 406–449–5339. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 2013, we published a proposed rule (78 FR 7864) to list the distinct population segment of the North American wolverine occurring in the contiguous United States as threatened, under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). For a description of previous Federal actions concerning the distinct population segment of the North American wolverine (*Gulo gulo luscus*) occurring in the contiguous United States, please refer to the February 4, 2013, proposed rule. The proposed listing rule opened a 90-day comment period, ending May 6, 2013. In addition to the original comment period associated with the publication of the proposed rule, we held three public information workshops in conjunction with three public hearings in March 2013: March 13 in Boise, Idaho; March 19 in Lakewood, Colorado; and March 27 in

Helena, Montana. On October 31, 2013, we reopened the comment period for 30 days to allow additional comment on scientific issues raised by two peer reviewers and several State wildlife agencies (78 FR 65248). The second comment period closed on December 2, 2013.

Section 4(b)(6) of the Act requires that we take one of three actions within 1 year of a proposed listing: (1) Finalize the proposed listing; (2) withdraw the proposed listing; or (3) extend the final determination by not more than 6 months, if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination.

Since the publication of the proposed rule, there has been substantial disagreement regarding the interpretation of the habitat requirements for wolverines and the available climate change information used to determine the extent of threats to the species. Differing interpretations of the available climate change information have led to a significant disagreement regarding the current status of the species. In particular, some commenters and peer reviewers raised questions regarding:

(1) The interpretation of scientific literature in the proposed rulemaking and scientific literature that may not have been readily available for our use in our analysis to define habitat parameters. Specifically, some commenters and peer reviewers questioned the basis for defining wolverine habitat based on persistent spring snow used by Copeland *et al.* (2010). Some peer reviewers and commenters suggested that other methods of habitat definition or other dates used to define habitat based on persistent snow are more scientifically defensible and would yield very different results.

(2) Commenters suggested that McKelvey *et al.* (2011) used an invalid habitat model developed by Copeland *et al.* (2010) to project future climate impacts to wolverine habitat, and for that reason, the commenters believe projections in McKelvey *et al.* (2011) are also invalid.

(3) Commenters also asserted that there is high uncertainty with projections made using downscaled global climate modeling, which we used to analyze the impacts of climate change on wolverine habitat and ecology.

As a result of these comments and peer reviews, there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to our listing determination. Therefore, in consideration of these disagreements, we have determined that a 6-month extension of the final determination of this rulemaking is necessary, and we are hereby extending the final determination for 6 months in order to solicit information that will help to clarify these issues and fully analyze this information.

As noted in the proposed listing rule (78 FR 7864), we were previously required by statutory deadline to make a final decision on the wolverine listing no later than February 4, 2014. Therefore, with this 6-month extension, we will make a final determination on the proposed rule no later than August 4, 2014. In conjunction with the proposed rule to list the wolverine, we also proposed a special rule under section 4(d) of the Act that would tailor the prohibitions of the Act to specifically address the threats to wolverines (78 FR 7864), and, in a separate rule, we proposed the establishment of a nonessential experimental population area for the wolverine in the southern Rocky Mountains of Colorado, southern Wyoming, and northern New Mexico (78 FR 7890). Because these rules are contingent on a wolverine listing, our final decisions for these rules will also be delayed until we make a final listing determination for the distinct population segment.

Public Comments

We will accept written comments and information during this reopened comment period on our proposed listing (and special 4(d) rule) for the distinct population segment of the North American wolverine occurring in the contiguous United States that was published in the **Federal Register** on February 4, 2013 (78 FR 7864). We will consider information and recommendations from all interested parties. We intend that any final action resulting from the proposal be as accurate as possible and based on the best available scientific and commercial data.

We are particularly interested in new information and comments regarding:

(1) Whether there is scientific information in addition to that considered in our proposed rule that may be useful in our analysis.

(2) Whether persistent spring snow represents a reasonable estimate of wolverine habitat.

(3) The use of projected amounts and distribution of persistent spring snow to assess the potential impacts of climate change on wolverine habitat.

(4) The use of information generated by downscaled global climate models as a basis to then project and evaluate the impacts of climate change on wolverine habitat.

(5) The potential effects on wolverine from the projected changes in its habitat related to climate change.

If you previously submitted comments or information on the proposed rule during the two previously open comment periods, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determination. Our final determination concerning the proposed listing will take into consideration all written comments and any additional information we receive.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R6–ES–2012–0107, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Montana Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R6–ES–2012–0107, or by mail from the Montana Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 29, 2014.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–02362 Filed 2–4–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 130717632–4070–01]

RIN 0648–BD52

International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions in the Eastern Pacific Ocean

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations under the Tuna Conventions Act of 1950, as amended, to implement decisions of the Inter-American Tropical Tuna Commission (IATTC). At its Eighty-fifth Meeting in June 2013, the IATTC adopted a number of resolutions, some of which require rulemaking to implement domestically in the United States. This proposed rule would implement one of these decisions: The Resolution on a Multiannual Program for the Conservation of Tuna in the Eastern Pacific Ocean during 2014–2016 (Resolution C–13–01). This proposed rule would: Extend the effective period of the current regulations in the IATTC Convention Area in 2014 through 2016; and provide purse seine owners with greater flexibility by allowing for an exemption to the closure periods due to force majeure. The existing regulations include a 500-metric ton bigeye tuna (*Thunnus obesus*) calendar year catch limit applicable to longline vessels greater than 24 meters in overall length and a 62-day closure period applicable each year to purse seine vessels of class size 4 to 6 (greater than 182 metric tons). The proposed rule would also include an exemption to the purse seine closures due to force majeure. Implementation of Resolution C–13–01 is necessary for the United States to satisfy its obligations as a member of the IATTC.

DATES: Comments must be submitted in writing by February 25, 2014. A public hearing will be held from 1 p.m. to 4 p.m. PST, February 12, 2014, in Long Beach, CA.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2014–0014, by any of the following methods:

• Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0014,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• Mail: Submit written comments to Celia Barroso, NMFS West Coast Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier ''NOAA–NMFS–2014–0014'' in the comments.

• Public hearing: The public is welcome to attend a public hearing and offer comments on this proposed rule from 1 p.m. to 4 p.m. PST, February 12, 2014 at 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802. The public may also participate in the public hearing via conference line: 1–888–790–6181, passcode 33750.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS WCR Long Beach Office and by email to *OIRA_Submission@omb.eop.gov*. Copies of the draft Regulatory Impact Review (RIR) and other supporting documents are available via the Federal e-Rulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2014–0014 or contact with the Regional Administrator, William W. Stelle, Jr., NMFS West Coast Regional Office, 7600 Sand Point Way NE., Bldg 1, Seattle, WA 98115–0070, or *RegionalAdministrato.WCRHMS@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Heidi Taylor, NMFS, 562–980–4039 or Celia Barroso, NOAA/NMFS Affiliate at 562–432–1850.

SUPPLEMENTARY INFORMATION:

Background on the IATTC

The United States is a member of the IATTC, which was established under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission. The full text of the 1949 Convention is available at: *http://www.iattc.org/PDFFiles/IATTC_convention_1949.pdf.* The IATTC facilitates scientific research into, as well as conservation and management of, highly migratory species of fish in the IATTC Convention Area (defined as the waters of the Eastern Pacific Ocean (EPO)). Since 1998, conservation resolutions adopted by the IATTC have further defined the Convention Area as the area bounded by the coast of the Americas, the 50° N. and 50° S. parallels, and the 150° W. meridian. The IATTC has maintained a scientific research and fishery monitoring program for many years, and regularly assesses the status of tuna and billfish stocks in the EPO to determine appropriate catch limits and other measures deemed necessary to prevent overexploitation of these stocks and to promote sustainable fisheries. Current IATTC member countries include: Belize, Canada, China, Chinese Taipei (Taiwan), Colombia, Costa Rica, Ecuador, El Salvador, the European Union, France, Guatemala, Japan, Kiribati, the Republic of Korea, Mexico, Nicaragua, Panama, Peru, the United States, Vanuatu, and Venezuela. Bolivia, Honduras, Indonesia and the Cook Islands are cooperating non-members.

International Obligations of the United States Under the Convention

As a Contracting Party to the 1949 Convention and a member of the IATTC, the United States is legally bound to implement IATTC resolutions. The Tuna Conventions Act (16 U.S.C. sections 951–962 and 971 *et seq.*) directs the Secretary of Commerce, after approval by the Secretary of State, to promulgate such regulations as may be necessary to implement resolutions adopted by the IATTC. The Secretary's authority to promulgate such regulations has been delegated to NMFS.

IATTC Tuna Conservation and Management Measures

At its 85th Meeting, in June 2013, the IATTC by consensus adopted the Multiannual Program for the Conservation of Tuna in the Eastern Pacific Ocean during 2014–2016 (Resolution C–13–01). Resolution C–13–01 is very similar to the tuna conservation measure adopted by the IATTC in 2011 (Resolution C–11–01, Resolution on a Multiannual Program for the Conservation of Tuna in the Eastern Pacific Ocean in 2011–2013). Both resolutions include a bigeye tuna

annual catch limit applicable to longline vessels greater than 24 meters in overall length, a time/area closures, and a full catch retention program applicable to purse seine vessels greater than 182 metric tons in carrying capacity. For purposes of domestic implementation, NOAA treats the registered length that appears on the vessels' Coast Guard Certificate of Documentation as the ''overall length.'' NMFS implemented Resolution C–11–01 through regulations codified at 50 CFR part 300, subpart C (see final rule 76 FR 68332, November 4, 2011). Resolution C–13–01 includes exemptions when a purse seine vessel is rendered unable to return to sea due to ''force majeure'' (i.e., for purposes of this Resolution this means disabled by mechanical and/or structural failure, fire, or explosion) for at least a period equivalent to the 62-day annual closure period.

The main objectives of Resolution C–13–01 are to ensure that the fishing mortality of yellowfin tuna (*Thunnus albacares*) does not increase and to reduce the fishing mortality of bigeye tuna in the Convention Area from 2014 through 2016. The measures are based in part on the recommendations and analysis of IATTC scientific staff, as well as the 2013 updates to stock assessments for bigeye tuna and yellowfin tuna, both completed by IATTC staff. A full assessment of yellowfin tuna is planned for 2014.

Resolution C–13–01 requires the United States to restrict catch of bigeye tuna in the longline fishery and effort in the purse seine fishery in the Convention Area in each of the years 2014, 2015, and 2016. This proposed rule would extend existing management measures so that they apply in 2014 through 2016. The measures would include the following: (1) a 500 metric ton bigeye tuna calendar year catch limit for longline vessels greater than 24 meters in overall length; and (2) time/area closures for purse seine vessels of class sizes 4 to 6 (greater than 182 metric tons carrying capacity). Resolution C–13–01 also includes provisions for 2014 through 2016 requiring purse seine vessels class sizes 4 to 6 to first retain on board, and then land all bigeye, yellowfin, and skipjack (*Katsuwonus pelamis*) tuna caught, except fish unfit for human consumption for reasons other than size. A single exception to this full catch retention program is on the final set of a trip, when there may be insufficient well space remaining to accommodate all of the tuna caught in that set. Resolution C–11–01 included the same catch retention provisions, which have been implemented by NMFS to apply indefinitely (see 50 CFR 300.25(e)) because NMFS expected it to be included in future IATTC tuna conservation and management resolutions. If the IATTC removes the measure in the future, NMFS will remove the regulation. Thus, further regulatory action is not needed to implement the catch retention provisions of Resolution C–13–01.

Proposed Action

Tuna Conservation Measures for 2014 Through 2016

This proposed rule would continue the purse seine closure period of 62 days in the years 2014, 2015, and 2016. Therefore, this proposed rule would prohibit purse seine vessels subject to these requirements from fishing in the Convention Area for a period of 62 days in 2014, 62 days in 2015, and 62 days in 2016. This proposed rule would also continue giving applicable purse seine vessel owners the ability to choose between the two possible closure periods for 2014, 2015, and 2016. These closures would be in one of two periods in each year as follows:

2014—29 July to 28 September, or from 18 November to 18 January 2015.

2015—29 July to 28 September, or from 18 November to 18 January 2016.

2016—29 July to 28 September, or from 18 November to 18 January 2017.

Under the proposed rule, a vessel's owner, manager, or association representative would be required to provide the West Coast Regional Administrator, via fax to (562) 980–4047 or email to *RegionalAdministrator.WCRHMS@noaa.gov*, by July 1 of each fishing year (2014, 2015, and 2016) with the following information: (1) name and official number of fishing vessel; (2) the closure period the vessel will adhere to in that year; and (3) the vessel owner or managing owner's name and signature. If a vessel owner fails to notify the Regional Administrator of his or her choice by the July 1 deadline, the vessel would be subject to the later closure period (November 18 to January 18 of the following calendar year) by default.

Under the proposed rule, a purse seine vessel owner could request an exemption to the 62-day closure described in the paragraph above due to force majeure, in which a vessel is rendered unable to return to sea for a period of at least 62 days. Force majeure would be defined in the proposed rule as a situation in which a vessel is disabled due to mechanical and/or structural failure, fire, or explosion. To place a request for exemption due to force majeure, the vessel operator would be required to contact the NMFS West Coast Region Sustainable Fisheries Division Assistant Regional Administrator, via email or fax, and provide evidence necessary to demonstrate that the vessel did not proceed to sea for at least 62 days and that the facts on which the request for exemption is based were due to force majeure. A request for reconsideration of initial denial of the request may be made within 10 days to the West Coast Regional Administrator. If the request is accepted, the purse seine vessel owner may observe a reduced closure period of 30 consecutive days.

The proposed rule would also continue the high seas time/area closure for tuna purse seine vessels class sizes 4 to 6 during 2014 through 2016. The area consists of the area bounded at the east and west by 96° and 110° W. longitude and bounded at the north and south by 4° N. and 3° S. latitude. The high seas time/area closure was originally adopted by the IATTC under Resolution C–09–01 and has been in place in NMFS regulations at 50 CFR 300.25(f) since 2009.

In addition, this proposed rule would extend from 2014 through 2016 the annual bigeye tuna catch limit of 500 metric tons in the Convention Area for U.S. longline vessels over 24 meters in overall length. This catch limit has been in place since 2007 in NMFS regulations at 50 CFR 300.25(b) and had never been reached until 2013; the U.S. fishery for bigeye tuna by longline vessels greater than 24 meters was closed on November 11, 2013 after NMFS forecasted that the limit was going to be reached (see 78 FR 65887, November 4, 2013 and 78 FR 70002, November 22, 2013). Between 2008 and 2012 an average of 317 metric tons (range 199 to 407 metric tons) of bigeye tuna was caught annually in the Convention Area by U.S. longline vessels greater than 24 meters in overall length. The members of the IATTC agreed to continue the bigeye tuna catch limits in the Convention Area after review and analysis of the most recent bigeye and yellowfin tuna stock assessments.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tuna Conventions Act and other applicable laws, subject to further consideration after public comment.

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

Pursuant to the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), the Chief Counsel for Regulation of the Department of Commerce certified to

the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The rationale for the certification is as follows:

The purpose of Resolution C–13–01 is to prevent overfishing by restricting the catch of bigeye tuna in the longline fishery and to restrict fishing effort in the purse seine fishery for bigeye, yellowfin, and skipjack tuna in the Convention Area (eastern Pacific Ocean) in each of the years 2014, 2015, and 2016. Resolution C–13–01 includes provisions for a force majeure exemption to the purse seine closure periods that were first adopted in Resolution C–12–01 (Amendment to Resolution C–11–01 on Tuna Conservation) in 2012. This proposed rule would: (1) Implement a 500 metric ton calendar year catch limit on bigeye tuna caught by longline vessels over 24 meters in length in the Convention Area from 2014 through 2016; and (2) prohibit purse seine vessels of class size 4 to 6 (greater than 182 metric tons in carrying capacity) from fishing for yellowfin, bigeye, and skipjack tunas in the Convention Area for a period of 62 days in each of the years 2014, 2015, and 2016. Purse seine vessels of class size 4 (between 182 and 272 metric tons carrying capacity) would be able to make a single fishing trip of up to 30 days duration during the closed period, provided that the vessel carries an observer of the On-Board Observer Program of the Agreement on the International Dolphin Conservation Program. In the event of a force majeure (a situation in which vessels are disabled by mechanical and/or structural failure, fire, or explosion) rendering a purse seine vessel unable to proceed to sea outside of a closure period for at least 62 days (the prescribed closure period), the vessel owner may request an exemption from the closure period and if the request is accepted by the IATTC, the purse seine vessel owner may observe a reduced closure period of 30 consecutive days. This proposed rule would also close the fishery for yellowfin, bigeye, and skipjack tuna within the area of 96° and 110° W and between 4° N and 3° S to purse seine vessels of class sizes 4 to 6 from 0000 hours UTC (Coordinated Universal Time) on September 29 to 2400 hours UTC on October 29, in years 2014, 2015, and 2016.

There are only slight adjustments being made to the existing tuna conservation measures, which were implemented (see 76 FR 68332, November 4, 2011) as a result of the adoption of Resolution C–11–01 in 2011 and expire at the end of 2013. The proposed adjustments would be the following: (1) Extend the effective period of the current regulations in 2014 through 2016; and (2) provide purse seine owners with greater flexibility by allowing for an exemption to the closure periods due to force majeure. The proposed rule would extend regulations currently in place, including the 500 metric ton catch limit and 62-day closure period; because these regulations are currently in force, extending them would neither reduce the profitability of the fishery nor require any additional compliance effort or expense by affected vessels. As a result, environmental and socioeconomic impacts are expected to be minimal.

The absence of the proposed action would allow U.S. fisheries to target bigeye, yellowfin, and skipjack tunas unrestricted (except for existing permit requirements) in the Convention Area. This may contribute to overfishing or overfished conditions of tuna resources. Alternatively, the implementation of Resolution C–13–01 will result in the sharing of sustainable benefits from Pacific tuna fishery resources among the IATTC member and Cooperating non-member countries.

The Small Business Administration (SBA) revised its small business size standards for several industries in a final rule effective July 22, 2013 (see 78 FR 37398, June 20, 2013). The rule increased the size standard for Finfish Fishing from $ 4.0 to 19.0 million, Shellfish Fishing from $ 4.0 to 5.0 million, and Other Marine Fishing from $4.0 to 7.0 million. Id. at 37400 (Table 1).

NMFS has reviewed the analyses prepared for this action in light of the new size standards. The new standards could result in a few more entities being considered small. However, NMFS does not think that the new size standards affect its decision to certify this action.

The small entities that would be affected by the proposed action are purse seine vessels of class size 4 to 6 and longline vessels over 24 meters in length overall. The U.S. Small Business Administration (SBA) defines small businesses engaged in fishing as those vessels with annual revenues of or below $19 million from finfish fishing. The average revenue per vessel for the U.S. Hawaii-based longline fleet in 2011 and for the U.S. purse seine fleet in each year 2010 through 2012 was below $19 million; there is effort in the West Coast-based longline fleet, however, its revenue cannot be reported due to confidentiality concerns. Therefore, all of these vessels are considered small businesses under the RFA.

Estimates of ex-vessel revenues in the U.S. purse seine fishery in the Convention Area since 2005, which would be indicative of current conditions, are confidential and may not be publicly disclosed because of the small number of vessels in the fishery. Since 2004, an average of only two U.S. purse seine vessels class sizes 4 to 6 have made landings of catch each year in the Convention Area. From 2005 through 2008, fewer than three vessels made landings in the Convention Area, thus the landings and revenue data from these years are confidential and cannot be released. Currently there are four class size 6 vessels and no class size 5 and 4 vessels likely to be affected by the rule in the near future. Two vessels transited through the Convention Area in 2010, but did not fish. Only three and two class size 6 vessels fished tunas in Convention Area in 2011 and 2012, respectively.

In 2012, the U.S. Hawaii-based longline fleet consisted of 129 vessels permitted under the Fishery Management Plan for Pelagics in the Western Pacific Region. However, relatively few are large-scale longline vessels (vessels over 24 meters in overall length). From 2008 through 2012, 29 large-scale longline vessels, on average, annually reported catches of bigeye tuna in the Convention Area (combining shallow-sets and deep-sets). In 2011, when there were 28 large-scale longline vessels fishing in the Convention Area, the Hawaii-based longline fleet landed about 26.11 million pounds or 11,846 metric tons of pelagic species for an ex-vessel value of about $78 million. Bigeye and yellowfin tuna represented about 47 percent and eight percent of the total longline landings, respectively. The total revenue represents average gross revenue per vessel of about $604,651.

NMFS considers all entities subject to this action to be small entities as defined by the revised size standards because average annual revenue from fishing per vessel for all vessels in all fleets operating in the Convention Area has been below $19 million. Because each affected vessel is a small business, this proposed action has an equal effect on all of these small entities, and therefore will impact all these small entities in the same manner. Based on the analysis above, the proposed action, if adopted, will not have an adverse or disproportional economic impact on these small business entities. Because the proposed action would not have a significant impact on a substantial number of small entities, an Initial

Regulatory Flexibility Analysis is not required and none has been prepared. NMFS solicits public comment on the analyses in light of the new size standards.

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by the Office of Management and Budget (OMB) under control number 0648–0387. Public reporting burden for a request for exemption due to force majeure is estimated to average 1 hour per response (less than one response per year is expected). Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

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.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: January 29, 2014.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 300, subpart C is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for 50 CFR part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951–961 *et seq.*

■ 2. In § 300.21, revise the definition for ''Regional Administrator'', and add the definitions for ''Force majeure'', ''Overall length'', and ''Sustainable Fisheries Division (SFD) '' in alphabetical order to read as follows:

§ 300.21 Definitions.

* * * * *

Force majeure means, for the purpose of § 300.25, a situation in which a vessel is disabled by mechanical and/or structural failure, fire or explosion.

* * * * *

Overall length means registered length, or the horizontal distance between the outboard side of the foremost part of the stem and the outboard side of the aftermost part of the stern, excluding rudders, outboard motor brackets, and other similar fittings and attachments for a single-hull vessel; for a multi-hull vessel, it is the horizontal distance between the outboard side of the foremost part of the stem of the foremost hull and the outboard side of the aftermost part of the stern of the aftermost hull, excluding fittings or attachments (See 46 CFR 69.203).

* * * * *

Regional Administrator means the Regional Administrator for the West Coast Region, National Marine Fisheries Service, or a designee.

* * * * *

Sustainable Fisheries Division (SFD) means the Assistant Regional Administrator for the Sustainable Fisheries Division, West Coast Region, National Marine Fisheries Service, or a designee.

* * * * *

■ 3. In § 300.25, the heading of paragraph (b) and paragraphs (b)(2) and (f) are revised to read as follows:

§ 300.25 Eastern Pacific fisheries management.

* * * * *

(b) *Tuna catch limits in the longline fishery in the Convention Area.* (1)

* * *

(2) For each of the calendar years 2014, 2015, and 2016, there is a limit of 500 metric tons of bigeye tuna that may be captured and landed by longline gear in the Convention Area by fishing vessels of the United States that are over 24 meters in overall length.

* * * * *

(f) *Purse seine closures in the Convention Area.* (1) A fishing vessel of the United States of class size 4–6 (more than 182 metric tons carrying capacity) may not be used to fish with purse seine gear in the Convention Area for 62 days in each of the years 2014, 2015, and 2016 during one of the following two periods:

(i) From 0000 hours UTC on July 29 to 2400 hours UTC on September 28, or

(ii) From 0000 hours UTC on November 18 to 2400 hours UTC on January 18 of the following year.

(2) A vessel owner, manager, or association representative of a vessel that is subject to the requirements of paragraph (f)(1) of this section must in 2014, 2015, and 2016 provide written notification to the Regional Administrator declaring to which one of the two closure periods identified in paragraph (f)(1) of this section his or her vessel will adhere in that year. This written notification must be submitted by fax at (562) 980–4047 or email at *RegionalAdministrator.WCRHMS@noaa.gov* and must be received no later than July 1 in each of the years 2014, 2015, and 2016. The written notification must include the vessel name and registration number, the closure dates that will be adhered to by that vessel, and the vessel owner or managing owner's name, signature, business address, and business telephone number.

(3) If written notification is not submitted per paragraph (f)(3) of this section for a vessel subject to the requirements under paragraph (f)(1) of this section, that vessel must adhere to the closure period under paragraph (f)(1)(ii) of this section.

(4) *Request for exemption due to force majeure.* A request for exemption due to force majeure must be made to the Sustainable Fisheries Division by fax at (562) 980–4047 or emailed to *Regional Administrator.WCRHMS@noaa.gov.* The request must include the name and official number of the vessel, vessel owner or manager's name and signature, and evidence to support the request, which may include but is not limited to photographs, repair bills, certificates of departure from port, and in the case of a marine casualty a completed copy of the U.S. Coast Guard Form CG–2692A (See 46 CFR 4.05–10).

(i) If accepted by the Sustainable Fisheries Division, the request for exemption due to force majeure will be forwarded to the IATTC Director. If declined by the Sustainable Fisheries Division, within 10 days of the date that rejection, the applicant may give additional information or documentation to the Regional Administrator with a request that the initial decision be reconsidered by fax at (562) 980–4047 or email to *Regional Administrator.WCRHMS@noaa.gov*; the Regional Administrator shall respond within 14 business days.

(ii) If the request for an exemption due to force majeure is accepted by the IATTC, the vessel must observe a closure period of 30 consecutive days in the same year during which the force majeure event occurred, in one of the two closure periods described in paragraph (f)(1) of this section.

(5) A vessel of class size 4 (182 to 272 metric tons carrying capacity) may make one fishing trip of up to 30 days duration during the specified closure period in paragraph (f)(1) of this section, provided that the vessel carries an observer of the On-Board Observer Program of the Agreement on the

International Dolphin Conservation Program during the entire fishing trip.

(6) A fishing vessel of the United States of class size 4–6 (more than 182 metric tons carrying capacity) may not be used from 0000 hours on September 29 to 2400 hours on October 29 in the years 2014, 2015, and 2016 to fish with purse seine gear within the area bounded at the east and west by 96° and 110° W. longitude and bounded at the north and south by 4° N. and 3° S. latitude.

(7) At all times while a vessel is in a time/area closed period established under paragraphs (f)(1) or (f)(6) of this section, unless fishing under exceptions established under paragraphs (f)(4) or (f)(5) of this section, the fishing gear of the vessel must be stowed in a manner as not to be readily available for fishing. In particular, the boom must be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any must be tied down; and launches must be secured.

* * * * *

[FR Doc. 2014–02333 Filed 2–4–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 79, No. 24
Wednesday, February 5, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 30, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Annual Report of State Revenue Matching.

OMB Control Number: 0584–0075.

Summary of Collection: The Food and Nutrition Service (FNS) administers the National School Lunch Program, the School Breakfast Program, and the Special Milk Program as mandated by the Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1751, *et seq.*), and the Child Nutrition Act of 1966, as amended (42 U.S.C. 1771, *et seq.*). FNS uses the Annual Report of State Revenue Matching, Form FNS–13, to collect data on State revenue matching to meet the reporting required by 7 CFR 210.17(g). Information on school program operations is collected from State agencies on a yearly basis to monitor and make adjustments to State agency funding requirements. The form is an intrinsic part of the accounting system currently being used by the subject programs to ensure proper reimbursement as well as to facilitate adequate recordkeeping. The FNS–13 form is provided to States through a web-based Federal reporting system and 100 percent of the information is collected through electronic means.

Need and Use of the Information: FNS uses the Annual Report of State Revenue Matching, Form FNS–13, to collect data on State revenue matching to meet the reporting required by 7 CFR 210.17(g). Information on school program operations is collected from State agencies on a yearly basis to monitor and make adjustments to State agency funding requirements.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 57.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 456.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–02347 Filed 2–4–14; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request; Correction

January 30, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Federal and Non-Federal Financial Assistance Instruments.

Action: Notice; Correction.

OMB Control Number: 0596–0217.

Summary: The Department of Agriculture published a document in

the **Federal Register** of January 23, 2014, concerning a request for comments on the Information collection ''Federal and Non-Federal Financial Assistance Instruments'' OMB control number 0596–0217. Under the heading ''Need and Use of the Information'' the incorrect statement ''In addition, mandatory post-award meetings must be held for each new Federal financial assistance award'' is corrected to read: ''FS will utilize a new financial capabilities checklist or questionnaire to assist and to monitor recipients of Federal financial assistance by outlining both the financial and the internal policies necessary to accept and spend Federal dollars.''

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–02344 Filed 2–4–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0001]

Quarantine Services and Facilities; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meetings.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service will host a series of public meetings to provide a forum for discussion on the current and future capacity for live animal import quarantines.

DATES: The meetings will be held February 19, 25, and 27 and March 3, 5, and 11, 2014, from 8 a.m. to 5 p.m. each day. The meetings will be open to the public and registration will begin at 7:30 a.m. the day of each meeting. We will also consider any written statements we receive on or before May 12, 2014.

ADDRESSES: The public meetings will be held in El Segundo, CA, Clarksville, IN, Chicago, IL, Riverdale, MD, East Elmhurst, NY, and Miami, FL (see the Supplementary Information section of this notice for the address of each meeting site). You may submit written statements by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2014-0001-0001.*
- *Postal Mail/Commercial Delivery:* Send your statement to Docket No. APHIS–2014–0001, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Any written statements we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0001* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Erich Kestler, Chief of Staff, National Import Export Services, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 851–3454.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 93 govern the importation into the United States of specified animals and animal products in order to help prevent the introduction of various animal diseases into the United States. The regulations in part 93 require, among other things, that certain animals, as a condition of entry, be quarantined upon arrival in the United States. The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture currently operates three animal quarantine facilities. We also authorize the use of quarantine facilities that are privately owned and operated for certain animal importations. APHIS oversight and monitoring is still required at privately owned quarantines.

In order to provide a forum for the discussion of the current and future capacity for live animal import quarantines, we are advising the public that we are hosting six public meetings. The public meetings will be held as follows:

- February 19, 2014, at the Embassy Suites, Los Angeles-International Airport/South, 1440 E. Imperial Avenue, El Segundo, CA 90245.
- February 25, 2014, at the Clarion Hotel Conference Center, Louisville North, 505 Marriott Drive, Clarksville, IN 47129.
- February 27, 2014, at the Embassy Suites Chicago Downtown Lakefront, 511 N. Columbus Drive, Chicago, IL 60611.
- March 3, 2014, at the APHIS Headquarters, USDA Center at Riverside, 4700 River Road, Riverdale, MD 20737.
- March 5, 2014, at the Courtyard by Marriott LaGuardia Airport, 90–10 Grand Central Parkway, East Elmhurst, NY, 11369.
- March 11, 2014, at the Courtyard Marriott, Miami Airport South, 1201 NW., LeJeune Road, Miami, FL 33126.

The public meetings will begin at 8 a.m. local time and are scheduled to end at 5 p.m. The meetings will be open to the public and registration will begin at 7:30 a.m. the day of each meeting. These public meetings will provide an opportunity for members of the public (including other Federal and State regulatory agencies) to provide input for developing and implementing possible alternatives to existing APHIS requirements and oversight for live animal quarantines as required under our regulations.

Tentative topics to be discussed at the upcoming meetings include:

1. General considerations in choosing import quarantine services.
2. Considerations in choosing a particular location for animal quarantine.
3. Expectations regarding e-commerce and animal import quarantine.
4. Experience with quarantine facilities in other countries.
5. The impact of marketplace changes on animal import quarantine.
6. Other options, ideas, or topics APHIS should consider before making any changes to current animal import quarantine processes.

Travel directions to the USDA Center at Riverside are available on the Internet at *http://www.aphis.usda.gov/plant_health/general_info/directions_riverdale.shtml.* This is a Federal building, therefore a valid photo ID is required to gain access and all bags will be screened. Parking is available next to the building for a $5 fee.

Done in Washington, DC, this 31st day of January 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–02452 Filed 2–4–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2013–0044]

Notice of Request for Extension of a Currently Approved Information Collection (Nutrition Labeling of Major Cuts of Single-Ingredient Raw Meat or Poultry Products and Ground or Chopped Meat and Poultry Products)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request an extension of an approved information collection regarding nutrition labeling of the major cuts of single-ingredient raw meat or poultry products and ground or chopped meat and poultry products because the OMB approval will expire on April 30, 2014.

DATES: Comments on this notice must be received on or before April 7, 2014.

ADDRESSES: FSIS invites interested persons to submit comments on this notice. Comments may be submitted by either of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Room Manager, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163B, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E. Street SW., Room 8–163B, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2013–0044. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov*.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E. Street, Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

For Additional Information: Contact Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6077, South Building, Washington, DC 20250; Telephone: (202) 690–6510.

SUPPLEMENTARY INFORMATION:

Title: Nutrition Labeling of Major Cuts of Single-Ingredient Raw Meat or Poultry Products and Ground or Chopped Meat and Poultry Products.

OMB Number: 0583–0148.

Expiration Date of Approval: 4/30/2014.

Type of Request: Extension of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary of Agriculture as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, not adulterated, and properly labeled and packaged.

FSIS is announcing its intention to request an extension of an approved information collection addressing paperwork and recordkeeping requirements regarding the nutrition labeling of the major cuts of single-ingredient raw meat or poultry products and ground or chopped meat and poultry products because the OMB approval will expire on April 30, 2014.

FSIS requires nutrition labeling of the major cuts of single-ingredient, raw meat and poultry products, unless an exemption applies. FSIS also requires nutrition labels on all ground or chopped meat and poultry products, with or without added seasonings, unless an exemption applies. Further, the nutrition labeling requirements for all ground or chopped meat and poultry products are consistent with the nutrition labeling requirements for multi-ingredient and heat processed products. (9 CFR 381.400(a), 9 CFR 317.300(a), 9 CFR 317.301(a), 9 CFR 381.401(a)).

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of a half hour per response.

Respondents: Official establishments, grocery stores and warehouses.

Estimated No. of Respondents: 75,284.

Estimated No. of Annual Responses per Respondent: 1.14

Estimated Total Annual Burden on Respondents: 66,062 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6077, South Building, Washington, DC 20250; Telephone: (202) 690–6510.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register*.

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/wps/portal/fsis/programs-and-services/email-subscription-service*.

Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family

status. (Not all prohibited bases apply to all programs.)

Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TTY).

To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call (202) 720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Done at Washington, DC, on January 30, 2014.

Alfred V. Almanza,

Administrator.

[FR Doc. 2014–02418 Filed 2–4–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Revision of Currently Approved Information Collections

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Foreign Agricultural Service's (FAS) intention to request a revision for currently approved information collections in support of the foreign donation of agricultural commodities under the section 416(b) program, the Food for Progress Program, and the McGovern-Dole International Food for Education and Child Nutrition Program.

DATES: Comments on this notice must be received by April 7, 2014.

Additional Information: Contact Ronald Croushorn, Director, Food Assistance Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1034, Washington, DC 20250–1034, telephone: (202) 720–3038, email: *Ron.Croushorn@fas.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Foreign Donation of Agricultural Commodities (section 416(b) and Food for Progress programs) and McGovern-Dole International Food for Education and Child Nutrition Program.

OMB Number: 0551–0035: Foreign Donation of Agricultural Commodities (section 416(b) and Food for Progress programs) and McGovern-Dole International Food for Education and Child Nutrition Program.

Expiration Date of Approval: March 31, 2014

Type of Request: Revision of currently approved information collections.

Abstract: Under the section 416(b) and Food for Progress programs (the ''Foreign Donation Programs'') and the McGovern-Dole International Food for Education and Child Nutrition (''McGovern-Dole'') Program, information will be gathered from applicants desiring to receive grants under the programs to determine the viability of requests for resources to implement activities in foreign countries. Program participants that receive grants must submit compliance reports until commodities or local currencies generated from the sale thereof are utilized. Program participants that use the services of freight forwarders must submit certifications from the freight forwarders regarding their activities and affiliations. Documents are used to develop effective grant agreements and assure that statutory requirements and objectives are met.

Estimate of Burden: The public reporting burden for each respondent resulting from information collections under the Foreign Donation Programs or the McGovern-Dole Program varies in direct relation to the number and type of agreements entered into by such respondent. The estimated average reporting burden for the Foreign Donation Programs is 54.05705 hours per response and for the McGovern-Dole Program is 54.05705 hours per response.

Respondents: U.S. private voluntary organizations, U.S. cooperatives, foreign governments, freight forwarders, ship owners and brokers, and survey companies.

Estimated Number of Respondents: 68 per annum.

Estimated Number of Responses per Respondent: 31 per annum.

Estimated Total Annual Burden of Respondents: 112,763 hours.

Copies of this information collection can be obtained from Connie Ehrhart, the Agency Information Collection Coordinator, at (202) 690–1578 or email at *Connie.Ehrhart@fas.usda.gov.*

Request for comments: Send comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Ronald Croushorn, Director, Food Assistance Division, FAS, USDA, Stop 1034, Washington, DC 20250, or to *Ron.Croushorn@fas.usda.gov.* Comments may also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503. Persons with disabilities who require an alternative means for communication of information (e.g., Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC on January 27, 2014.

Philip C. Karsting,

Administrator, Foreign Agricultural Service.

[FR Doc. 2014–02343 Filed 2–4–14; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath National Forest; California; Crawford Vegetation Management Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement; correction and extension of comment period.

SUMMARY: The Forest Service published a document in the **Federal Register** on January 27, 2014, concerning a notice of intent to prepare an environmental impact statement. The document contains an incorrect email address. For this reason, the comment period has been extended.

FOR FURTHER INFORMATION CONTACT: Lisa Bousfield, Happy Camp Oak Knoll Ranger District, Klamath National Forest, Happy Camp, California, 96039. Phone: 530–493–1766. Email: *lbousfield@fs.fed.us.*

Correction: In the **Federal Register** of January 27, 2014, in FR Doc. 2014–01480, on page 4323, under the **ADDRESSES** section, the correct email address to which comments may be sent

is: *comments-pacificsouthwest-klamath-happy-camp@fs.fed.us.*

DATES: Due to this error, the comment period has been extended. Comments concerning the scope of the analysis must be received by February 20, 2014.

Dated: January 30, 2014.

Patricia A. Grantham,

Forest Supervisor.

[FR Doc. 2014–02390 Filed 2–4–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Resource Coordinating Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Resource Coordinating Committee (Committee) will meet via teleconference. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C. App. II), and the Food, Conservation, and Energy Act of 2008 (the Act) (Pub. L. 110–246). Additional information concerning the Committee can be found by visiting the Committee's Web site at *http://www.fs.fed.us/spf/coop/frcc/.*

DATES: The teleconferences will be held on the following dates:

- Thursday, March 20, 2014.
- Wednesday, April 16, 2014.
- Wednesday, May 21, 2014.
- Wednesday, June 18, 2014.

The time of the meetings will be from 12:00 p.m. to 1:00 p.m., Eastern Standard Time (EST).

ADDRESSES: The meetings will be held via teleconference. For anyone who would like to attend the teleconferences, please visit the Web site listed in the ''New Information'' section or contact Karl Dalla Rosa at *kdallarose@fs.fed.us* for further details. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments placed on the Committee's Web site listed above.

FOR FURTHER INFORMATION CONTACT: Karl Dalla Rosa, Acting Designated Federal Officer, Cooperative Forestry staff, 202–205–6206. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to share information on topics relating to landscape scale conservation and USDA programs targeted to landscape scale conservation intiatives. The teleconferences are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing 10 days before the planned meeting to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Written comments and time requests for oral comments must be sent to Maya Solomon, 1400 Independence Avenue SW., Mailstop 1123, Washington, DC 20250 or by email to *mayasolomon@fs.fed.us.* A summary of the meeting will be posted on the Web site listed above within 21 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled For Further Information Contact. All reasonable accommodation requests are managed on a case by case basis.

Dated: January 27, 2014.

James E. Hubbard,

Deputy Chief, State and Private Forestry.

[FR Doc. 2014–02364 Filed 2–4–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southern Region Recreation Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southern Region Recreation Resource Advisory Committee (Recreation RAC) will meet in Decatur, Georgia. The Recreation RAC is established consistent with the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C. App. II), and Federal Lands Recreation Enhancement Act of 2004 (the Act) (Pub. L. 108–447). Additional information concerning the Recreation RAC can be found by visiting the committee's Web site at *http://www.fs.usda.gov/main/r8/recreation/racs.* The meeting is open to the public.

DATES: The meeting will be held February 26 and 27, 2014, 8:00 a.m.–5:00 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held at the Courtyard Marriott, 130 Clairemont Avenue, Decatur, GA 30030. Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the USDA Forest Service, P.O. Box 1270, Hot Springs, AR 71902. Visitors are encouraged to call ahead at 501–321–5318 to facilitate entry into the USDA Forest Service building.

FOR FURTHER INFORMATION CONTACT: Caroline Mitchell, Committee Coordinator, USDA Forest Service, P.O. Box 1270, Hot Springs, AR 71902, or by telephone at 501–321–5318. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to consider fee proposals for areas managed by the Forest Service in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and the territory of Puerto Rico; and to discuss other items of interest related to the Act. The following business will also be conducted: committee management and review of recreation fee proposals. Persons who wish to bring recreation fee proposals to the attention of the Recreation RAC may file written statements with the Committee Coordinator before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by February 24, 2014 to be scheduled on the agenda. Written comments and time requests for oral comments must be sent to Caroline Mitchell, Committee Coordinator, USDA Forest Service, P.O. Box 1270, Hot Springs, AR 71902; by email to *carolinemitchell@fs.fed.us,* or via facsimile to 501–321–5399. A summary of the meeting will be posted on the Web site listed above within 21 days of the meeting.

Meeting Accommodations: If you require reasonable accommodation, please make your request in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation, please request this in

advance of the meeting by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: January 28, 2014.

Alison Koopman,

Developed Site Program Manager.

[FR Doc. 2014–02393 Filed 2–4–14; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Tennessee Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Tennessee Advisory Committee (Committee) to the Commission will convene by conference call at 10:00 a.m. Central Time on Wednesday, February 19, 2014. The purpose of the meeting is for the Committee to discuss its report to the Commission on ex-felon voting rights.

This meeting is available to the public through the following toll-free call-in number: 877–446–3914, conference ID: 2895602. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by March 19, 2014. The address is U.S. Commission on Civil Rights, Southern Regional Office, 61 Forsyth St., Suite 16T126, Atlanta, GA 30303. Comments may also be emailed to Peter Minarik at *pminarik@usccr.gov*.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Southern Regional Office at the above email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated: Dated January 30, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–02354 Filed 2–4–14; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–992; A–560–826]

Monosodium Glutamate From the People's Republic of China and the Republic of Indonesia: Postponement of Preliminary Determinations in the Antidumping Duty Investigations

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao at (202) 482–1396 (the People's Republic of China (PRC)); Nicholas Czajkowski at (202) 482–1395 (the Republic of Indonesia (Indonesia)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2013, the Department of Commerce (the Department) initiated the antidumping investigations on monosodium glutamate from Indonesia and the PRC.[1] The notice of initiation stated that, unless postponed, the Department would issue its preliminary determinations for these investigations no later than 140 days after the date of the initiation in accordance with section 773(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b)(1). The preliminary determinations currently are due no later than March 12, 2014.

Postponement of the Preliminary Determinations

Sections 733(c)(1)(B)(i) and (ii) of the Act permit the Department to postpone the time limits for the preliminary determination if it concludes that the parties concerned are cooperating and determines that the case is extraordinarily complicated by reason of the number and complexity of the transactions to be investigated or adjustments to be considered, the novelty of issues presented, or the number of firms whose activities must be investigated, and additional time is necessary to make the preliminary determination. The Department may postpone making the preliminary determination under section 733(c)(1)(B) of the Act until no later than the 190th day after the date on which the administering authority initiates an investigation under section 732(c) of the Act, or an investigation is initiated under section 732(a) of the Act.

The Department has determined that the parties involved in these proceedings are cooperating, and that the investigations are extraordinarily complicated. Additional time is required to analyze the questionnaire responses and number of companies affiliated with respondents. Therefore, in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1), we are postponing the time period for the preliminary determinations of these investigations by 50 days to May 1, 2014. In accordance with section 735(a)(1) of the Act, the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: January 29, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–02442 Filed 2–4–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Monosodium Glutamate from the People's Republic of China, and the Republic of Indonesia: Initiation of Antidumping Duty Investigations,* 78 FR 65278 (October 31, 2013).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–922, A–583–842, C–570–923]

Raw Flexible Magnets From the People's Republic of China and Taiwan: Continuation of Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) and the International Trade Commission (ITC) have determined that revocation of the antidumping duty (AD) orders on raw flexible magnets from the People's Republic of China (PRC) and Taiwan would likely lead to a continuation or

recurrence of dumping and material injury to an industry in the United States. The Department and the ITC have also determined that revocation of the countervailing duty (CVD) order on raw flexible magnets from the PRC would likely lead to continuation or recurrence of net countervailable subsidies and material injury to an industry in the United States. Therefore, the Department is publishing a notice of continuation for these AD and CVD orders.

DATES: *Effective Date:* February 5, 2014.

FOR FURTHER INFORMATION CONTACT: Michael A. Romani (AD) or Kristen Johnson (CVD), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0198 or (202) 482–4793, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2013, the Department initiated [1] and the ITC instituted [2] five-year (sunset reviews) of the AD orders on raw flexible magnets from the PRC and Taiwan,[3] and the CVD order on raw flexible magnets from the PRC,[4] pursuant to sections 751(c) and 752(a) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, the Department determined that revocation of the AD orders would likely lead to continuation or recurrence of dumping and that revocation of the CVD order would likely lead to continuation or recurrence of net countervailable subsidies, and therefore, notified the ITC of the magnitude of the margins and the subsidy rates likely to prevail should the orders be revoked.[5]

On January 15, 2014, pursuant to sections 751(c)(1) and 752(a) of the Act, the ITC determined that revocation of the AD orders on raw flexible magnets from the PRC and Taiwan and the CVD order on raw flexible magnets from the PRC would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[6]

Scope of the Orders

The products covered by these orders are certain flexible magnets regardless of shape,[7] color, or packaging.[8] Subject flexible magnets are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co-polymers, or rubber) and (ii) a magnetic element, which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized.

Subject flexible magnets may be in either magnetized or unmagnetized (including demagnetized) condition, and may or may not be fully or partially laminated or fully or partially bonded with paper, plastic, or other material, of any composition and/or color. Subject flexible magnets may be uncoated or may be coated with an adhesive or any other coating or combination of coatings.

Specifically excluded from the scope of these orders are printed flexible magnets, defined as flexible magnets (including individual magnets) that are laminated or bonded with paper, plastic, or other material if such paper, plastic, or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnets if the printing concerned consists of only the following: A trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet; manufacturing or use instructions (*e.g.,* ''print this side up,'' ''this side up,'' ''laminate here''); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use such as application of laminate) or on any other covering that is removed from the flexible magnet prior or subsequent to final printing and before use; non-permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet to be re-printed); printing on the back (magnetic) side; or any combination of the above.

All products meeting the physical description of subject merchandise that are not specifically excluded are within the scope of these orders. The products subject to the orders are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided only for convenience and customs purposes; the written description of the scope of the orders is dispositive.

Continuation of the Orders

As a result of the determinations by the Department and the ITC that revocation of these AD and CVD orders would likely lead to continuation or recurrence of dumping or a countervailable subsidy, and of material injury to an industry in the United States, pursuant to sections 751(c) and 751(d)(2) of the Act, the Department hereby orders the continuation of the AD orders on raw flexible magnets from the PRC and Taiwan, and the CVD order on raw flexible magnets from the PRC.

U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next sunset reviews of these orders not later than 30 days prior to the fifth anniversary of the effective date of continuation.

These sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: January 29, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–02438 Filed 2–4–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Five-Year (''Sunset'') Reviews,* 78 FR 46575 (August 1, 2013).

[2] *See Raw Flexible Magnets From China and Taiwan; Institution of Five-Year Reviews,* 78 FR 46604 (August 1, 2013).

[3] On September 17, 2008, the Department published the following AD orders: *Antidumping Duty Order: Raw Flexible Magnets from the People's Republic of China,* 73 FR 53847 (September 17, 2008), and *Antidumping Duty Order: Raw Flexible Magnets from Taiwan,* 73 FR 53848 (September 17, 2008).

[4] On September 17, 2008, the Department published the following CVD order: *Raw Flexible Magnets from the People's Republic of China: Countervailing Duty Order,* 73 FR 53849 (September 17, 2008).

[5] *See Raw Flexible Magnets from the People's Republic of China and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders,* 78 FR 77423 (December 23, 2013), and *Raw Flexible Magnets From the People's Republic of China: Final Results of Expedited Sunset Review,* 78 FR 77425 (December 23, 2013).

[6] *See Raw Flexible Magnets from China and Taiwan,* Inv. Nos. 701–TA–452 and 731–TA–1129–1130 (*Review*), ITC Publication 4449 (January 2014); *see also Raw Flexible Magnets from China and Taiwan,* 79 FR 3623 (January 22, 2014).

[7] The term ''shape'' includes, but is not limited to profiles, which are flexible magnets with a non-rectangular cross-section.

[8] Packaging includes retail or specialty packaging such as digital printer cartridges.

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 25, 2014. 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: 13–052. *Applicant:* The Association of Universities for Research in Astronomy, 950 N. Cherry Ave., Tucson, AZ 85719. *Instrument:* Enclosure control system for the Advanced Technology Solar Telescope. *Manufacturer:* AEC Engineering, part of the IDOM Group, Spain. *Intended Use:* The instrument will be used to understand the nature of transient solar events which affect life on Earth by employing techniques such as augmenting pointing control of the Telescope at the Sun and augmenting control over the thermal environment during operational use. During normal sun-tracking operations, the Enclosure accessory shall provide complete protection of the Telescope (except for the M1 Assembly) from incoming solar radiation (insolation), the Enclosure accessory shall provide an unobstructed optical path from the Sun to the M1 Assembly when the carousel and shutters are in any position within their allowable ranges of travel, and the Enclosure accessory skin shall be insulated to the extent required to ensure that the interior surface temperature can be maintained at +0° F/–3.5° relative to ambient temperature while the exterior skin temperature is at ambient minus 7.2° F in all operational conditions. *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:* January 23, 2014.

Docket Number: 13–054. Applicant: Regents of the University of Minnesota, School of Physics and Astronomy, 116 Church Street SE., Minneapolis, MN 55455–0149. *Instrument:* Yanus IV Laser Scan Head. *Manufacturer:* Till Photonics, Germany. *Intended Use:* The instrument will be used to study the oligomeric state of EGFP tagged Retenoid X Receptor (RXR–EGFP) in the absence and presence of its ligand by PCH analysis, as well as follow its binding to DNA and other nuclear factors by conventional and scanning fluorescence correlation spectroscopy (FCS). The laser beam is continuously scanned in a circular fashion, which shows peaks and valleys which add contrast and give information about the scan radius, diffusion coefficient and particle concentrations that would be absent in conventional FCS. Conventional scan heads for laser microscopy have a finite distance between their scan axes, which introduces aberrations and vignetting into the scan. These distortions in the point spread function prohibit the quantitative imaging experiments. The Yanus IV scan head has been engineered with an effective zero optical distance between the scan axes, which maintains diffraction-limited performance across the entire scan field. This is the only instrument with zero effective optical distance between the scan axes. *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:* January 2, 2014.

Dated: January 28, 2014.

Gregory W. Campbell,

Director of Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2014–02465 Filed 2–4–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Public Comment Period for the Apalachicola, Florida National Estuarine Research Reserve Management Plan revisions.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce is announcing a thirty day public comment period for the Apalachicola, Florida National Estuarine Research Reserve Management Plan revisions. Pursuant to 15 CFR 921.33(c), the revised plan will bring the reserve into compliance. The Apalachicola Reserve revised plan will replace the plan approved in 2003.

The revised management plan outlines the administrative structure; the research & monitoring, education, training, and stewardship goals of the reserve; and the plans for future land acquisition and facility development to support reserve operations.

The Apalachicola Reserve emphasizes a fully integrated approach that links ongoing research, education, training and stewardship programs together. This integrated approach, in coordination with strategic partnerships addresses high priority reserve issues including public use and access, changing land use patterns, the loss of cultural resources, impacts of global and regional processes on ecosystems and communities, engagement with local communities, and changes in reserve habitats. Since the last management plan, the reserve has expanded its monitoring and geographic information system programs; increased staff resources; completed a site profile, established a Coastal Training Program; expanded educational programs; and constructed a new nature center and headquarters complex in the town of Eastpoint that includes laboratories, offices, classrooms, interpretative areas, and are planning interpretive trails.

With the approval of this management plan, the Apalachicola Reserve will decrease their total acreage from 246,766 acres to 234,715. The change is attributable to accuracy adjustments based on improved geographic information for the site. The revised management plan will serve as the guiding document for the 234,715 acre Apalachicola Reserve for the next five years. View the Apalachicola, Florida Reserve Management Plan revision at (*http://www.dep.state.fl.us/coastal/sites/apalachicola/*) and provide comments to (*Lee.Edmiston@dep.state.fl.us*).

FOR FURTHER INFORMATION CONTACT: Matt Chasse at (301) 563–1198 or Erica Seiden at (301) 563–1172 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910.

Dated: January 29, 2014.

Christopher C. Cartwright,

Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 2014–02392 Filed 2–4–14; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA363

Marine Mammals; File No. 14352

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that Dr. Gregory D. Bossart, Georgia Aquarium, 225 Baker Street NW., Atlanta, Georgia 30313 has been issued a minor amendment to Scientific Research Permit No. 14352.

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

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

FOR FURTHER INFORMATION CONTACT: Kristy Beard or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The original permit (No. 14352), issued on October 15, 2009, authorized health assessments of bottlenose dolphins (*Tursiops truncatus*) in Florida's Indian River Lagoon system by capturing, sampling, and releasing up to 40 dolphins per year. Captured dolphins may receive a complete clinical workup and a roto tag. Up to ten animals per year may also receive a VHF tag. Samples may be analyzed to examine a variety of health topics. An additional 400 dolphins per year may be harassed during pre- and post-capture surveys in the Indian River Lagoon. The permit would also authorize two accidental mortalities over the five-year permit. The permit was amended on April 1, 2011 (76 FR 20957) to authorize research in Charleston, South Carolina. Fifty bottlenose dolphins may be captured, sampled, and released in Charleston annually. Captured dolphins may receive a health assessment clinical workup and a roto tag. Up to ten animals per year may also receive a VHF tag. Samples may be analyzed to examine a variety of health topics such as: infectious diseases, immune status, contaminant exposure, antibiotic resistance, and genetics. Annually, 400 dolphins may be harassed during pre- and post-capture surveys around Charleston. The permit was amended a second time on April 18, 2012, to allow an additional type of roto tag attachment. The original permit expiration date was October 31, 2014. The minor amendment (No. 14352–03) extends the duration of the permit through October 31, 2015, but does not change any other terms or conditions of the permit.

Dated: January 31, 2014.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–02397 Filed 2–4–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0132]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Evaluating the Retired Mentors for Teachers Program

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before March 7, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number.

ED–2013–ICCD–0132 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Katrina Ingalls, 703–620–3655 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here. We will ONLY accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Evaluating the Retired Mentors for Teachers Program.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 148.

Total Estimated Number of Annual Burden Hours: 92.

Abstract: OMB clearance is requested for a comprehensive randomized control trial study of the Retired Mentors for New Teachers program for probationary teachers developed by the Aurora Public School District (APS), in Aurora Colorado. The program uses recently retired master teachers to provide one-on-one mentoring to probationary teachers in high poverty elementary schools. The program was developed by APS over a three year period from 2008–2011. The district has partnered with REL Central to conduct an RCT study of the program because it desires to understand program impacts on teacher retention, performance, and teacher evaluations. The district has committed resources to pay for the intervention as well as for teachers to participate in any data gathering activities, such as surveys or focus groups. This OMB clearance request is to collect data from 100 teachers and 8 teacher mentors. It does not include data collection from students.

Dated: January 30, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–02369 Filed 2–4–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD14–12–000]

Terry Porter; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On January 15, 2014, Terry Porter filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act, as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The project would have an installed capacity of 5.1 kilowatts (kW) Porter-Akali Turbine Project, and it would utilize an existing 6,400-long pipeline, which varies from eight inches to four inches in diameter, that provides water from Alkali Creek for agricultural purposes. The project would be located near the Town of New Castle, Garfield County, Colorado.

Applicant Contact: Terry Porter, P.O. Box 8, New Caste, CO 81647 Phone No. (970) 379–5360.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov*.

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A small segment of an existing 300-feet-long, four-inch diameter high-pressure intake pipeline; (2) a proposed powerhouse containing two generating units, having a total installed capacity of 5.1-kW; (3)proposed eight-inch-diameter discharge pipe; and (4) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 22.032 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	*Description*	*Satisfies (Y/N)*
FPA 30(a)(3)(A), as amended by HREA	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

[1] 18 CFR 385.2001–2005 (2013).

A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (e.g., CD14–12–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: January 29, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–02371 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice Of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1818–004; ER10–1819–005; ER10–1820–007; ER10–1817–005.

Applicants: Public Service Company of Colorado, Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation, Southwestern Public Service Company.

Description: Supplement to June 28, 2013 Triennial Market Power Analysis of Public Service Company of Colorado for the Northwest Region.

Filed Date: 1/29/14.

Accession Number: 20140129–5034.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER10–1827–003; ER10–1825–003.

Applicants: Cleco Power LLC, Cleco Evangeline LLC.

Description: Notice of Non-Material Change in Status of the Cleco Companies.

Filed Date: 1/29/14.

Accession Number: 20140129–5067.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER12–2068–006.

Applicants: Blue Sky East, LLC.

Description: Amendment to December 18, 2013 Order No. 784 Compliance Filing to be effective 12/19/2013.

Filed Date: 1/28/14.

Accession Number: 20140128–5228.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER12–2265–002.

Applicants: Canandaigua Power Partners, LLC.

Description: Amendment to December 18, 2013 Order No. 784 Compliance Filing to be effective 12/19/2013.

Filed Date: 1/28/14.

Accession Number: 20140128–5227.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER14–703–001.

Applicants: Entergy Services, Inc.

Description: EES LBA Agreement Refile—Tenaska 1–29–2014 to be effective 12/31/9998.

Filed Date: 1/29/14.

Accession Number: 20140129–5008.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–1169–000.

Applicants: Constellation Power Source Generation, LLC.

Description: Notice of Succession to be effective 1/1/2014.

Filed Date: 1/28/14.

Accession Number: 20140128–5177.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER14–1170–000.

Applicants: Southwest Power Pool, Inc.

Description: 1518R5 Arkansas Electric Cooperative Corp NITSA NOA to be effective 1/1/2014.

Filed Date: 1/28/14.

Accession Number: 20140128–5183.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER14–1171–000.

Applicants: Southwest Power Pool, Inc.

Description: 2198R14 Kansas Power Pool NITSA NOA to be effective 1/1/2014.

Filed Date: 1/28/14.

Accession Number: 20140128–5201.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER14–1173–000.

Applicants: Duke Energy Carolinas, LLC.

Description: NCEMC NITSA revisions OATT SA No. 210 to be effective 1/1/2014.

Filed Date: 1/28/14.

Accession Number: 20140128–5229.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER14–1174–000.

Applicants: Southwest Power Pool, Inc.

Description: Submission of Unexecuted Non-Firm PTP Transmission Service Agreement No. 2794 to be effective 1/29/2014.

Filed Date: 1/28/14.

Accession Number: 20140128–5231.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER14–1176–000.

Applicants: Southwest Power Pool, Inc.

Description: 2655 Kansas Municipal Energy Agency NITSA NOA to be effective 1/1/2014.

Filed Date: 1/28/14.

Accession Number: 20140128–5255.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER14–1177–000.

Applicants: Southwest Power Pool, Inc.

Description: 2656 Kansas Municipal Energy Agency NITSA NOA to be effective 1/1/2014.

Filed Date: 1/28/14.

Accession Number: 20140128–5260.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER14–1178–000.

Applicants: Southwest Power Pool, Inc.

Description: 2657 Kansas Municipal Energy Agency NITSA NOA to be effective 1/1/2014.

Filed Date: 1/28/14.

Accession Number: 20140128–5261.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER14–1179–000.

Applicants: Midcontinent Independent System Operator, Inc., Alliant Energy Corporate Services, Inc.

Description: 2014–01–29_SA 2631 IPL-Stanhope DAF Agreement to be effective 1/1/2014.

Filed Date: 1/29/14.

Accession Number: 20140129–5007.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–1180–000.

Applicants: Cleco Power LLC.

Description: Cleco Power Comp Filing to be effective 1/30/2014.

Filed Date: 1/29/14.

Accession Number: 20140129–5056.

Comments Due: 5 p.m. ET 2/19/14.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA13–4–000.

Applicants: Flat Rock Windpower LLC, Flat Rock Windpower II, LLC, Marble River, LLC, and Sustaining Power Solutions LLC.

Description: Quarterly Land Acquisition Report of Flat Rock Windpower LLC, et al.

Filed Date: 1/29/14.

Accession Number: 20140129–5065.

Comments Due: 5 p.m. ET 2/19/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's

Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 29, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–02427 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2042–013; ER10–1941–005; ER11–3840–003; ER10–1938–008; ER13–1407–002; ER13–1670–002; ER10–1934–007; ER10–1893–007; ER10–1888–005; ER10–1885–005; ER10–1884–005; ER10–1883–005; ER10–1878–005; ER10–1876–005; ER10–1875–005; ER10–1873–005; ER12–1987–003; ER10–1947–005; ER10–1864–005; ER10–1862–007; ER12–2261–003; ER10–1865–005.

Applicants: Calpine Energy Services, L.P., Calpine Gilroy Cogen, L.P., Calpine Greenleaf, Inc., Calpine Power America—CA, LLC, CCFC Sutter Energy, LLC,CES Marketing V, LLC,CES Marketing IX, LLC,CES Marketing X, LLC, Creed Energy Center, LLC, Delta Energy Center, LLC, Geysers Power Company, LLC, Gilroy Energy Center, LLC, Goose Haven Energy Center, LLC, Los Esteros Critical Energy Facility LLC, Los Medanos Energy Center, LLC, Metcalf Energy Center, LLC, O.L.S. Energy-Agnews, Inc., Otay Mesa Energy Center, LLC, Pastoria Energy Facility L.L.C., Power Contract Financing, L.L.C., Russell City Energy Company, LLC, South Point Energy Center, LLC.

Description: Notification of Change in Status of the Calpine Corporation subsidiaries Southwest MBR Sellers.

Filed Date: 1/29/14.

Accession Number: 20140129–5133.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–661–001.

Applicants: SG2 Imperial Valley LLC.

Description: Amended Market-Based Rate Tarriff of SG2 Imperial Valley, LLC to be effective 2/1/2014.

Filed Date: 1/29/14.

Accession Number: 20140129–5086.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–787–000.

Applicants: Macho Springs Solar, LLC.

Description: Amended Asset Appendices to be effective N/A.

Filed Date: 1/29/14.

Accession Number: 20140129–5098.

Comments Due: 5 p.m. ET 2/10/14.

Docket Numbers: ER14–1181–000.

Applicants: Commonwealth Edison Company, Commonwealth Edison Company of Indiana,, PJM Interconnection, L.L.C.

Description: ComEd submits revisions to PJM OATT Attach H–13A re stated depreciation rates to be effective 3/31/2014.

Filed Date: 1/29/14.

Accession Number: 20140129–5072.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–1182–000.

Applicants: Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Inc., PJM Interconnection, L.L.C.

Description: ComEd submits a Letter Agmt re Depreciation Rates-Original Service Agmt No. 3747 to be effective 3/31/2014.

Filed Date: 1/29/14.

Accession Number: 20140129–5075.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–1183–000.

Applicants: Southwestern Electric Power Company.

Description: SWEPCO-TexLa PSA Amendment SPP Integrated Market to be effective 3/1/2014.

Filed Date: 1/29/14.

Accession Number: 20140129–5105.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–1184–000.

Applicants: Southwestern Electric Power Company.

Description: SWEPCO–ETEC PSA Amendment SPP Integrated Market to be effective 3/1/2014.

Filed Date: 1/29/14.

Accession Number: 20140129–5106.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–1185–000.

Applicants: Southwestern Electric Power Company.

Description: SWEPCO–NTEC PSA Amendment SPP Integrated Market to be effective 3/1/2014.

Filed Date: 1/29/14.

Accession Number: 20140129–5108.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–1186–000.

Applicants: Southwestern Electric Power Company.

Description: SWEPCO-TexLa ERCOT PSA Amendment SPP Integrated Market to be effective 3/1/2014.

Filed Date: 1/29/14.

Accession Number: 20140129–5109.

Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: ER14–1187–000.

Applicants: Southwestern Electric Power Company.

Description: SWEPCO–ETEC NTEC PSA Amendment SPP Integrated Market to be effective 3/1/2014.

Filed Date: 1/29/14.

Accession Number: 20140129–5111.

Comments Due: 5 p.m. ET 2/19/14.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA13–4–000.

Applicants: Shady Hills Power Company, L.L.C.

Description: Quarterly Land Acquisition Report of Shady Hills Power Company, L.L.C.

Filed Date: 1/29/14.

Accession Number: 20140129–5115.

Comments Due: 5 p.m. ET 2/19/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 29, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–02428 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–20–000]

Independent Market Monitor for PJM v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on January 27, 2014, pursuant to section 206 of the Rules and

Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206 (2013), Independent Market Monitor for PJM (Market Monitor or Complainant), filed a formal complaint against PJM Interconnection, L.L.C. (PJM or Respondent) requesting that the Commission direct PJM to include rules in the tariff that provide: (i) A requirement that Demand Resources (DR) must offer daily into the PJM Day-Ahead Energy Market, and (ii) a cap on offers from DR at $1,000 per MWh, consistent with the offer cap applicable to Generation Capacity Resources.

The Complainant states that copies of the complaint were served on representatives of PJM and served to the parties in Docket No. ER14–822–000.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on February 18, 2014.

Dated: January 28, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–02373 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13287–004–NY]

City of New York; Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for an original license for the proposed 14.08-megawatt (MW) Cannonsville Hydroelectric Project, to be located on the City of New York's existing Cannonsville Dam, which impounds its Cannonsville Water Supply Reservoir. The dam and reservoir are located on the West Branch of the Delaware River, near the Township of Deposit, in Delaware County, New York. Commission staff prepared a final Environmental Assessment (final EA) which analyzes the potential environmental effects of construction and operation of the project and concludes that issuing a new license for the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the final EA is on file with the Commission and is available for public inspection. The final EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

FOR FURTHER INFORMATION CONTACT: John Mudre at (202) 502–8902.

Dated: January 28, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–02377 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR13–34–000]

Valero Terminaling and Distribution Company; Notice for Temporary Waiver of Filing and Reporting Requirements

Take notice that on September 27, 2013, pursuant to Rule 204 of the Commission's Rules of Practice and Procedure, 18 CFR 385.202 (2011), Valero Terminaling and Distribution Company (''VTDC'') requested that the Commission grant a temporary waiver of the Interstate Commerce Act (''ICA'') Section 6 and Section 20 tariff filing and reporting requirements applicable to interstate common carrier pipelines. VTDC's waiver request applies to its one-third undivided ownership interest in the McKee Products System.

Any person desiring to intervene or to protest in the above proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern Time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on February 4, 2014.

Dated: January 29, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–02374 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1135–000]

Renewable Power Direct, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request For Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Renewable Power Direct, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 19, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–02429 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11659–028]

Gustavus Electric Company; Alaska Power Company; Notice of Application For Transfer of License and Soliciting Comments and Motions To Intervene

On January 17, 2014, Gustavus Electric Company (transferor) and Alaska Power Company (transferee) filed an application for transfer of license of the Falls Creek Hydroelectric Project located on Falls Creek (A.K.A. Kahtaheena River), Gustavus, Alaska.

The transferor and transferee seek Commission approval to transfer the license for the Falls Creek Hydroelectric Project from the transferor to the transferee.

Applicant Contacts: For Transferor: Mr. Richard Levitt, President, Gustavus Electric Company, P.O. Box 102, Gustavus, AK 99826, telephone 907–697–2299, email: *richardlevitt@cs.com.* For Transferee: Mr. Robert Grimm, Chief Executive Officer, Alaska Power Company, P.O. Box 3222, Port Townsend, WA 98368, telephone 360–344–3400, email: *bobg@aptalaska.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments and motions to intervene: 30 days from the issuance date of this notice, by the Commission. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii)(2008) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the eLibrary link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–11659–028) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Dated: January 28, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–02376 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2375–101; 8277–069]

Verso Androscoggin LLC, Verso Androscoggin Power LLC; Notice of Application for Transfer of Licenses and Soliciting Comments and Motions To Intervene

On January 22, 2014, Verso Androscoggin LLC (transferor) and Verso Androscoggin Power LLC (transferee) filed an application for transfer of licenses of the Riley-Jay-Livermore Project located on the Androscoggin River at the junction of Franklin, Androscoggin, and Oxford counties, Maine, and the Otis Hydroelectric Project located on the Androscoggin River, in Franklin and Androscoggin counties, Maine.

The transferor and transferee seek Commission approval to transfer the licenses for the Riley-Jay-Livermore Project and the Otis Hydroelectric Project from the transferor to the transferee.

Applicant Contacts: For Transferor: Mr. Peter Kesser, Senior Vice President, General Counsel and Secretary, Verso Paper Corp., 6775 Lenox Center Court, Suite 400, Memphis, TN 38115–4436, Phone: (901) 369–4105, Email: *peter.kesser@versopaper.com.* For Transferee: Mr. Robert C. Fallon, Stinson Leonard Street LLP, 1775 Pennsylvania Ave. NW., Suite 800, Washington, DC 20006, Phone: (202) 969–4210, Email: *fallonr@stinsonleonard.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments and motions to intervene: 30 days from the issuance date of this notice, by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2375–101 or P–8277–069.

Dated: January 29, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–02375 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–50–000]

WBI Energy Transmission, Inc.; Notice of Request Under Blanket Authorization

Take notice that on January 22, 2014, WBI Energy Transmission, Inc. (WBI Energy), P.O. Box 5601, Bismarck, North Dakota 58506–5601, filed in Docket No. CP14–50–000, a prior notice request pursuant to sections 157.205 and 157.210 of the Commission's Regulations under the Natural Gas Act (NGA). WBI Energy seeks authorization to construct and operate approximately 15 miles of 16-inch diameter pipeline, one valve setting and two new meter stations in McKenzie County, North Dakota (Garden Creek II Pipeline). The facilities will allow WBI Energy to provide incremental firm transportation service of 75,000 dekatherms/day for ONEOK Rockies Midstream, L.L.C. from the tailgate of its Garden Creek II Plant to an interconnect with Northern Border Pipeline Company. WBI Energy proposes to perform these activities under its blanket certificate issued in Docket No. CP82–487–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Keith A. Tiggelaar, Director of Regulatory Affairs, WBI Energy Transmission, Inc., 1250 West Century Avenue, Bismarck, North Dakota 58503, or by calling (701) 530–1560 or *keith.tiggelaar@wbienergy.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: January 28, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–02372 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD14–6–000]

New York Independent System Operator, Inc.; Notice of Technical Conference

By order dated August 13, 2013, in Docket No. ER13–1380–000, the Federal

Energy Regulatory Commission (Commission) addressed a proposal by the New York Independent System Operator, Inc. (NYISO) to establish and recognize a new capacity zone that would encompass NYISO Load Zones G, H, I, and J (the G–J Locality).[1] In its order, the Commission directed its staff to hold a technical conference, in a separate proceeding, to discuss with interested parties whether or not to model Load Zone K as an export-constrained zone for future Demand Curve reset proceedings.[2]

Take notice that such conference will be held on February 26, 2014, from 9:00 a.m. to approximately 1:00 p.m. (Eastern Time). The conference will be held at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The technical conference will be led by staff, and will be open for the public to attend. An additional notice with further details and an agenda will be issued later.

Attendees may register in advance at the following Web page: *https://www.ferc.gov/whats-new/registration/zone-k-02-26-14-form.asp.* Advance registration is not required, but is encouraged. Parties attending in person should still allow time to pass through building security procedures before the 9:00am (Eastern Time) start time of the conference.

Following the conference, the Commission will consider post-technical conference comments submitted on or before March 26, 2014. Answers to post-technical conference comments are due by close of business on or before April 16, 2014.

The technical conference will be transcribed. Additionally, there will be a free webcast of the conference available through *www.ferc.gov.* The webcast will allow persons to listen to the technical conference, but not participate. Anyone with Internet access interested in viewing this conference can do so by navigating to *www.ferc.gov* Calendar of Events and locating this event in the Calendar. The event will contain a link to the webcast. Capitol Connection provides technical support for the webcasts and offers the option of listening to the conferences via phone-bridge for a fee. If you need technical support, please visit *www.CapitolConnections.org* or call (703) 993–3100.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

All interested persons are permitted to attend. For more information about the technical conference, please contact:

Adria M. Woods (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8431, *Adria.Woods@ferc.gov.*

Sarah McKinley (Logistical Information), Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8004, *Sarah.McKinley@ferc.gov.*

Dated: January 28, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–02370 Filed 2–4–14; 8:45 am]

BILLING CODE 6717–01–P

[1] *New York Indep. Sys. Operator, Inc.,* 144 FERC ¶ 61,126 (2013).

[2] *Id.* P 56.

DEPARTMENT OF ENERGY

Western Area Power Administration

Boulder Canyon Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed base charge and rates.

SUMMARY: Western Area Power Administration (Western), a power marketing administration within the Department of Energy (DOE), is proposing an adjustment to the Boulder Canyon Project (BCP) electric service base charge and rates. The current base charge and rates expire September 30, 2014, under Rate Schedule BCP–F8. The current base charge is not sufficient to cover all annual costs, including operation, maintenance, replacements, and interest expense, and to repay investment obligations within the required period. The proposed base charge will provide sufficient revenue to cover all annual costs and to repay investment obligations within the allowable period. A detailed rate package that identifies the reasons for the base charge and rates adjustment will be available in March 2014. The proposed base charge and rates are scheduled to become effective October 1, 2014, and will remain in effect through September 30, 2015. This **Federal Register** notice initiates the formal process for the proposed base charge and rates.

DATES: The consultation and comment period will begin today and will end May 6, 2014. Western will present a detailed explanation of the proposed base charge and rates at a public information forum on March 26, 2014, at 10:30 a.m. Mountain Standard Time (MST), in Phoenix, Arizona. Western will accept oral and written comments at a public comment forum on April 16, 2014, at 10:30 a.m. MST, at the same location. Western will accept written comments any time during the consultation and comment period.

ADDRESSES: The public information forum and public comment forum will be held at the Desert Southwest Customer Service Regional Office, Western Area Power Administration, located at 615 South 43rd Avenue, Phoenix, Arizona, on the dates cited above. Written comments should be sent to Darrick Moe, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, email *moe@wapa.gov.* Written comments may also be faxed to (602) 605–2490, attention: Jack Murray. Western will post the principle documents used in developing the rates on its Web site at *http://www.wapa.gov/dsw/pwrmkt/BCP/RateAdjust.htm.* Western will also post official comments received via letter, fax, and email to this Web site.

Access to Western facilities is controlled. Any United States (U.S.) citizen wishing to attend any meeting held at Western must present an official form of picture identification, such as a U.S. driver's license, U.S. passport, U.S. Government ID, or U.S. Military ID, at the time of the meeting. Foreign nationals should contact Western 30 days in advance of the meeting to obtain the necessary form for admittance to Western.

FOR FURTHER INFORMATION CONTACT: Jack Murray, Rates Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2442, email *jmurray@wapa.gov.*

SUPPLEMENTARY INFORMATION: The proposed base charge and rates for BCP electric service are designed to recover an annual revenue requirement that includes the investment repayment, interest, operation and maintenance, replacements, payments to states, visitor services, and uprating payments. The total costs are offset by the projected revenue from water sales, the visitor center, ancillary services, and late fees. The annual revenue requirement is the base charge for electric service and is divided equally between capacity and energy. The annual composite rate is the

base charge divided by the annual energy sales.

Rate Schedule BCP–F8, Rate Order No. WAPA–150 was approved on an interim basis by the Deputy Secretary of Energy on September 16, 2010, for a 5 year period beginning on October 1, 2010, and ending September 30, 2015.[1] The schedule received final approval from the Federal Energy Regulatory Commission (FERC) on December 9, 2010.[2] Western's existing rate formula for electric service requires recalculation of the base charge and rates annually based on updated financial and hydrology data. The proposed base charge for fiscal year (FY) 2015 under Rate Schedule BCP–F8 is $90,697,927, and the proposed composite rate is 24.72 mills/kilowatthour.

The proposed BCP electric service base charge represents an increase of approximately 19 percent compared to the FY 2014 base charge. The 19 percent increase in the base charge is based on the most current financial data available at this time, which was taken from the latest rate-base power repayment study. The proposed BCP composite rate represents an increase of approximately 22 percent compared to the FY 2014 composite rate. The 22 percent increase is based on current hydrology conditions and corresponding Lake Mead elevations. The following table compares the existing and proposed base charge and composite rate. This proposal, effective October 1, 2014, is preliminary and is subject to change upon publication of final formula rates.

COMPARISON OF EXISTING AND PROPOSED BASE CHARGE AND COMPOSITE RATE

	Existing October 1, 2013 through September 30, 2014	Proposed October 1, 2014 through September 30, 2015	Percent change
Base Charge ($)	76,108,019	90,697,927	19
Composite Rate (mills/kWh)	20.18	24.72	22

The increase in the proposed base charge is due to increases in the annual operation and maintenance expenses, visitor center costs, uprating program principal payments, capital investment principal payments and replacement costs. Currently, there is no projected year-end carryover from FY 2014 resulting in an overall increase in the base charge for FY 2015. However, these results are based on preliminary data and subject to change upon receipt of audited FY-end financial information. The projected increase in the composite rate is due to the projected increase in the base charge and lower energy projections resulting from the current hydrology conditions and Lake Mead elevations.

Legal Authority

Since the proposed rates constitute a major rate adjustment as defined by 10 CFR part 903, Western will hold both a public information forum and a public comment forum. After review of public comments, Western will take further action on the proposed base charge and rates consistent with 10 CFR parts 903 and 904.

Western is establishing an electric service base charge and rates for BCP under the DOE Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985 (50 FR 87835).

Availability of Information

All brochures, studies, comments, memorandums, or other documents that Western initiates or uses to develop the proposed rates are available for inspection and copying at the Desert Southwest Customer Service Regional Office, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, Arizona. Many of these documents and supporting information are also available on Western's Web site at *http://www.wapa.gov/dsw/pwrmkt/BCP/RateAdjust.htm.*

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866. Accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: December 20, 2013.

Mark A. Gabriel,

Administrator.

[FR Doc. 2014–02405 Filed 2–4–14; 8:45 am]

BILLING CODE 6450–01–P

[1] 75 FR 57912 (September 23, 2010).

[2] 133 FERC ¶ 62,229.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0742; FRL–9903–50]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''Submission of Unreasonable Adverse Effects Information Under FIFRA Section 6(a)(2)'' and identified by EPA ICR No. 1204.12 and OMB Control No. 2070–

0039, represents the renewal of an existing ICR that is scheduled to expire on September 30, 2014. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before April 7, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2013–0742, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Scott Drewes, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0107; fax number: (703) 305–5884; email address: *drewes.scott@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it 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 estimates 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.

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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Submission of Unreasonable Adverse Effects Information Under FIFRA Section 6(a)(2).

ICR number: EPA ICR No. 1204.12.

OMB control number: OMB Control No. 2070–0039.

ICR status: This ICR is currently scheduled to expire on September 30, 2014. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires pesticide registrants to submit information to the Agency which may be relevant to the balancing of the risks and benefits of a pesticide product. The statute requires the registrant to submit any factual information that it acquires regarding adverse effects associated with its pesticidal products, and it is up to the Agency to determine whether or not that factual information constitutes an unreasonable adverse effect. In order to limit the amount of less meaningful information that might be submitted to the Agency, EPA has limited the scope of factual information that the registrant must submit. The Agency's regulations at 40 CFR part 159 provide a detailed description of the reporting obligations of registrants under FIFRA section 6(a)(2).

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.85 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/affected entities: Entities potentially affected by this ICR include anyone who holds or has ever held a registration for a pesticide product issued under FIFRA section 3 or 24(c). The North American Industrial Classification System (NAICS) code is 325300 (pesticide, fertilizer and other agricultural chemical manufacturing).

Estimated total number of potential respondents: 1,738.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 54.

Estimated total annual burden hours: 264,957 hours.

Estimated total annual costs: $15,940,734. There is no capital investment or maintenance and operational costs associated with this ICR.

III. Are there changes in the estimates from the last approval?

There is an increase of 61,721 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's updating of burden estimates for this collection based upon historical information on the number incident reports per submission. Based upon revised estimates, the number of incident reports has increased from 71,000 to 93,000 with a corresponding increase in the associated burden. This change is an adjustment.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: January 14, 2014.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2014–02224 Filed 2–4–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2014–0129; FRL–9906–20–OP]

Comment Request; Draft Supporting Materials for the Science Advisory Board Panel on the Role of Economy-Wide Modeling in U.S. EPA Analysis of Air Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is evaluating the appropriate role for economy-wide modeling in informing the regulatory process. Toward that end, EPA is developing an ''analytic blueprint'' of materials on the technical merits and challenges of using economy-wide models to evaluate the social costs, benefits and economic impacts associated with EPA's air regulations. In addition, EPA will be seeking advice from the Science Advisory Board (SAB) on economy-wide modeling and will present materials from the analytic blueprint to inform a discussion of charge questions to a new SAB panel with expertise in economy-wide modeling. In a forthcoming **Federal Register** Notice, EPA's Science Advisory Board Staff Office will be soliciting nominations for this panel to provide advice on the use of economy-wide models to evaluate the economic effects of air regulations. In today's Notice, EPA is soliciting public comment on both the draft charge questions and draft analytic blueprint of materials that could be presented to the SAB in order to inform how to appropriately discuss the issues with the panel.

DATES: Comments must be submitted on or before April 7, 2014.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OA–2014–0129 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: oei.docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Office of Environmental Information, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:*

Instructions: Direct your comments to Docket ID No. EPA–HQ–OA–2014–0129. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Nathalie Simon, National Center for Environmental Economics, Office of Policy, (1809T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–2347; fax number: 202–566–2363; email address: *simon.nathalie@epa.gov.*

SUPPLEMENTARY INFORMATION:

Environmental regulations vary widely by pollutant, sectoral and geographic scope, regulatory design, types of benefits and costs, among others. The size and complexity of the U.S. economy relative to the effects of a particular regulation also raises questions about which modeling tool is most appropriate in a given setting. Air regulations have been selected to limit the scope of this analytic exercise. For each major air regulation, the EPA considers these factors when gauging which analytic tools can be applied in a practical and analytically defensible way to estimate costs, benefits, and economic impacts within a particular regulatory context.

Economy-wide models attempt to capture the interaction and feedback effects between different sectors of the economy. A common tool to capture economy-wide effects is a computable general equilibrium (CGE) model. According the EPA's *Guidelines for Conducting Economic Analyses* (EPA 240–R–10–001) ''CGE models simulate the workings of a market economy and can include representations of the distortions caused by taxes and regulations. . . . They are used to calculate a set of price and quantity variables that will return the simulated economy to equilibrium after the imposition of a regulation. The social cost of the regulation can then be estimated by comparing the value of variables in the pre-regulation, 'baseline' equilibrium with those in the post-regulation, simulated equilibrium.''

However, for nearly all benefit-cost analyses conducted by EPA in support of air regulations, the costs are estimated using engineering or detailed partial equilibrium sector models which are compared to benefits that are likewise estimated through partial equilibrium models. EPA has evaluated, and will continue to evaluate, the appropriate role for economy-wide modeling in informing the regulatory process. While the Advisory Council on Clean Air Compliance Analysis review of the Second Prospective Study of the Clean Air Act Amendments (EPA–COUNCIL–11–001) stated that inclusion of benefits in the economy-wide model that was specifically adapted for use in

that study ''represent[ed] a significant step forward in benefit-cost analysis,'' EPA recognizes that serious technical challenges remain when attempting to evaluate the benefits and costs of potential regulatory actions using economy-wide models. The question also remains of the value added of using economy-wide models to evaluate the economic impacts (e.g., energy price and labor market impacts) of air regulations relative to other modeling approaches.

EPA is looking for early feedback from the public on the draft charge questions and draft analytic blueprint that outlines the materials EPA could supply to the SAB to inform their deliberations on the technical merits and challenges of using economy-wide models to estimate the economic effects of air regulations and potential paths forward for improvements that could address such challenges. EPA is soliciting comments and information to help it: (i) Evaluate whether the Agency has identified the most relevant technical materials in the analytic blueprint to help inform the SAB panel in its deliberations; and (ii) assess whether the Agency has identified the most relevant charge questions to the SAB regarding the technical merits and challenges of using economy-wide models to evaluate the social costs, benefits, and economic impacts in the context of air regulations.

EPA will consider the comments received and amend the charge questions and draft blueprint as appropriate. The revised package will then be presented to the Science Advisory Board for consideration and comment.

EPA's Science Advisory Board Staff Office will issue a separate **Federal Register** Notice to solicit nominations for experts to serve on the SAB panel. (Information on the SAB, including the process for forming review panels, is available at *http://www.epa.gov/sab*).

Dated: January 29, 2014.

Joel Beauvais,

Associate Administrator, Office of Policy.

[FR Doc. 2014–02471 Filed 2–4–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9905–51–Region 9]

Notice of Proposed Administrative Order on Consent for Waipahu Ash Landfill, Pearl Harbor Naval Complex Superfund Site (partial), Oahu, Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given of a proposed settlement, embodied in an Administrative Order on Consent (''Consent Order''), with the City and County of Honolulu (''CCH''), under Sections 104, 107 and 122 of CERCLA. The Consent Order concerns work to be done by CCH in connection with the Waipahu Ash Landfill, located in part on the Pearl Harbor Naval Complex Superfund Site, Joint Base Pearl Harbor-Hickam, Oahu, Hawaii and on land owned by the State of Hawaii and CCH. Parties to the Consent Order include the U.S. Environmental Protection Agency (''EPA''), the Department of the Navy (''Navy''), Hawaii Department Health (''DOH''), Hawaii Department of Land and Natural Resources and CCH. The property (the ''Site'') that is the subject of this Consent Order includes all areas to which hazardous substances from or related to the now closed Waipahu Ash Landfill have come to be located. Under this Consent Order, CCH agrees to carry out a remedial investigation and feasibility study of the Site under CERCLA. The performance of this work shall be approved and monitored by EPA in Consultation with the Navy and DOH. The settlement includes a covenant not to sue CCH pursuant to Sections 106 or 107(a) of CERCLA. Under the Consent Order, CCH also agrees to pay the Navy $63,062.00 in past response costs and, to EPA, $25,000 in prepayment of anticipated annual EPA future response costs.

DATES: Comments must be received on or before March 7, 2014. For thirty (30) days following the date of publication of this notice, EPA will consider all comments received on the Consent Order and may modify or withdraw its consent to the Consent Order if comments received disclose facts or considerations that indicate that the settlement is inappropriate, improper, or inadequate.

ADDRESSES: The Consent Order is available for public inspection at the United States Environmental Protection Agency, Superfund Records Center, 95 Hawthorne Street, Suite 403S, San Francisco, California 94105. Telephone: 415–536–2000. EPA's response to any comments received will be available for public inspection at the same address.

FOR FURTHER INFORMATION CONTACT: Larry Bradfish, Assistant Regional Counsel (ORC–3), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; Email: *bradfish.larry@epa.gov;* Phone (415) 972–3934.

Dated: January 27, 2014.

Enrique Manzanilla,

Director, Superfund Division, EPA Region 9.

[FR Doc. 2014–02475 Filed 2–4–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0744; FRL–9906–01]

Migratory Bird Treaty Act; Memorandum of Understanding

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of the draft Memorandum of Understanding (MOU) between the Environmental Protection Agency, Office of Pesticide Programs (OPP) and the Department of the Interior, U.S. Fish and Wildlife Service (FWS) regarding implementation of Executive Order 13186, ''Responsibilities of Federal Agencies to Protect Migratory Birds'' for public comment. The purpose of this MOU is to promote the conservation of migratory bird populations through enhanced collaboration between EPA's OPP and FWS regarding actions carried out by OPP. Migratory birds are an important component of biological diversity, and as such, conserving them and their habitats supports ecological integrity, contributes to public conservation education, and enhances the growing interest in outdoor recreation opportunities. This MOU is an important first step in ensuring that pesticide use is consistent with these conservation goals.

DATES: Comments must be received on or before March 7, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2013–0744, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online

instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Catherine Eiden, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7887; fax number: (703) 308–8005; email address: *eiden.catherine@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

• Non-governmental organizations interested in bird conservation.

The listing of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What action is the agency taking?

EPA is announcing the availability for public comment of the draft MOU between the Environmental Protection Agency, OPP and the Department of the Interior, FWS regarding the implementation of Executive Order 13186, ''Responsibilities of Federal Agencies to Protect Migratory Birds.'' A copy of this document can be found at *http://www.regulations.gov* under docket ID number EPA–HQ–OPP–2013–0744. The document describes internal procedural guidance to Federal agency staff to assist them in carrying out their activities.

B. Why is the agency taking this action?

EPA is taking this action pursuant to the implementation of Executive Order 13186, ''Responsibilities of Federal Agencies to Protect Migratory Birds'' (66 FR 3853, January 17, 2001).

List of Subjects

Environmental protection, conservation, migratory birds, pesticides.

Dated: January 28, 2014.

Steven Bradbury,

Director, Office of Pesticide Programs.

[FR Doc. 2014–02296 Filed 2–4–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request Re: Interagency Notice of Change in Control

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. As part of its continuing effort to reduce paperwork and respondent burden, the FDIC invites the general public and other Federal agencies to take this opportunity to comment on renewal of its information collection entitled *Interagency Notice of Change in Control* (OMB No. 3064–0019). At the end of the comment period, any comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval.

DATES: Comments must be submitted on or before April 7, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

• *http://www.FDIC.gov/regulations/laws/federal/notices.html.*

• *Email: comments@fdic.gov.* Include the name of the collection in the subject line of the message.

• *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

• *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC:

Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. A copy of the form can be accessed through the following link: *http://www.fdic.gov/formsdocuments/interag2.pdf.*

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collections of Information

Title: Interagency Notice of Change in Control.

OMB Number: 3064–0019.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks and state savings associations.

Estimated Number of Respondents: 45.

Estimated Time per Response: 30 hours.

Total Estimated Annual Burden: 1350 hours.

General Description of Collection: The *Interagency Notice of Change in Control* is submitted by any person proposing to acquire ownership control of an insured state nonmember bank. The information is used by the FDIC to determine whether the competence, experience, or integrity of any acquiring person indicates it would not be in the interest of the depositors of the bank, or in the public interest, to permit such persons to control the bank.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 30th day of January, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–02328 Filed 2–4–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request Re: Summary of Deposits

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. As part of its continuing effort to reduce paperwork and respondent burden, the FDIC invites the general public and other Federal agencies to take this opportunity to comment on renewal of its information collection entitled *Summary of Deposits* (OMB No. 3064–0061). At the end of the comment period, any comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval.

DATES: Comments must be submitted on or before April 7, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. A copy of the form can be accessed through the following link: *http://www2.fdic.gov/sod/pdf/SOD_Instructions.pdf.*

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to Renew the Following Currently Approved Collections of Information

Title: Summary of Deposits.

OMB Number: 3064–0061.

Frequency of Response: Annual.

Affected Public: Insured state nonmember banks and state savings associations.

Estimated Number of Respondents: 6535.

Estimated Time per Response: 3 hours.

Total Estimated Annual Burden: 19,605 hours.

General Description of Collection: The annual Summary of Deposits (SOD) survey is completed as of June 30 each year by FDIC-insured commercial banks, FDIC-supervised savings banks, and insured branches of foreign banks. The SOD is a report on the amount of deposits for each authorized office of an insured bank with branches; banks without branches do not report. All data collected on the SOD submission are available to the public. The survey data provides a basis for measuring the competitive impact of bank mergers and has additional use in research on banking.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 30th day of February, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–02329 Filed 2–4–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT— 79 FR 5409 (JANUARY 31, 2014).

DATE & TIME: Tuesday February 4, 2014 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

CHANGES IN THE MEETING— The Commission will also discuss: Internal personnel rules and internal rules and practices.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley Garr,

Deputy Secretary of the Commission.

[FR Doc. 2014–02581 Filed 2–3–14; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS14–01]

Appraisal Subcommittee Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of Meeting.

DESCRIPTION: In accordance with Section 1104 (b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

Location: Federal Reserve Board—International Square location, 1850 K Street NW., Washington, DC 20006.

Date: February 12, 2014.

Time: 10:30 a.m.

Status: Open.

Chair Opening Remarks
Executive Director's Report
Delegated State Compliance Reviews
2013 Financial Report

Summary Agenda: December 11, 2013 minutes—Open Session.

(No substantive discussion of the above items is anticipated. These matters will be resolved with a single vote unless a member of the ASC requests that an item be moved to the discussion agenda.)

Discussion Agenda:

Compliance Review(s)
Revised ASC Rules of Operation
ASC Advisory Committee Balanced Membership Plan

How To Attend and Observe an ASC Meeting

If you plan to attend the meeting in person, we ask that you notify the Federal Reserve Board via email at *appraisal-questions@frb.gov,* requesting a return meeting registration email. The Federal Reserve Law Enforcement Unit will then send an email message with a web link where you may provide your date of birth and social security number through their encrypted system. You may register until close of business February 5, 2014. You will also be asked to provide identifying information, including a valid government-issued photo ID, before being admitted to the meeting. Alternatively, you can contact Kevin Wilson at 202–452–2362 for other registration options. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC meetings.

Dated: January 30, 2014.

James R. Park,

Executive Director.

[FR Doc. 2014–02404 Filed 2–4–14; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011117–052.

Title: United States/Australasia Discussion Agreement.

Parties: ANL Singapore Pte Ltd.; CMA–CGM; Compagnie Maritime Marfret S.A.; Hamburg-Süd; Hapag-Lloyd AG; and Mediterranean Shipping Company S.A.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment would revise the minimum service levels set forth in the agreement.

Agreement No.: 011138–002.

Title: Greater Bali Hai Service.

Parties: Mitsui O.S.K. Lines, Ltd., and China Navigation Co. Pte. Ltd.

Filing Parties: Neal M Mayer, Esq.; Hoppel, Mayer & Coleman; 1050 Connecticut Avenue NW., 10th Floor; Washington, DC 20036.

Synopsis: The amendment deletes Nippon Yusen Kaisha and Kyowa Shipping Co., Ltd. as parties to the agreement, updates the name and address of China Navigation Co. Pte. Ltd., and adjusts the remaining parties' contributions and losses.

Agreement No.: 011346–023.

Title: Israel Carrier Association.

Parties: A.P. Moller-Maersk A/S trading under the name Maersk Line; American President Lines, Ltd.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment deletes authority to enter into exclusive, preferential, or cooperative working agreements with marine terminal operators.

Agreement No.: 011733–032.

Title: Common Ocean Carrier Platform Agreement.

Parties: A.P. Moller-Maersk A/S; American President Lines, Ltd., APL Co., PTE Ltd.; CMA CGM; Hamburg-Süd; Hapag-Lloyd AG; Mediterranean Shipping Company S.A.; and United Arab Shipping Company (S.A.G.) as shareholder parties, and Alianca Navegacao e Logistica Ltda.; China Shipping Container Lines Company Limited; Compania Chilena de Navegacion Interoceanica S.A.; Compania Sud Americana de Vapores, S.A.; Companhia Libra de Navegacao; COSCO Container Lines Co., Ltd.; Emirates Shipping Lines; Evergreen Line Joint Service Agreement; Gold Star Line, Ltd.; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co. Ltd; Intermarine LLC; Kawasaki Kisen Kaisha, Ltd.; MISC Berhad; Mitsui O.S.K. lines Ltd.; Nippon Yusen Kaisha; Norasia Container Lines Limited; Tasman Orient Line C.V. and Zim Integrated Shipping as non-shareholder parties.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment adds Yang Ming Transport Corporation as a non-shareholder party to the agreement.

Agreement No.: 011962–010.

Title: Consolidated Chassis Management Pool Agreement.

Parties: The Ocean Carrier Equipment Management Association and its member lines; the Association's subsidiary Consolidated Chassis Management LLC and its affiliates; CCM Holdings LLC; CCM Pools LLC and its subsidiaries; Matson Navigation Co.; and Westwood Shipping Lines.

Filing Party: Donald J. Kassilke, Esq.; Cozen O'Conner; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The Amendment makes various revisions to the names and addresses of the parties, and deletes Crowley Maritime Corporation, Crowley Latin America Services, LLC, and Crowley Caribbean Services, LLC as parties to the Agreement.

Agreement No.: 012244.

Title: HSDG/Zim Intermodal Cooperation Agreement.

Parties: Hamburg Sud and Zim Integrated Shipping Services Limited.

Filing Party: Joshua P. Stein; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The agreement authorizes the parties to jointly procure inland transportation between inland or coastal points in the U.S. and ports of the U.S. for containerized cargo destined to or arriving from any country in the world.

By Order of the Federal Maritime Commission.

Dated: January 31, 2014.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–02431 Filed 2–4–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov*.

A-Logixtic Group, LLC (NVO), 600 Kenrick Drive, Suite C16, Houston, TX 77060, Officers: Naeem Iqbal, Manager/Member (QI), Erika T. Yeguez, Manager/Member, Application Type: New NVO License.

Aero Service Transport, Inc (NVO), 6521 NW. 87th Avenue, Miami, FL 33178, Officers: Jose A. Romero, President (QI), Jesus A. Perez, Director, Application Type: New NVO License.

AFC Worldwide Express, Inc. dba R+L Global Logistics (NVO & OFF), 3511 Naturally Fresh Blvd., Suite 460, Atlanta, GA 30349, Officers: Cheyenne A. Miranda, Vice President of Maritime Operations (QI), Roby L. Roberts, President, Application Type: QI Change.

Allyn International Services, Inc. (OFF), 13391 McGregor Blvd., Fort Myers, FL 33919, Officers: Kevin M. Sotak, Vice President of Ocean Freight (QI), Allen Trevett, CEO (QI), Application Type: QI Change.

Ameroasia Int'l (NVO), 442 Court Street, Elko, NV 89801, Officer: Jun Yin, Member (QI), Application Type: Transfer to Ameroasia Int'l LLC.

Base Ventures International, Inc. dba Base Ventures Shipping (NVO & OFF), 160 1st Street SE., Suite 201, New Brighton, MN 55112, Officers: Oluwaseyi Olawore, President (QI), Novella Olawore, Vice President, Application Type: Transfer to Voyage Logistics Worldwide Inc.

Beagle Shipping Inc (NVO & OFF), 2801 NW 74th Avenue, Suite 107, Miami, FL 33122, Officers: Ricardo Tovar, President/Secretary (QI), Miguel Tovar, Vice President, Application Type: QI Change .

Body Language Shipping & Cargo, Incorporated (OFF), 100 Hoffman Place, Hillside, NJ 07205, Officers: Taofeek Adeleke, CEO (QI), Juliet Akpata, Treasurer, Application Type: New OFF License.

Combined Freight System, Inc. (NVO & OFF), 10725 Springfield Avenue, Suite 1, Santa Fe Springs, CA 90670, Officers: Yang S. Kwon, Secretary (QI), Alex O. Kwon, President, Application Type: Add OFF Service.

Extrans Lax, Inc. (NVO), 19500 South Rancho Way, Suite 109, Rancho Dominguez, CA 90220, Officers: Kyung Min Kim, Vice President (QI), Jaesok Lee, President, Application Type: New NVO License.

Fago International, Inc. (NVO & OFF), 9682 Telstar Avenue, Suite 101, El Monte, CA 91731, Officers: Jiang Xu, Secretary (QI), Zheng Feng, President, Application Type: New NVO & OFF License.

Florida Export Shipping Corp (NVO & OFF), 5404 24th Avenue South, Tampa, FL 33619, Officers: Claudia E. Campbell, President (QI), Gennare Vitelli, Vice President, Application Type: Add NVO Service.

Global Transport System, Inc. (OFF), 4624 NW 74th Avenue, Miami, FL 33166, Officers: Ivonne Cardenas, President (QI), Jose A. Lopez, Vice President, Application Type: New OFF License.

Green Shipping, Inc. (NVO & OFF), 16012 South Western Avenue, Suite 302, Gardena, CA 90247, Officers: Jae Kyung Kim, Secretary (QI), Byung H. Chung, President, Application Type: QI Change.

Harrison Global Freight, Inc. (NVO & OFF), 19895 Harrison Avenue, City of Industry, CA 91789, Officers: Peiqing Zhang, Secretary (QI), Larry X. Li, President, Application Type: New NVO & OFF License.

Hill Brothers Intermodal Logistics, Inc. dba Hill Bros. Logistics (NVO & OFF), 7878 I Street, Omaha, NE 68127, Officers: Susan Christopher, Assistant Secretary (QI), Albert M. Hill, President, Application Type: New NVO & OFF License.

Hitachi Transport System (America), Ltd. (NVO & OFF), 21061 S. Western Avenue, Torrance, CA 90501–1122, Officers: Hidetoshi Sugimura, Vice President (QI), Masataka Kashiwa, President, Application Type: QI Change.

Horizon Lines of Guam, LLC (NVO), 4064 Colony Road, Suite 200, Charlotte, NC 28211, Officers: Noely Hernandez, Secretary (QI), Ricardo F. Rodriguez, President, Application Type: QI Change.

IMC Global Solutions, LLC (NVO & OFF), 3150 Lenox Park Blvd., Suite 309, Memphis, TN 38115, Officers: Faith H. Davis (Scott), Customs Compliance Officer (QI), Mason H. George, President, Application Type: New NVO & OFF License.

International Logistics Alliance, LLC (OFF), 13800 Coppermine Road, Suite 300, Herndon, VA 20171, Officer: Marcy A. Belcher, Member (QI), Application Type: New OFF License.

KFS, Inc. dba Global International (NVO & OFF), 186 Intermodal Parkway, Fort Worth, TX 76177, Officers: Mark Irwin, CEO, CFO (QI), Bruce Galbraith, President, Application Type: QI Change.

KTL USA, LLC dba Daimon Logistics USA (NVO), 17 Hilliard Avenue, Edgewater, NJ 07020, Officers: Victoria A. Landrito, Secretary (QI),

Serhat Ozisik, President, Application Type: QI Change.

LCS Logistics Inc (NVO), 10643 Daines Drive, Temple City, CA 91780, Officer: Tianying Ao, President (QI), Application Type: New NVO License.

Logical Logistics International, Ltd. (OFF), 1000 Abernathy Road NE., Suite 1125, Atlanta, GA 30328, Officers: Ragen J. Wilson, Secretary (QI), Alan M. Sheps, President, Application Type: QI Change.

Logistics Trader Limited (NVO), Flat 5 Downham Court, Long Lodge Drive, Walton On Thames, Surrey, KT12 3BZ, United Kingdom, Officers: Kathleen Smith, Secretary (QI), Mimoun Bouazani, President, Application Type: New NVO License.

Mercantile Logistics & International Trade Inc. (NVO & OFF), 170 S. Green Valley Parkway, Suite 300, Henderson, NV 89012, Officers: Kimberly M. Daniels, President (QI), Tina Immormino, Secretary, Application Type: New NVO & OFF License.

Nex Worldwide Express Inc. (NVO), 60 W 39th Street, Suite 3W, New York, NY 10018, Officers: Saban K. Ozcilingir, Vice President (QI), Hakan Ozcilingir, President, Application Type: QI Change.

Paramount Transportation Logistics Services, L.L.C. (NVO & OFF), 7290 College Parkway, Suite 200, Fort Myers, FL 33907, Officers: Alfredo Rodriguez-Medrano, Vice President of Maritime Operations (QI), Ralph L. Roberts, President, Application Type: QI Change.

Puerto Pireo, Corp (NVO & OFF), 6941 Carlyle Avenue, Suite 301, Miami Beach, FL 33141, Officers: Federico M. Rocha, Vice President (QI), Nicolas Stamati, President, Application Type: New NVO & OFF License.

RMT Logistics Inc (NVO), 7425 SW 126th Street, Pinecrest, FL 33156, Officer: Rafael Mejias, President (QI), Application Type: New NVO License.

Shippingmygoods.com, Inc. (NVO & OFF), 3600 Oaks Clubhouse Drive, Suite 210, Pompano Beach, FL 33069, Officer: Jonathan J. Duharte, President (QI), Application Type: New NVO & OFF License.

Silver Hawk Freight Inc. dba Titan Worldwide (NVO & OFF), 14243 E. Don Julian Road, City of Industry, CA 91746, Officers: Robert Penate, Secretary (QI), Amar I. Durrani, President, Application Type: New NVO & OFF License .

Sisto International Shipping, Inc. (NVO & OFF), 10255 NW 116th Way, Suite 3, Medley, FL 33178, Officers: Raymond A. Fleites, President (QI), Tracy Sisto, Vice President, Application Type: Add NVO Service.

TLS Logistics, LLC (NVO), 5358 33rd Avenue NW., Suite 302, Gig Harbor, WA 98335, Officers: William Daniels, Manager (QI), Geraldine Sanders, Chairman, Board of Managers, Application Type: New NVO License.

Topspin Holdings, LLC (NVO & OFF), 225 West 34th Street, 9th Floor, New York, NY 10122, Officers: Vera Fida, Manager (QI), James Minutello, Member, Application Type: New NVO & OFF License.

Uniocean Group LLC (NVO & OFF), 927 S. Azusa Avenue, City of Industry, CA 91748, Officers: Jeffrey Yan, Managing Member (QI), Jie Shi, Managing Member, Application Type: New NVO & OFF License.

VFX Import & Export Group Corp (NVO & OFF), 2315 NE 107th Avenue, 1M34 Box 5, Miami, FL 33172, Officers: Valeria F. Nickerson, President (QI), Marcia R. Darocha, Secretary, Application Type: New NVO & OFF License.

By the Commission.

Dated: January 31, 2014.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–02406 Filed 2–4–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 022604F.

Name: Tri-Vi-U.S. Logistics Ltd.

Address: 170 E. Sunrise Highway, Valley Stream, NY 11580.

Date Reissued: October 3, 2013.

License No.: 024098F.

Name: Albarq Shipping Services Inc.

Address: 8151 Electric Avenue, Stanton, CA 90680.

Date Reissued: October 23, 2013.

License No.: 024117F.

Name: A & E Logistics, Inc.

Address: 3011 S. Poplar Avenue, Chicago, IL 60608.

Date Reissued: November 28, 2013.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–02358 Filed 2–4–14; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0135; Docket 2013–0077; Sequence 12]

Submission for OMB Review; Prospective Subcontractor Requests for Bonds

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection concerning subcontractor requests for bonds. A notice was published in the **Federal Register** 78 FR 56896 on September 16, 2013. One comment was received.

DATES: Submit comments on or before March 7, 2014.

ADDRESSES: Submit comments identified by Information Collection 9000–0135 by any of the following methods:

- Regulations.gov: *http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0135. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0135, Prospective Subcontractor Requests for Bond.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0135, Prospective Subcontractor Requests for Bond'' on your attached document.

- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001. ATTN: Ms. Flowers/IC 9000–0135.

Instructions: Please submit comments only and cite Information Collection 9000–0135, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, Acquisition Policy Division, GSA 202–219–0202 or email *Cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Part 28 of the Federal Acquisition Regulation contains guidance related to obtaining financial protection against damages under Government contracts (*e.g.,* use of bonds, bid guarantees, insurance etc.). Part 52 contains the texts of solicitation provisions and contract clauses. These regulations implement a statutory requirement for information to be provided by Federal contractors relating to payment bonds furnished under construction contracts which are subject to 40 U.S.C. chapter 31, subchapter III, Bonds. This collection requirement is mandated by Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Pub. L. 102–190), as amended by Section 2091 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–335). The clause at FAR 52.228–12, Prospective Subcontractor Requests for Bonds, implements Section 806(a)(3) of Public Law 102–190, as amended, which specifies that, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of a construction contract for which a payment bond has been furnished to the United States pursuant to 40 U.S.C. chapter 31, subchapter III, Bonds, the contractor shall promptly provide a copy of such payment bond to the requestor.

In conjunction with performance bonds, payment bonds are used in Government construction contracts to secure fulfillment of the contractor's obligations under the contract and to assure that the contractor makes all payments, as required by law, to persons furnishing labor or material in performance of the contract. This regulation provides prospective subcontractors and suppliers a copy of the payment bond furnished by the contractor to the Government for the performance of a Federal construction contract subject to 40 U.S.C. chapter 31, subchapter III, Bonds. It is expected that prospective subcontractors and suppliers will use this information to determine whether to contract with that particular prime contractor. This information has been and will continue to be available from the Government. The requirement for contractors to provide a copy of the payment bond upon request to any prospective subcontractor or supplier under the Federal construction contract is contained in Section 806(a) (3) of Public Law 102–190, as amended by Sections 2091 and 8105 of Public Law 103–355.

B. Analysis of Public Comments

A notice was published in the **Federal Register** at 78 FR 56896 on September 16, 2013. One respondent submitted public comments on the extension of the previously approved information collection. The analysis of public comments is summarized as follows:

Comment: The respondent agrees that subcontractors and prospective subcontractors should have access to copies of the payment bonds and has advocated for this process. By having access to the bonds, the subcontractors and prospective subcontractors have the advantage of having insight on the prime contractor. At this time, the commenter does not have a recommendation for an alternative method for making this data available. However, the respondent recommends that alternatives be explored with associations involved and representing the surety industry.

Response: Because the respondent's suggestions neither question nor affect the information collection estimates included in this request for extension, the request for approval to extend this information collection will be submitted without change. However, the recommendation will be researched, and, as determined appropriate, revised as a separate action.

C. Annual Reporting Burden

No changes are being made to the burden.

Respondents: 14,628.
Responses per Respondent: 1.
Total Responses: 14,628.
Hours per Response: .25.
Total Burden Hours: 3,657.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control Number 9000–0135, Prospective Subcontractor Requests for Bonds, in all correspondence.

Dated: January 30, 2014.

Karlos Morgan,

Acting Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2014–02350 Filed 2–4–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Multistate Financial Institution Data Match with Federally Assisted State Transmitted Levy (FIDM/FAST-Levy).

OMB No.: 0970–0196.

Description: To satisfy any current support obligation and arrearage of an obligor who owes past-due support, state child support enforcement agencies are required to attach and seize assets of the obligor held in financial institutions. To locate an obligor's account, state child support enforcement agencies are required to enter into data matching agreements with financial institutions doing business in their state. The results of the data matches are used to secure information leading to the enforcement of the support obligation. The federal Office of Child Support Enforcement (OCSE) assists states fulfilling the data matching requirements with multistate financial institutions by facilitating matching through the centralized Federal Parent Locator Service.

To further assist states in meeting this statutory obligation, the OCSE developed the Federally Assisted State Transmitted (FAST) Levy application, an application within the Federal Parent Locator Service, providing a secure and automated method of collecting and disseminating electronic levy notices between state child support enforcement agencies and multistate financial institutions to help the child support agencies more efficiently secure financial assets.

The FIDM/FAST-Levy information collection activities are authorized by: 42 U.S.C. 652(l) which authorizes OCSE, through the Federal Parent Locator Service, to aid state child support agencies and financial institutions doing business in two or more States in reaching agreements regarding the receipt from financial institutions, and the transfer to the state child support agencies, of information pertaining to the location of accounts held by obligors who owe past-due support; 42 U.S.C. 666 (a)(2) and (c)(1)(G)(ii) which require state child support agencies in cases in which there is an arrearage to establish procedures to secure assets to satisfy any current support obligation and the arrearage by attaching and seizing assets of the obligor held in financial

institutions; (2) 42 U.S.C. 666(a)(17), which requires state child support agencies to establish procedures under which the state child support agencies shall enter into agreements with financial institutions doing business in the State to develop and operate, in coordination with financial institutions, and the Federal Parent Locator Service (in the case of financial institutions doing business in two or more States), a data match system, using automated data exchanges to the maximum extent feasible, in which a financial institution is required to quarterly provide information pertaining to a noncustodial parent owing past-due support who maintains an account at the institution; and (ii) in response to a notice of lien or levy, encumber or surrender, assets held; (3) 42 U.S.C. 652(a)(7), which requires OCSE to provide technical assistance to state child support enforcement agencies to help them establish effective systems for collecting child and spousal support; and (4) 45 CFR 303.7(a)(5), which requires state child support agencies to transmit requests for information and provide requested information electronically to the greatest extent possible.

Respondents: Multistate Financial Institutions and State Child Support Agencies

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Financial Data Match Result File	259	4	.33	341.88
Election Form	122	1	0.5	61
FAST-Levy Response Withhold Record Specifications: Multistate Financial Institutions	5	1	317.5	1,587.5
FAST-Levy Request Withhold Record Specifications: State Child Support Enforcement Agencies	7	1	317.5	2,222.5

Estimated Total Annual Burden Hours: 4,212.88.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–02402 Filed 2–4–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Federal Case Registry (FCR).

OMB No. 0970–0421.

Description: Section 454A(e)(1) of the Social Security Act requires that states create a State Case Registry (SCR) within their statewide automated child support systems, to include information on IV–D cases and non-IV–D orders established or modified in the state on or after October 1, 1998. Section 454A(e)(5) requires states to regularly update their cases in the SCR.

The Federal Case Registry (FCR) informs states which other state(s) has information on cases or participants of interest to them. Section 454(A)(f)(1) requires states to furnish to the FCR the minimum amount of information on child support cases (including updates to those cases) recorded in the SCR that is necessary to operate the FCR. The information alerts states to other states that have registered the same individual and automatically provides states with address, employment, and unemployment information to locate these parents and their employers to either establish or enforce a child support order.

The activities associated with the Federal Case Registry information collection are authorized by (1) 42 U.S.C § 654a(e)which requires that state child support agencies establish, update, maintain, and monitor an automated State case registry containing records pertaining to cases enforced by the child support agencies and order information pertaining to all cases, including cases not enforced by the child support agencies, using standardized data elements and including payment records; and (2) 42 U.S.C. § 654a(f)(1), which requires states to furnish certain State Case Registry information to the Federal Case Registry of Child Support Orders, an automated registry established within the Federal Parent Locator Service, to assist state child support enforcement agencies and for other purposes.

Respondents: State Child Support Agencies and Courts

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Case Registry: IV–D data (Courts)	3,144	454	0.025	35,684
State Case Registry: Non-IV–D data (Courts)	3,144	198	0.025	15,563
States: State Case Registry Submission to Federal Case Registry	54	18,980	0.033	33,822

Estimated Total Annual Burden Hours: 85,069.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

Copies of the proposed collection of information can be obtained an comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–02413 Filed 2–4–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Molecular and Clinical Genetics Panel of the Medical Devices 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: Molecular and Clinical Genetics Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 26 and 27, 2014, from 8 a.m. to 5 p.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900.

Contact Person: Jamie Waterhouse, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–3063, 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 March 26, 2014, the committee will discuss, make recommendations and vote on information related to the premarket approval application sponsored by Epigenomics, Inc. for the Epi proColon. The Epi proColon test is a qualitative in vitro diagnostic method for the detection of methylated Septin 9 DNA in plasma derived from patient whole blood specimens. Methylation of the target Septin 9 DNA sequence has been associated with the occurrence of colorectal cancer (CRC). The test is indicated to screen patients for CRC who are defined as average risk for CRC by current screening guidelines. The Epi proColon test is not intended to replace colorectal screening by colonoscopy. Patients with a positive Epi proColon test result should be referred for diagnostic colonoscopy. The Epi proColon test results are intended to be used in conjunction with the physician's assessment of history, other risk factors, and professional guidelines.

On March 27, 2014, the committee will discuss, make recommendations and vote on information related to the premarket approval application for the Cologuard device, sponsored by Exact Sciences. Cologuard is an in vitro diagnostic device designed to analyze patients' stool for detection of hemoglobin, multiple DNA methylation and mutational markers, and the total amount of human DNA. Cologuard is intended for use as an adjunctive screening test for the detection of colorectal neoplasia associated DNA markers and for the presence of occult hemoglobin in human stool. A positive result may indicate the presence of colorectal cancer or premalignant colorectal neoplasia. Cologuard is not intended as a replacement for colonoscopy. Cologuard is intended to be used in conjunction with colonoscopy and other test methods in accordance with recognized screening guidelines.

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 March 17, 2014. On

March 26 and 27, 2014, 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 March 10, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 13, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact James Clark, Conference Management Staff, at *james.clark@fda.hhs.gov* or 301–796–5293 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 29, 2014.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–02395 Filed 2–4–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Generic Clearance for Surveys of Customers and Partners of the Office of Extramural Research of the National Institutes of Health

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on November 22, 2013, pages 70062–70063 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The Office of Extramural Research (OER), the National Institutes of Health (NIH), may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

For Further Information: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Dr. Paula Y. Goodwin, Special Assistant to the Director, Office of Extramural Programs, OER, NIH, 6705 Rockledge Drive, Suite 350, Bethesda, MD 20892, or call non-toll-free number (301) 496–9232 or Email your request, including your address to: *OEPMailbox@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Generic Clearance for Surveys of Customers and Partners of the Office of Extramural Research of the National Institutes of Health—0925–0627—Extension—Office of the Director (OD), Office of Extramural Research (OER), Office of Extramural Programs (OEP), National Institutes of Health (NIH).

Need and Use of Information Collection: OER develops, coordinates the implementation of, and evaluates NIH-wide policies and procedures for the award of extramural funds. To move forward with our initiatives to ensure success in accomplishing the NIH mission, input from partners and customers is essential. Quality management principles have been integrated into OER's culture and these surveys will provide customer satisfaction input on various elements of OER's business processes. The approximately 14 (10 quantitative and 4 qualitative) customer satisfaction surveys that will be conducted under this generic clearance will gather and measure customer and partner satisfaction with OER processes and operations. The data collected from these surveys will provide the feedback to track and gauge satisfaction with NIH's statutorily mandated operations and processes. OER/OD/NIH will present data and outcomes from these surveys to inform the NIH staff, officers, leadership, advisory committees, and other decision-making bodies as appropriate. Based on feedback from these stakeholders, OER/OD/NIH will formulate improvement plans and take action when necessary.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 2,485.

Estimated Annualized Burden Hours

QUANTITATIVE SURVEY

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Science professionals, applicants, reviewers, Institutional Officials	3,820	1	15/60	995
Adult Science Trainees	2,000	1	15/60	500
General Public	4,000	1	15/60	1,000
Science professionals, applicants, reviewers, Institutional Officials	12	1	1	12
Adult Science Trainees	6	1	1	6

QUANTITATIVE SURVEY—Continued

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
General Public	12	1	1	12

Dated: January 29, 2014.

Seleda Perryman,

Chief Project Clearance Officer, OPERA, National Institutes of Health.

[FR Doc. 2014–02399 Filed 2–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time-Sensitive Obesity Review.

Date: February 24, 2014.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: January 30, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–02313 Filed 2–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; 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 materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; NIMHD Basic and Applied Biomedical Research on Minority Health and Health Disparities (R01).

Date: March 12–13, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree by Hilton Silver Spring, 8727 Coleville Road, Silver Spring, MD 20910.

Contact Person: Maryline Laude-Sharp, Ph.D., Scientific Review Officer, National Institute on Minority Health, and Health Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 451–9536, *mlaudesharp@mail.nih.gov.*

Dated: January 30, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–02312 Filed 2–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 meetings of the Board of Scientific Counselors for Basic Sciences, National Cancer Institute and the Board of Scientific Counselors for Clinical Sciences and Epidemiology, National Cancer Institute.

The meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Basic Sciences, National Cancer Institute.

Date: March 10, 2014.

Time: 9:00 a.m. to 12:50 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, 31 Center Drive, C-Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Mehrdad M. Tondravi, Ph.D., Executive Secretary, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 2W464, Rockville, MD 20850, 240–276–5664, *tondravim@mail.nih.gov.*

Name of Committee: Board of Scientific Counselors for Clinical Sciences and Epidemiology, National Cancer Institute.

Date: March 11, 2014.

Time: 8:30 a.m. to 3:40 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Brian E. Wojcik, Ph.D., Executive Secretary, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 3W414, Rockville, MD 20850, 240–276–5665, *wojcikb@mail.nih.gov*.

(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 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–02321 Filed 2–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Center for Scientific Review Special Emphasis Panel; Drug Discovery.

Date: February 10, 2014.

Time: 12:00 p.m. to 1:00 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: Sally A. Mulhern, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–5877, *mulherns@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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 30, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–02315 Filed 2–4–14; 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 Initial Review Group; Subcommittee I—Transition to Independence Transition to Independence.

Date: March 11–12, 2014.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, 7400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Sergei Radaev, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W634, Bethesda, MD 20892–9750, 240–276–6466, *sradaev@mail.nih.gov*.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.gov/advisory/irg/irg.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 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–02320 Filed 2–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; MSM Program Review.

Date: March 18, 2014.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Manana Sukhareva, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Room 959, Bethesda, MD 20892, 301–451–3397, *sukharem@mail.nih.gov*.

Dated: January 30, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–02314 Filed 2–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Cell Reprogramming for AD Risk Genes.

Date: March 3, 2014.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elaine Lewis, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: January 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–02319 Filed 2–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Biophysical Studies of Proteins and Models.

Date: February 20, 2014.

Time: 3:00 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, (Virtual Meeting).

Contact Person: David R Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7806, Bethesda, MD 20892, (301)–435–1722, *jollieda@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowships: Immunology

Date: February 27–28, 2014.

Time: 8:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4199, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel AREA: Immunology

Date: February 28, 2014.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095G, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR–13–114; PAR–13–115; PAR–13–252: Improvement of Animal Models for Stem Cell-Based Regenerative Medicine (R01).

Date: March 3–4, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Maqsood A Wani, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7814, Bethesda, MD 20892, 301–435–2270, *wanimaqs@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group: Cellular Signaling and Regulatory Systems Study Section

Date: March 3, 2014.

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: Elena Smirnova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301–357–9112, *smirnove@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Small Business: Cancer Diagnostics and Treatments (CDT).

Date: March 3–4, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant application.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group: Health Services Organization and Delivery Study Section.

Date: March 3–4, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015

Contact Person: Jacinta Bronte-Tinkew, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3164, MSC 7770, Bethesda, MD 20892, (301) 806–0009, *brontetinkewjm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel AREA: Oncological Sciences Applications.

Date: March 3, 2014.

Time: 9:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Denise R Shaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel: Gastroenterology and Kidney Area applications.

Date: March 3, 2014.

Time: 10:00 a.m. to 1:00 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: Mushtaq A. Khan, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301–435–1778, *khanm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PA12–006: Academic Research Enhancement Award (Parent R15).

Date: March 3, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Barba Koroma, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301–594–3292, *koromabm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: January 30, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–02316 Filed 2–4–14; 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(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be open to the public, 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.

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: March 6, 2014.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: Director's Report: Ongoing and New Business; Reports of Program Review Group(s); and Budget Presentations, Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Institutes of Health, Building 31, 6th Floor, Conf. Rm. 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, Ph.D., Executive Secretary, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Rm. 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

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/advisory/bsa/bsa.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 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–02322 Filed 2–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCIES: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

Authority: 8 U.S.C. 1182(d)(3)(B)(i)

Following consultations with the Attorney General, the Secretary of Homeland Security and the Secretary of State have determined that grounds of inadmissibility at section 212(a)(3)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(a)(3)(B), bar certain aliens who do not pose a national security or public safety risk from admission to the United States and from obtaining immigration benefits or other status. Accordingly, consistent with prior exercises of the exemption authority, the Secretary of Homeland Security and the Secretary of State, in consultation with the Attorney General, hereby conclude, as a matter of discretion in accordance with the authority granted by INA section 212(d)(3)(B)(i), 8 U.S.C. 1182(d)(3)(B)(i), as amended, as well as the foreign policy and national security interests deemed relevant in these consultations, that paragraphs 212(a)(3)(B)(iv)(VI)(bb) and (dd) of the INA, 8 U.S.C. 1182(a)(3)(B)(iv)(VI)(bb) and (dd), shall not apply with respect to an alien who provided insignificant material support to an organization described in section 212(a)(3)(B)(vi)(III) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(III), or to a member of such an organization, or to an individual described in section 212(a)(3)(B)((iv)(VI)(bb) of the INA, 8 U.S.C. 1182(a)(3)(B)(iv)(VI)(bb), provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) has undergone and passed all relevant background and security checks;

(c) has fully disclosed, in all relevant applications and/or interviews with U.S. government representatives and agents, the nature and circumstances of any material support provided and any other activity or association falling within the scope of section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B), as well as all contact with a terrorist organization and its members;

(d) has not provided more than an insignificant amount of material support to a terrorist organization described in section 212(a)(3)(B)(vi)(III) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(III), or to a member of such an organization, or to an individual described in section 212(a)(3)(B)(iv)(VI)(bb) of the INA, 8 U.S.C. 1182 (a)(3)(B)(iv)(VI)(bb);

(e) (1) has not provided the material support with any intent of furthering the terrorist or violent activities of the individual or organization; (2) has not provided material support that the alien knew or reasonably should have known could directly be used to engage in terrorist or violent activity; and (3) has not provided material support to any individual who the alien knew or reasonably should have known had committed or planned to commit a terrorist activity on behalf of a designated terrorist organization, as described in section 212(a)(3)(B)(vi)(I) or (II) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(I) or (II);

(f) has not provided material support to terrorist activities that he or she knew or reasonably should have known targeted noncombatant persons, U.S. citizens, or U.S. interests;

(g) has not provided material support that the alien knew or reasonably

should have known involved providing weapons, ammunition, explosives, or components thereof, or the transportation or concealment of such items;

(h) has not provided material support in the form of military-type training (as defined in section 2339D(c)(1) of title 18, United States Code);

(i) has not engaged in any other terrorist activity, including but not limited to providing material support to a designated terrorist organization, as described in section 212(a)(3)(B)(vi)(I) or (II) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(I) or (II), to which no other exemption applies;

(j) poses no danger to the safety and security of the United States; and

(k) warrants an exemption from the relevant inadmissibility provision in the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular alien meets each of the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above can inform but shall not control a decision regarding any subsequent benefit or protection applications, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority creates no substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the U.S. Department of Homeland Security or by the U.S. Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Jeh Charles Johnson,

Secretary of Homeland Security.

John F. Kerry,

Secretary of State.

[FR Doc. 2014–02353 Filed 2–4–14; 8:45 am]

BILLING CODE 9110–9M–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

Following consultations with the Attorney General, the Secretary of Homeland Security and the Secretary of State have determined that the grounds of inadmissibility at section 212(a)(3)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(a)(3)(B), bar certain aliens who do not pose a national security or public safety risk from admission to the United States and from obtaining immigration benefits or other status. Accordingly, consistent with prior exercises of the exemption authority, the Secretary of Homeland Security and the Secretary of State, in consultation with the Attorney General, hereby conclude, as a matter of discretion in accordance with the authority granted by INA section 212(d)(3)(B)(i), 8 U.S.C. 1182(d)(3)(B)(i), as amended, as well as the foreign policy and national security interests deemed relevant in these consultations, that paragraphs 212(a)(3)(B)(iv)(VI)(bb) and (dd) of the INA, 8 U.S.C. 1182(a)(3)(B)(iv)(VI)(bb) and (dd), shall not apply with respect to an alien who provided limited material support to an organization described in section 212(a)(3)(B)(vi)(III) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(III), or to a member of such an organization, or to an individual described in section 212(a)(3)(B)((iv)(VI)(bb) of the INA, 8 U.S.C. 1182(a)(3)(B)(iv)(VI)(bb), that involves (1) certain routine commercial transactions or certain routine social transactions (i.e., in the satisfaction of certain well-established or verifiable family, social, or cultural obligations), (2) certain humanitarian assistance, or (3) substantial pressure that does not rise to the level of duress, provided, however, that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed all relevant background and security checks;

(c) Has fully disclosed, in all relevant applications and/or interviews with U.S. government representatives and agents, the nature and circumstances of any material support provided and any other activity or association falling within the scope of section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B), as well as all contact with a terrorist organization and its members;

(d) Has not provided the material support with any intent or desire to assist any terrorist organization or terrorist activity;

(e) Has not provided material support (1) that the alien knew or reasonably should have known could directly be used to engage in terrorist or violent activity or (2) to any individual who the alien knew or reasonably should have known had committed or planned to commit a terrorist activity on behalf of a designated terrorist organization, as described in section 212(a)(3)(B)(vi)(I) or (II) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(I) or (II);

(f) Has not provided material support to terrorist activities that he or she knew or reasonably should have known targeted noncombatant persons, U.S. citizens, or U.S. interests;

(g) Has not provided material support that the alien knew or reasonably should have known involved providing weapons, ammunition, explosives, or components thereof, or the transportation or concealment of such items;

(h) Has not provided material support in the form of military-type training (as defined in section 2339D(c)(1) of title 18, United States Code);

(i) Has not engaged in any other terrorist activity, including but not limited to providing material support to a designated terrorist organization, as described in section 212(a)(3)(B)(vi)(I) or (II) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(I) or (II), to which no other exemption applies;

(j) Poses no danger to the safety and security of the United States; and

(k) Warrants an exemption from the relevant inadmissibility provision in the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular alien meets each of the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above can inform but shall not control a decision regarding any subsequent benefit or protection applications, unless such exercise of authority has been revoked. This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority creates no substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the U.S. Department of Homeland Security or by the U.S. Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Jeh Charles Johnson,

Secretary of Homeland Security.

John F. Kerry,

Secretary of State.

[FR Doc. 2014–02357 Filed 2–4–14; 8:45 am]

BILLING CODE 9110–9M–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0068]

Agency Information Collection Activities: Registration for Classification as a Refugee, Form I–590; Revision of a Currently Approved Collection

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting 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. The information collection notice was previously published in the **Federal Register** on September 20, 2013, at 78 FR 57870, allowing for a 60-day public comment period. USCIS received one comment in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 7, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* The comments submitted to the OMB USCIS Desk Officer may also be submitted to DHS via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0036 or via email at *uscisfrcomment@uscis.dhs.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0068.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Registration for Classification as Refuge.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–590; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–590 provides a uniform method for applicants to apply for refugee status and contains the information needed for USCIS to adjudicate such applications.

The revised Form I–590 includes additional questions that have been transferred from Form G–646, *Sworn Statement of Refugee Applying for Admission into the United States.* These questions assist USCIS in determining whether an applicant is inadmissible to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Registration for

Classification—100,000 respondents at 3 hours and 20 minutes (3.33 hours) per response; Request for Interview—1,500 respondents at 1 hour per response; DNA Evidence—100 respondents at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 334,700 annual burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140; Telephone 202–272–8377.

Dated: January 30, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–02448 Filed 2–4–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6– ES–2014– N010; FXES11130600000D2– 123–FF06E00000]

Endangered and Threatened Species; Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service, have issued the following permits to conduct certain activities with endangered species under the authority of the Endangered Species Act, as amended (Act).

FOR FURTHER INFORMATION CONTACT: Kathy Konishi, Permit Coordinator Ecological Services, (303) 236–4212 (phone); *permitsR6ES@fws.gov (email).*

SUPPLEMENTARY INFORMATION: We have issued the following permits in response to recovery permit applications we received under the authority of section 10 of the Act (16 U.S.C. 1531 et seq.). Each permit listed below was issued only after we determined that it was applied for in good faith; that granting the permit would not be to the disadvantage of the listed species; and that the terms and conditions of the permit were consistent with purposes and policy set forth in the Act.

Applicant name	Permit No.	Date issued	Date expired
BELLINI ENVIRONMENTAL CONSULTING	060668	9/13/2013	6/30/2018
BUREAU OF LAND MANAGEMENT	073201	7/10/2013	6/30/2018
BUREAU OF LAND MANAGEMENT	165829	7/29/2013	3/31/2018
COLORADO STATE UNIVERSITY	046795	10/29/2013	12/31/2018
FELSBURG HOLT & ULLEVIG, INC.	09941B	8/20/2013	6/30/2018
IRON COUNTY COMMISSION	20942B	11/4/2013	12/31/2112
KANSAS CITY ZOO	183432	12/30/2013	12/31/2018
KANSAS STATE UNIVERSITY	067729	7/8/2013	6/30/2018
NATIONAL PARK SERVICE	057485	7/8/2013	3/31/2018
NATIONAL PARK SERVICE	145090	12/2/2013	12/31/2018
POWER ENGINEERS	237960	12/30/2013	12/31/2018
U.S. FISH AND WILDLIFE SERVICE	18695B	10/23/2013	12/31/2063
UNIVERSITY OF NEBRASKA AT KEARNEY	045150	9/13/2013	6/30/2018
U.S. GEOLOGICAL SURVEY	047282	7/19/2013	6/30/2018
UTAH STATE UNIVERSITY	07858A	7/17/2013	6/30/2018
UTAH STATE UNIVERSITY	049748	8/13/2013	3/31/2018
VIRGINIA POLYTECHNIC INSTITUTE	103272	7/17/2013	9/30/2018
WYOMING GAME AND FISH DEPARTMENT	067397	7/29/2013	3/31/2018

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written requires for a copy of such documents to Kathy Konishi (see **FOR FURTHER INFORMATION CONTACT**).

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 et seq.)

Dated: January 30, 2014.

Nicole Alt,

Acting Assistant Regional Director, Mountain-Prairie Region.

[FR Doc. 2014–02385 Filed 2–4–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2014–N011; FXES11130600000D2–123–FF06E00000]

Endangered and Threatened Wildlife and Plants; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. With some exceptions, the Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, please send your written comments by March 7, 2014.

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. Alternatively, you may use one of the following methods to request hard copies or a CD–ROM of the documents. Please specify the permit you are interested in by number (e.g., Permit No. TE–XXXXXX).

- *Email: permitsR6ES@fws.gov.* Please refer to the respective permit number (e.g., Permit No. TE–XXXXXX) in the subject line of the message.
- *U.S. Mail:* Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486–DFC, Denver, CO 80225.

• *In-Person Drop-off, Viewing, or Pickup:* Call (303) 236–4212 to make an appointment during regular business hours at 134 Union Blvd., Suite 645, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT: Kathy Konishi, Permit Coordinator, Ecological Services, (303) 236–4212 (phone); *permitsR6ES@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17, the Act provides for permits and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes the permittees to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, and Federal agencies and the public to comment on the following applications. Documents and other information the applicants have submitted with their applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit Application Number TE227446

Applicant: Clifton Sanitation District, 3217 D Road, Clifton, CO.

The applicant requests the renewal of a permit for educational display and propagation of bonytail (*Gila elegans*), Colorado pikeminnow (*Ptychocheilus Lucius*), humpback chub (*Gila cypha*), and razorback sucker (*Xyrauchen texanus*) at the Clifton Sanitation District facility for the purpose of enhancing the species' survival.

Permit Application Number TE24637B

Applicant: USFS Nebraska Water Science Center, 5231 S. 19th Street, Lincoln, NE.

The applicant requests the renewal of a permit to conduct presence/absence surveys for the pallid sturgeon (*Scaphirhynchus albus*) in Nebraska and South Dakota to determine range, distribution, and abundance for the purpose of enhancing the species' survival.

National Environmental Policy Act

In compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to these requests will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*).

Dated: *January 30, 2014.*

Nicole Alt,

Acting Assistant Regional Director, Mountain-Prairie Region.

[FR Doc. 2014–02386 Filed 2–4–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5B711.IA000814]

Land Acquisitions; Mechoopda Indian Tribe of Chico Rancheria of California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Agency Determination.

SUMMARY: The Assistant Secretary—Indian Affairs made a final agency determination to acquire approximately 626.55 acres of land in trust for the Mechoopda Indian Tribe of Chico Rancheria of California for gaming and other purposes on January 24, 2014.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Director, Office of Indian Gaming, Bureau of Indian Affairs, MS–3657 MIB, 1849 C Street NW., Washington, DC 20240; Telephone (202) 219–4066.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1, and is published to comply with the requirements of 25 CFR 151.12(c)(2)(ii) that notice of the decision to acquire land in trust be promptly provided in the **Federal Register**.

On March 14, 2008, the Assistant Secretary—Indian Affairs first approved the trust acquisition of 626.55 acres of land in trust for the Mechoopda Indian Tribe of Chico Rancheria of California. Notice of that decision was published in the **Federal Register** on May 8, 2008. 73 FR 26142. The 2008 decision was challenged in the United States District Court for the District of Columbia by Butte County, California, and was ultimately remanded to the Department for reconsideration. On January 24, 2014, the Assistant Secretary—Indian Affairs issued a new decision to accept approximately 626.55 acres of land into trust for the Mechoopda Indian Tribe of Chico Rancheria of California under the authority of the Indian Reorganization Act of 1934, 25 U.S.C. 465. We have determined that the Mechoopda Indian Tribe of Chico Rancheria of California's request meets the requirements of the Indian Gaming Regulatory Act's ''restored lands'' exception, 25 U.S.C. 2719(b)(1)(B)(iii), to the general prohibition contained in 25 U.S.C. 2719(a) on gaming on lands acquired in trust after October 17, 1988.

The 626.55 acres are located in Butte County, California, and are described as follows:

Parcel I

All that portion of the east half of the northeast quarter of Section 1, Township 20 North, Range 2 East, M.D.B. & M., lying easterly of U.S. Highway 99E.

Excepting therefrom that portion thereof, heretofore conveyed to the State of California by deed recorded July 27, 1951, in Book 575, Page 326, Official Records, recorded October 9, 1974, in Book 1944, Page 64, Official Records and October 9, 1974, in Book 1944, Page 68, Official Records and Parcel 1 of the Grant Deed recorded January 15, 2004,

under Butte County Recorder's Serial No. 2004–0002294. APN 041–190–048 (formerly 038–150–026).

Parcel II

The north half of the northwest quarter, the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of Section 5, and all that portion of Section 6 lying northeasterly of the Oroville Chico Highway, all in Township 20 North, Range 3 East, M.D.B. & M.

Excepting therefrom said Section 6, that portion conveyed to the State of California by Deeds recorded February 8, 1951 in Book 555, Page 329, Official Records, and July 27, 1951, in Book 575, Page 326, Official Records.

Also excepting therefrom that portion conveyed to the State of California by Deed recorded October 9, 1974, in Book 1944, Page 64, Official Records and Parcel 1 of Grant Deed recorded January 15, 2004, under Butte County Recorder's Serial No. 2004–002294. APN 041–190–045 (formerly 041–190–020).

A copy of the decision dated January 24, 2014 is available at: *http://www.indianaffairs.gov/cs/groups/webteam/documents/text/idc1-025066.pdf.*

Dated: January 30, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–02439 Filed 2–4–14; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMP00000 L13110000.PP0000 14XL1109PF]

Notice of Public Meeting, Pecos District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, Bureau of Land Management's (BLM) Pecos District Resource Advisory Council (RAC) will meet as indicated below.

DATES: The RAC will meet on March 12, 2014, at the Central Valley Electric Cooperative Office, 1403 North 13th Street, Artesia, New Mexico, 88210, from 9 a.m.–4 p.m. The public may send written comments to the RAC at the BLM Pecos, 2909 West 2nd Street, Roswell, New Mexico, 88201.

FOR FURTHER INFORMATION CONTACT: Howard Parman, Pecos District Office, Bureau of Land Management, 2909 West 2nd Street, Roswell, New Mexico 88201, 575–627–0212. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member Pecos District RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in the BLM's Pecos District.

Planned agenda items include: Touring green building technology at the Central Valley Electric Cooperative's new headquarters; the status of the Lesser Prairie-Chicken and the possible effects on operations of public resources should the species be listed as threatened; and the proposed Rob Jaggers Camping Area expanded amenity fee business plan.

All RAC meetings are open to the public. There will be a half-hour public comment period at 3 p.m. for any interested members of the public who wish to address the RAC. Depending on the number of persons wishing to speak and time available, the time for individual comments may be limited.

Mary A. Uhl,

Acting Deputy State Director, Lands and Resources.

[FR Doc. 2014–02389 Filed 2–4–14; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–14761; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: US Army Corps of Engineers, Tulsa District, Tulsa, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The US Army Corps of Engineers, Tulsa District, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the US Army Corps of Engineers, Tulsa District. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the US Army Corps of Engineers, Tulsa District, at the address in this notice by March 7, 2014.

ADDRESSES: Michelle C. Horn, Archaeologist, US Army Corps of Engineers, Tulsa District, 1645 S. 101 E. Avenue, Tulsa, OK 74128–0061, telephone (918) 669–7642.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the US Army Corps of Engineers, Tulsa District, and in the physical custody of the Sam Noble Oklahoma Museum of Natural History (SNOMNH). The human remains and associated funerary objects were removed from a site at Lake Texoma, in Bryan County, OK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was originally made by the SNOMNH professional staff, and more recently by the US Army Corps of Engineers, Tulsa District, professional staff, in consultation with representatives of The Chickasaw Nation.

History and Description of the Remains

In 1941, human remains representing, at minimum, two individuals were removed from the Opel Site (34BR4) in Bryan County, OK. The site was excavated as a Works Progress Administration (WPA) project and the collection was deposited at the Stovall Museum (now SNOMNH). Although SNOMNH originally consulted on the collection and have physical custody of the human remains and associated funerary objects, the collection was recently determined to be under the control of the US Army Corps of Engineers, Tulsa District. The human remains represent one child from Burial 1 and one adult from Burial 2. No known individuals were identified. The 70 associated funerary objects are from two separate burials. The 58 associated funerary objects from Burial 1 are 9 saucers, bowls, and plates; 3 ceramic cups; 5 spoons; 2 shoes; 1 iron cup; 1 lot of iron pail fragments; 1 china bowl; 1 broken glass; 1 small glass bottle; 1 lot of iron pieces; 29 small beads; 2 thimbles; 1 fork; and 1 knife. The 12 associated funerary objects from Burial 2 are 1 bead, 1 worked stone, 1 iron buckle, 2 glass disks, and 7 buttons.

Based on the types of materials found at the Opel Site including the associated funerary objects, it is reasonable to determine that the burials are historic and date to the late 19th century. At the time the burials were excavated in 1941, local residents could not recall a house being at that location and the site had been cultivated for approximately 40 years. The region in which the site is located was designated Chickasaw Territory in 1837, and historic documents and oral histories of the Chickasaw provide additional support that the region was occupied by their tribe during the 19th century. Consultation with representatives of The Chickasaw Nation confirms that the associated funerary objects are the types and quantities of materials that are found with Chickasaw burials from this time period.

Determinations Made by the US Army Corps of Engineers, Tulsa District

Officials of the US Army Corps of Engineers, Tulsa District, have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 70 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Chickasaw Nation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Michelle C. Horn, Archaeologist, US Army Corps of Engineers, Tulsa District, 1645 S. 101 E. Avenue, Tulsa, OK 74128–0061, telephone (918) 669–7642, by March 7, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Chickasaw Nation may proceed.

The US Army Corps of Engineers, Tulsa District, is responsible for notifying The Chickasaw Nation that this notice has been published.

Dated: January 2, 2014.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2014–02300 Filed 2–4–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–14794; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Lake Roosevelt National Recreation Area, Coulee Dam, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, National Park Service, Lake Roosevelt National Recreation Area has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Lake Roosevelt National Recreation Area. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Lake Roosevelt National Recreation Area at the address in this notice by March 7, 2014.

ADDRESSES: Dan A. Foster, Superintendent, Lake Roosevelt National Recreation Area, 1008 Crest Drive, Coulee Dam, WA 99116, telephone (509) 754–7812, email *Dan_A_Foster@nps.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the U.S. Department of the Interior, National Park Service, Lake Roosevelt National Recreation Area, Coulee Dam, WA, and in the physical custody of the Museum of Anthropology at Washington State University, Pullman, WA. The human remains and associated funerary objects were removed from Lincoln County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the Superintendent, Lake Roosevelt National Recreation Area.

Consultation

A detailed assessment of the human remains was made by Lake Roosevelt National Recreation Area professional staff in consultation with representatives of the Spokane Tribe of the Spokane Reservation.

History and Description of the Remains

In 1967, human remains representing, at minimum, one individual were removed from a heavily disturbed area at site 45LI06 in Lincoln County, WA, by Roderick Sprague of the University of Idaho. The remains were housed at the University of Idaho until 2000, when they were transferred to the Museum of Anthropology at Washington State

University. No known individuals were identified. The 20 associated funerary objects are 1 pestle fragment, 1 flaked stone spall, 3 projectile points, 1 stone flake, 2 projectile point tip fragments, 3 crockery fragments, 2 glass bottle fragments, 6 ceramic fragments, and 1 lot of burned grave marker post fragments.

Archeological data indicate that site 45LI06 was a major village, fishing location, and burial site, which was occupied from approximately 5000–600 B.P. The site is part of a complex along the Spokane River that includes named Spokane Indian villages, camps, procurement sites, and burial sites. Ethnohistorical data indicate that this area of the river was occupied by a group that researchers termed the Middle Spokane (sqåsi'łni), named after an early contact village located upstream of site 45LI06. The Middle Spokane was one of three major groups that make up the Spokane Tribe of the Spokane Reservation. Oral tradition also documents that this area of the Spokane River was occupied by the ancestors of the Spokane Tribe of the Spokane Reservation.

Determinations Made by Lake Roosevelt National Recreation Area

Officials of Lake Roosevelt National Recreation Area have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 20 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Spokane Tribe of the Spokane Reservation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dan A. Foster, Superintendent, Lake Roosevelt National Recreation Area, 1008 Crest Drive, Coulee Dam, WA 99116, telephone (509) 754–7812, email *Dan_A_Foster@nps.gov*, by March 7, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Spokane Tribe of the Spokane Reservation may proceed.

Lake Roosevelt National Recreation Area is responsible for notifying the Spokane Tribe of the Spokane Reservation that this notice has been published.

Dated: January 9, 2014.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2014–02308 Filed 2–4–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–14820; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate a Cultural Item: Virginia Museum of Fine Arts, Richmond, VA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Virginia Museum of Fine Arts, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of a sacred object and an object of cultural patrimony. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Virginia Museum of Fine Arts. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the Virginia Museum of Fine Arts at the address in this notice by March 7, 2014.

ADDRESSES: Kelly Burrow, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 204–2669, email *kelly.burrow@vmfa.museum.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Virginia Museum of Fine Arts, Richmond, VA, that meets the definition of an object of cultural patrimony and a sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

The *Kéet Gooshi* (Killerwhale Dorsel Fin) also called the ''Bear Song Leader's Staff'' is an object composed of a long handle and a carved and painted pierced blade, which according to *Teikweidi* Clan of Angoon, is a representation of the Brown Bear crest, embodying the *Xoots* (Bear). The blade is ornamented with eight tufts of cow's tail and is connected to the handle with cotton cord covered with swan's down and feathers.

The Bear Song Leader's Staff was originally in the collection of Axel Rasmussen, a superintendent of schools in Skagway, AK. In 1948, the Portland Art Museum purchased his collection. Records from the Portland Art Museum read as follows: ''Purchase, Indian Collection Subscription Fund. To be known as the Axel Rasmussen Collection. Vendor, Earl Stendahl.'' In 1955, the Virginia Museum of Fine Arts purchased part of the Rasmussen Collection from the Portland Art Museum, which included this Bear Song Leader's Staff (PAM accession # 48.3.460; VMFA accession # 55.31.1).

Representatives of the Central Council of the Tlingit & Haida Indian Tribes, specifically the *Teikweidi* clan, have identified that this staff depicts a representation of the *Xoots* crest and is owned by the *Teikweidi* clan. This crest is an object of cultural patrimony, as it is communally owned, and has ongoing historical, traditional, and cultural importance central to the Tlingit society and culture. This object is also a sacred object as it is vital to the ongoing cultural and religious practices that are unique to the Tlingit. Based on this information and consultation with the Central Council of the Tlingit & Haida Indian Tribes, the Virginia Museum of Fine Arts reasonably believes the Bear Song Leader's Staff is culturally affiliated with the Tlingit.

Determinations Made by the Virginia Museum of Fine Arts

Officials of the Virginia Museum of Fine Arts have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(3)(D), the one cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Bear Song Leader's Staff and the Central Council Tlingit & Haida Indian Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Kelly Burrow, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220 telephone (804) 204–2669, email *kelly.burrow@vmfa.museum* by March 7, 2014. After that date, if no additional claimants have come forward, transfer of control of the Bear Song Leader's Staff to the Central Council Tlingit & Haida Indian Tribes may proceed.

The Virginia Museum of Fine Arts is responsible for notifying the Central Council Tlingit & Haida Indian Tribes that this notice has been published.

Dated: January 13, 2014.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2014–02318 Filed 2–4–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–14793; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Art Collection and Galleries, Sweet Briar College, Sweet Briar, VA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The staff of the Art Collection and Galleries of Sweet Briar College, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Art Collection and Galleries of Sweet Briar College. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Art Collection and Galleries of Sweet Briar College at the address in this notice by March 7, 2014.

ADDRESSES: Dr. Karol A. Lawson, Director, Art Collection and Galleries, Pannell 208, Sweet Briar College, Sweet Briar, VA 24595, telephone (434) 381–6248, email *klawson@sbc.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Art Collection and Galleries, Sweet Briar College, Sweet Briar, VA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

The Art Collection and Galleries staff at Sweet Briar College have identified eight ceramic vessels in the permanent collection as being unassociated funerary objects from the archeological site known as Nodena, located in Mississippi County, AR. In addition, the staff have identified three ceramic fragments comprising a single object and one intact ceramic vessel as being unassociated funerary objects from burials in Mississippi County, AR. Therefore, there are 10 unassociated funerary objects from Mississippi County, AR, known to be at Sweet Briar College.

In 1932, hundreds of cultural items were removed from the Nodena site in Mississippi County, AR, by Walter B. Jones of the Alabama Museum of Natural History, according to a published report, *Nodena: An Account of 90 Years of Archaeological Investigation in Southeast Mississippi County, Arkansas* (Fayetteville: Arkansas Archaeological Survey, 1989, ed. Dan Morse, p. 33). Jones excavated at the site in the winter and early spring of 1932, and he and his team recovered bottles, bowls, and jars (as well as other material) and human remains. Jones designated a portion of the ceramic objects he excavated at the Nodena site as a gift to Sweet Briar College, VA. This donation appears to have been initiated by Mrs. Lena Garth of Huntsville, AL, whose daughter and granddaughter both attended Sweet Briar College. According to letters in the Sweet Briar College acquisition files, Jones informed Harris. G. Hudson (Sweet Briar history department faculty) of the gift on May 31, 1932, and Sweet Briar College president, Dr. Meta Glass, informed Jones that the materials had been received on June 18, 1932. Nowhere in the extant 1932 letters and memos did Jones, Garth, Hudson, or Glass provide specific lists clearly delineating what individual artifacts, or even exactly how many, were included in the donation to Sweet Briar College.

Between 1932 and the early 1990s, artifacts from this donation were displayed at various locations on Sweet Briar's campus, most notably in an academic building and then in the library. First under the care of the history department, the objects were then overseen by the library staff and the anthropology department faculty. In the early 1990s, care for the artifacts was turned over to the newly established art gallery. The Art Collection and Galleries staff at Sweet Briar College have identified 10 objects in the collection as unassociated funerary objects from this donation.

Based on a telephone conversation between Karol Lawson of Sweet Briar College and Dr. Ann M. Early, Arkansas State Archaeologist, Arkansas Archaeological Survey, these ceramic objects appear to be affiliated with The Quapaw Tribe of Indians. Dr. Early explained that, though the Nodena site predates documented contact between European explorers and the Native Americans identifying themselves as Quapaw, archeologists working with this material today generally concur that The Quapaw Tribe of Indians is the

modern, Federally-recognized tribe most closely affiliated with the pre-historic cultural group that occupied the Nodena site. The staff of the Sweet Briar College Art Collection and Galleries inventoried and researched the provenance of the Nodena site objects in 2012, and distributed a NAGPRA summary to The Quapaw Tribe of Indians. Carrie Wilson, NAGPRA representative of The Quapaw Tribe of Indians, contacted Sweet Briar College in the summer of 2013, and subsequently requested repatriation of the objects.

Determinations Made by the Art Collection and Galleries of Sweet Briar College

Officials of Sweet Briar College have determined that*:*

• Pursuant to 25 U.S.C. 3001(3)(B), the 10 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and The Quapaw Tribe of Indians.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Dr. Karol A. Lawson, Director, Art Collection and Galleries, Pannell 208, Sweet Briar College, Sweet Briar, VA 24595, telephone (434) 381–6248, email *klawson@sbc.edu* by March 7, 2014. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to The Quapaw Tribe of Indians may proceed.

The Art Collection and Galleries of Sweet Briar College is responsible for notifying The Quapaw Tribe of Indians that this notice has been published.

Dated: January 9, 2014.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2014–02305 Filed 2–4–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–14819; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate a Cultural Item: Virginia Museum of Fine Arts, Richmond, VA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Virginia Museum of Fine Arts, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of an object of cultural patrimony and a sacred object. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Virginia Museum of Fine Arts. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the Virginia Museum of Fine Arts at the address in this notice by March 7, 2014.

ADDRESSES: Kelly Burrow, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 204–2669, email *kelly.burrow@vmfa.museum.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Virginia Museum of Fine Arts, Richmond, VA, that meets the definition of a sacred object and an object of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

The *X'átgu K'udás'* also called the ''Mudshark Shirt'' is made of red flannel edged with blue silk ribbon pendants along the side seams. The shark, which according to the *Naanya.aayí* Clan, is the clan crest and embodies the *X'átgu* (Mudshark). It is depicted as a stylized shark, composed of small pearl buttons, most of them in triple lines, and outlined in black. The shark is split down the center of the head and body so as to allow for the opening at the neck of the shirt.

The Mudshark Shirt was originally in the collection of Axel Rasmussen, a superintendent of schools in Skagway, AK. In 1948, the Portland Art Museum purchased his collection. Records from the Portland Art Museum read as follows: ''Purchase, Indian Collection Subscription Fund. To be known as the Axel Rasmussen Collection. Vendor, Earl Stendahl.'' In 1955, the Virginia Museum of Fine Arts purchased part of the Rasmussen Collection from the Portland Art Museum, which included this Mudshark Shirt (PAM accession # 48.3.567; VMFA accession # 55.31.10).

Representatives of the Central Council of the Tlingit & Haida Indian Tribes, specifically the *Naanya.aayí* clan, have identified that this shirt depicts a representation of the *X'átgu* crest and is owned by the *Naanya.aayí* clan. This crest is an object of cultural patrimony, as it is communally owned, and has ongoing historical, traditional, and cultural importance central to the Tlingit society and culture. This object is also a sacred object as it is vital to the ongoing cultural and religious practices that are unique to the Tlingit. Based on this information and consultation with the Central Council of the Tlingit & Haida Indian Tribes, the Virginia Museum of Fine Arts reasonably believes the Mudshark Shirt is culturally affiliated with the Tlingit.

Determinations Made by the Virginia Museum of Fine Arts

Officials of the Virginia Museum of Fine Arts have determined that*:*

• Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.

• Pursuant to 25 U.S.C. 3001(3)(D), the one cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Mudshark Shirt and the Central Council Tlingit & Haida Indian Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Kelly Burrow, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 204–2669, email kelly.burrow@vmfa.museum by March 7, 2014. After that date, if no additional claimants have come forward, transfer of control of the Mudshark Shirt to the Central Council Tlingit & Haida Indian Tribes may proceed.

The Virginia Museum of Fine Arts is responsible for notifying the Central Council Tlingit & Haida Indian Tribes that this notice has been published.

Dated: January 13, 2014.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2014–02310 Filed 2–4–14; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–990 (Second Review)]

Non-Malleable Cast Iron Pipe Fittings From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (''the Act'') (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on non-malleable cast iron pipe fittings from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on July 1, 2013 (78 FR 39321) and determined on October 21, 2013, that it would conduct an expedited review (78 FR 68474, November 14, 2013).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

The Commission completed and filed its determination in this review on January 29, 2014. The views of the Commission are contained in USITC Publication 4450 (January 2014), entitled *Non-Malleable Cast Iron Pipe Fittings from China: Investigation No.731–TA–990 (Second Review).*

By order of the Commission.

Issued: January 30, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–02367 Filed 2–4–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for the ETA 227, Overpayment Detection and Recovery Activities, Extension Without Revision

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about the ETA 227, Overpayment Detection and Recovery Activities. The Unemployment Insurance (UI) program paid approximately $46 billion in benefits in FY 2013. Collecting data through ETA 227 allows us to measure the effectiveness of the benefit payment control programs in the State Workforce Agencies (SWA). The current expiration date is August 31, 2014.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before April 7, 2014.

ADDRESSES: Submit written comments to Ericka Parker, Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Frances Perkins Bldg. Room S–4519, Washington, DC 20210. Telephone number: 202–693–3208 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Email: *parker.ericka@dol.gov*. A copy of the proposed information collection request (ICR) can be obtained by contacting the person listed above.

SUPPLEMENTARY INFORMATION:

I. Background

Section 303(a)(1) of the Social Security Act requires a state's unemployment insurance UI law to include provisions for:

> Such methods of administration . . . as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due . . .

Section 303(a)(5) of the Social Security Act further requires a state's UI law to include provisions for:

> Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation . . .

Section 3304(a)(4) of the Internal Revenue Code of 1954 provides that:

> all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation . . .

The Secretary of Labor has interpreted the above sections of federal law in Section 7511, Part V, ES Manual to further require a state's UI law to include provisions for such methods of administration as are, within reason, calculated to: (1) Detect benefits paid through error by the SWA or through willful misrepresentation or error by the claimant or others; (2) deter claimants from obtaining benefits through willful misrepresentation; and (3) recover benefits overpaid. The ETA 227 is used to determine whether SWAs meet these requirements.

The ETA 227 contains data on the number and amounts of fraud and non-fraud overpayments established, the methods by which overpayments were detected, the amounts and methods by which overpayments were collected, the amounts of overpayments waived and written off, the accounts receivable for overpayments outstanding, and data on criminal/civil actions. These data are gathered by 53 SWAs and reported to the Department of Labor following the end of each calendar quarter. The

overall effectiveness of SWAs' UI integrity efforts can be determined by examining and analyzing the data. These data are also used by SWAs as a management tool for effective UI program administration.

II. Review Focus

The Department is particularly interested in comments which:

• 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 submissions of responses.

III. Current Actions

Type of Review: Extension without revision.

Title: Overpayment Detection and Recovery Activities.

OMB Number: 1205–0187.

Affected Public: State workforce agencies.

Estimated Total Annual Respondents: 53 state agencies.

Annual Frequency: Quarterly.

Estimated Total Annual Responses: 212.

Average Time per Response: 14 hours.

Estimated Total Burden Hours: 2,968.

Total Estimated Annual Other Cost Burden: $0.

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

Dated: January17, 2014.

Eric M. Seleznow,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2014–02435 Filed 2–4–14; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Announcement Regarding a Change In Eligibility for Unemployment Insurance (UI) Claimants In Alaska in the Emergency Unemployment Compensation 2008 (EUC08) Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The U.S. Department of Labor (Department) produces trigger notices indicating which states qualify for EUC08 benefits, and provides the beginning and ending dates of payable periods for each qualifying state. The trigger notices covering state eligibility for this program can be found at: *http://ows.doleta.gov/unemploy/claims_arch.asp.*

The following changes have occurred since the publication of the last notice regarding states EUC08 trigger status:

• Alaska triggers ''on'' to Tier 3 of EUC08 effective 12/8/2013.

Alaska's 13-week insured unemployment rate for the week ending November 23, 2013, was 4.06%, exceeding the 4.0% trigger rate threshold necessary to trigger ''on'' Tier 3 of EUC08. The week beginning December 8, 2013, was the first week in which EUC08 claimants in Alaska who had exhausted Tier 2, and were otherwise eligible, could establish Tier 3 eligibility.

Information for Claimants

The duration of benefits payable in the EUC08 program, and the terms and conditions under which they are payable, are governed by public laws 110–252, 110–449, 111–5, 111–92, 111–118, 111–144, 111–157, 111–205, 111–312, 112–96, and 112–240, and the operating instructions issued to the states by the Department.

In the case of a state beginning or concluding a payable period in EUC08, the State Workforce Agency (SWA) will furnish a written notice of any change in potential entitlement to each individual who could establish, or had established, eligibility for benefits (20 CFR 615.13(c)(1) and (c)(4)). Persons who believe they may be entitled to benefits in the EUC08 program, or who wish to inquire about their rights under this program, should contact their SWA.

FOR FURTHER INFORMATION CONTACT: Tony Sznoluch, U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW., Frances Perkins Bldg. Room S–4524, Washington, DC 20210, telephone number (202) 693–3176 (this is not a toll-free number) or by email: *sznoluch.anatoli@dol.gov.*

Signed in Washington, DC, this 10th day of January, 2014.

Eric M. Seleznow,

Acting Assistant Secretary for Employment and Training.

[FR Doc. 2014–02430 Filed 2–4–14; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

Proposed Extension of the Approval of Information Collection Requirements

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Federal Contract Compliance Programs is soliciting comments concerning its proposal to extend the Office of Management and Budget (OMB) approval of the Information Collection: Complaint Form CC–4, Complaint of Employment Discrimination by Federal Government Contractors and Subcontractors. A copy of the proposed information collection request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before April 7, 2014.

ADDRESSES: You may submit comments, identified by Control Number 1250–0002, by either one of the following methods:

Electronic comments: Through the federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments.

Mail, Hand Delivery, Courier: Address comments to Debra Carr, Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW., Room C3325, Washington, DC 20210. Telephone: (202) 693–0103 (voice) or (202) 693–1337 (TTY).

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and OMB Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to either transmit their comments electronically via the regulations.gov Web site or mail their comments early to ensure that they are timely received. Comments, including any personal information provided, become a matter of public record and will be posted to the regulations.gov Web site. They will also be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Debra Carr, Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW., Room C3325, Washington, DC 20210. Telephone: (202) 693–0103 (voice) or (202) 693–1337 (TTY) (these are not toll-free numbers). Copies of this notice may be obtained in alternative formats (e.g. Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0103 (not a toll-free number). TTY/TDD callers may call (202) 693–1337 (not a toll-free number) to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. *Background:* The Office of Federal Contract Compliance Programs (OFCCP) administers two equal opportunity laws and an Executive Order that prohibit discrimination based on race, color, religion, sex, national origin, disability, and status as a protected veteran by Federal contractors and subcontractors and require affirmative action to provide equal employment opportunity: Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) and 38 U.S.C. 4212, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, as amended (VEVRAA). No private right of action exists under the three programs that are enforced by the U.S. Department of Labor (DOL), i.e. a private individual may not bring a lawsuit against an employer (or prospective employer) for noncompliance with its contractual obligations under the laws enforced by OFCCP. However, any employee or applicant for employment with a Federal Government contractor or subcontractor may file a complaint with the Department of Labor, OFCCP alleging discrimination by completing a Complaint of Employment Discrimination by Federal Government Contractors or Subcontractors form (CC–4).[1] OFCCP investigates the complaint but retains the discretion whether to pursue administrative or judicial enforcement. If a complaint filed under Executive Order 11246, as amended, involves discrimination against only one person, the OFCCP may refer it to the U.S. Equal Employment Opportunity Commission (EEOC). Such referrals are made under a Memorandum of Understanding between the two federal agencies. OFCCP generally investigates complaints that involve groups of people or indicate patterns of discrimination. In addition, OFCCP also investigates individual or group complaints filed under Section 503 and VEVRAA.

Under Executive Order 11246, as amended, the authority for collection of complaint information is Section 206(b). The implementing regulations which specify the content of this information collection are found at 41 CFR 60–1.23(a).

Under the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, the authority for collecting complaints information is at 38 U.S.C. 4212(b). The implementing regulations which specify the content of this information collection are found at 41 CFR 60–250.61(b) and 41 CFR 60–300.61(b). Section 503 of the Rehabilitation Act of 1973, as amended, is the authority for collecting complaint information under the statute. The implementing regulations which specify the content of this information collection are found at 41 CFR 60–741.61(c). This information collection request covers the recordkeeping and reporting requirements for the complaint form CC–4. A separate information collection request covers the recordkeeping and reporting requirements for supply and service industries, and is approved under OMB 1250–0003.

II. *Review Focus:* The DOL is particularly interested in comments which:

- 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 submissions of responses.

III. *Current Actions:* The DOL seeks the approval of the extension of this information in order to carry out its responsibility to enforce the affirmative action and non-discrimination provisions of the three Authorities, which it administers.

Type of Review: Renewal.

Agency: Office of Federal Contract Compliance Programs.

Title: Complaint Form CC–4, Complaint of Employment Discrimination by Federal Government Contractors or Subcontractors.

OMB Number: 1250–0002.

Agency Number: None.

Affected Public: Business or other for-profit, Not-for-profit institutions.

Total Respondents: 747.

Total Annual Responses: 747.

Average Time per Response: 1.0 hours.

Estimated Total Burden Hours: 747.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $52.50.

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

[1] Formerly Complaint of Discrimination in Employment Under Federal Government Contracts.

Dated: January 24, 2014.

Debra A. Carr,

Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs.

SUPPORTING STATEMENT

DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

AGREEMENT APPROVAL PROCESS FOR USE OF COMPLAINT FORM CC–4

OMB No. 1250–0002

A. *JUSTIFICATION*

EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY.

The Office of Federal Contract Compliance Programs (OFCCP) administers two equal employment laws and an Executive Order that prohibit discrimination based on race, color, religion, sex, national origin, disability, and status as a protected veteran by Federal contractors and require affirmative action to provide equal employment opportunity.

- Executive Order 11246, as amended (EO 11246),[2]
- Section 503 of the Rehabilitation Act of 1973, as amended (Section 503),[3] and
- The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212 (VEVRAA).[4]

EO 11246 prohibits employment discrimination on the basis of race, color, religion, sex, or national origin. EO 11246 applies to Federal contractors and subcontractors, and to federally-assisted construction contractors and subcontractors holding a Federal Government contract or subcontract of more than $10,000, or Federal Government contracts or subcontracts that have, or can reasonably expect to have, an aggregate total value exceeding $10,000 in a 12-month period. EO 11246 also applies to Federal Government bills of lading, depositories of Federal funds in any amount, and to financial institutions that are issuing and paying agents for U.S. Savings Bonds.

Section 503 prohibits employment discrimination on the basis of disability, and requires Federal contractors and subcontractors to take affirmative action to hire and promote qualified individuals with disabilities. Its requirements apply to Federal contractors and subcontractors with a Federal Government contract or subcontract in excess of $10,000.

The affirmative action provisions of VEVRAA prohibit employment discrimination against protected veterans and require Federal contractors and subcontractors to take affirmative action to hire and promote protected veterans. Its requirements apply to Federal contractors and subcontractors with a Federal Government contract or subcontract of $100,000 or more.

These programs require affirmative action by Federal contractors and subcontractors and prohibit discrimination on the basis of race, color, sex, religion, national origin, status as a qualified individual with a disability and protected veteran. No private right of action exists under the three OFCCP programs, i.e., a private individual may not bring a lawsuit against an employer or prospective employer for noncompliance with its obligations under the laws enforced by OFCCP. However, any employee or applicant for employment with a Federal contractor or subcontractor may file a complaint with OFCCP alleging discrimination or lack of affirmative action [5] by completing a complaint form. OFCCP investigates the complaint but retains the discretion whether to pursue administrative or judicial enforcement.

To file a complaint with OFCCP, a complainant may either complete a complaint form or send a letter including the name, address, and telephone number of the complainant, the name and address of the contractor or subcontractor and a description of the acts considered to be discriminatory and any other pertinent information. To facilitate this process, OFCCP provides a complainant with a complaint form (CC–4) which is currently titled ''Complaint of Discrimination in Employment Under Federal Government Contracts.'' We are proposing to change its name to ''Complaint of Discrimination in Employment by Federal Contractors or Subcontractors'' to give users a better understanding of the purpose of the form and its use. As a part of this ICR package, OFCCP is also proposing to revise and update its complaint form to make it easier to understand and complete, to use plain language, and to remove the impression that complainants must expressly establish OFCCP's jurisdiction when submitting the complaint form or the complaint will be summarily rejected.

In investigating complaints it receives, under EO 11246, OFCCP may refer complaints to the U.S. Equal Employment Opportunity Commission (EEOC) that involve discrimination against only one person. Such referrals are made under Memoranda of Understanding between the two Federal agencies. Complaints that involve groups of people or indicate patterns of discrimination are generally retained and investigated by the OFCCP. Additionally, if a complaint filed under Section 503 involves allegations of disability discrimination along with allegations of individual complaints of race, color, religion, sex, national origin, or age discrimination, OFCCP will refer the complaint to EEOC. Such referrals are made under a joint regulation with EEOC.[6] OFCCP also investigates individual or group complaints filed under VEVRAA.

2. USE OF MATERIALS

The complaint information collection form (CC–4) is used by OFCCP staff as the first step in the initiation of a complaint investigation. If the complaint is timely, and appears to raise discrimination or retaliation issues that fall within OFCCP's jurisdiction, then a complaint investigation is initiated. A standardized form helps guide complainants in providing important information about their alleged discrimination and reduces the time it takes OFCCP staff to determine jurisdiction. This form improves efficiency in responding to complainants and in initiating investigations.

3. IMPROVED INFORMATION TECHNOLOGY

In accordance with the Government Paperwork Elimination Act (GPEA), the complaint form is available on the OFCCP's Web site with information regarding its use and where it should be mailed. The CC–4 is available on the Internet for downloading or electronic submission at http://www.dol.gov/ofccp/regs/compliance/pdf/English.pdf.

[2] The authority for collection of complaint information is Section 206 (b) of the Executive Order. The implementing regulations which specify the content of this information collection are found at 41 CFR 60–1.23 (a).

[3] The authority for collecting complaint information under this statute is Section 503 (d) of the Act. The implementing regulations which specify the content of this information collection are found at 41 CFR 60–741.61 (c).

[4] The authority for collecting complaint information under this statute is 38 U.S.C. 4212 (d). The implementing regulations which specify the content of this information collection are found at 41 CFR 60–300.61 (b).

[5] Under Section 503 of the Rehabilitation Act of 1973 and the Vietnam Era Veterans' Act of 1974 individuals may file a complaint based on a contractor's failure to take affirmative action.

[6] 41 CFR 60–742.5 (d) and 29 CFR 1641.5 (e).

4. DESCRIPTION OF EFFORTS TO IDENTIFY DUPLICATION

Information collected on the complaint form is unique to the individual complainant and no duplication is possible.

5. COLLECTION OF INFORMATION IMPACT ON SMALL BUSINESSES OR OTHER ENTITIES

Complaints are made solely by nonbusiness entities, usually individuals. This information collection does not have a significant economic impact on a substantial number of small entities.

6. CONSEQUENCES TO FEDERAL PROGRAMS IF THIS INFORMATION WERE COLLECTED LESS FREQUENTLY

There is no schedule for collection of this information. This information is collected solely, usually from individuals on an ''as needed'' basis.

7. SPECIAL CIRCUMSTANCES FOR THE COLLECTION OF INFORMATION

There are no special circumstances for the collection of this information.

8. CONSULTATION OUTSIDE THE AGENCY

[Place holder for analysis of comments received during the comment period.]

9. GIFT GIVING

OFCCP provides neither payments nor gifts to respondents.

10. ASSURANCE OF CONFIDENTIALITY

Confidentiality is maintained to comply with the Privacy Act. However, a copy of the complaint form may be provided to the contractor and the information contained on the form may be used in the course of settlement negotiations with the contractor and/or in the course of presenting possible disclosure to opposing counsel. Before providing a copy of the complaint form, the agency redacts it to protect confidential information such as the name and other information that would easily identify someone other than the complainant who might suffer retaliation, be construed as an informer, or suffer embarrassment or other unwarranted invasion of privacy; obscene, inflammatory or libelous language; names and allegations against more than one company (delete the name and allegations against company #1, from the complaint copy provided to company #2, and vice versa); and identifying characteristics of individuals in a third party complaint (e.g., description of unique characteristics, unique job title or position) if the individual has not signed the complaint or authorized release of his or her identity. A Privacy Act disclosure statement is included in the instructions for form CC–4.

11. SENSITIVE QUESTIONS

Although the CC–4 does not specifically request sensitive information related to a complainant's disability or other protected information, the complainant may disclose such information when describing the circumstances that led to filing the complaint on Page 2 of the form. As noted in number 10 (above), a Privacy Act disclosure statement is included in the instructions with the form.

12. ESTIMATE OF INFORMATION COLLECTION BURDEN HOURS

During the last three fiscal years (FY 2011, FY 2012 and FY 2013), OFCCP received 670, 781 and 790 complaints, respectively, for a three year total of 2,241 complaints. Therefore, on average, OFCCP receives approximately, 747 complaints annually. It is also estimated, based on the agency's experience assisting complainants, that it will take an average of 1 hour for a complainant to complete and submit the form. Therefore, it is projected that the collection of information will impose an aggregate burden of 747 hours (i.e., 747 complaints multiplied by 1 hour). OFCCP estimates that the cost of completing the CC–4 is $15,291.09 (i.e., 747 hours multiplied by $20.47 per hour).[7]

13. ANNUAL OPERATION AND MAINTENANCE COST BURDEN TO RESPONDENTS

There are no capital or start-up costs associated with filing a complaint.

The actual out-of-pocket cost for the complainant is estimated at 46¢ for stamps, 20¢ for paper and copying plus 4¢ for envelopes which equal 70¢. OFCCP receives approximately 747 complaints of which 90% (or 672 complaints) are submitted electronically by either facsimile or email. The remaining 10% or 75 complaints are sent by mail. Therefore, it is estimated that the filing of the 75 complaints mailed will cost $52.50 (75 complaints multiplied by $0.70 for postage, paper and envelope).

14. ESTIMATE OF COST TO FEDERAL GOVERNMENT

The cost to the Federal Government (OFCCP) for receiving the forms, reviewing them for jurisdiction and timeliness, and determining their disposition is estimated at $57,436.83 (747 complaints multiplied by a cumulative labor cost of $76.89 per complaint).

The Federal labor cost reflects the 2.25 hours it takes OFCCP staff to process the form and includes one hour for an administrative support staff (GS–6) to review the complaint and check jurisdiction, one hour for a professional staff (GS–13) to verify the jurisdiction and prepare correspondence, and 0.25 hours for a manager (GS–14) to review and sign the documents. This cost was determined by surveying OFCCP's regional offices on the amount of time it takes to process a complaint. The calculation for the labor costs are detailed below.

Grade/Step	Wage Rate[8]	Time (hours)	Total (wage rate × hours)
6/10	$19.05	1	$19.05
13/10	$44.65	1	$44.65
14/10	$52.76	0.25	$13.19
Cumulative labor cost per complaint			$76.89

[7] OFCCP used the average private industry employers spend in employee wages and salaries as reported in *Employer Costs for Employee Compensation,* June 2013, United States Department of Labor, Bureau of Labor Statistics, p. 10, Table 5, http://www.bls.gov/news.release/pdf/ecec.pdf.

15. CHANGE IN BURDEN HOURS

Based on the three-year average of complaints received, OFCCP expects to process more complaints (747) than under the previous approved ICR (602). Yet, with the shorter and easier form OFCCP estimates that complainants will spend less time completing the revised CC–4, thus resulting in an overall decrease in burden. The reduction in burden hours is detailed in the chart below.

	Responses	Burden hours
Current	602	771
Proposed	747	747
Adjustment increase/decrease	+145	−24

16. STATISTICAL USES AND PUBLICATION OF DATA

OFCCP will not publish the data collected as a result of the items contained in this request as statistical tables.

17. APPROVAL TO NOT DISPLAY THE EXPIRATION DATE

OFCCP does not seek approval to not display the expiration date.

18. EXCEPTION TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

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[8] Average hourly rates are from the Office of Personnel Management (OPM) 2013 General Schedule Salary Table.

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
OFCCP
U.S. DEPARTMENT OF LABOR

OMB: 1250-0002
Expires: XX/XX/XXXX

Complaint of Employment Discrimination by Federal Government Contractors or Subcontractors

Please read all the instructions before completing this form.

	Name (First, Middle, Last):_____ Street Address: _____ City, State, Zip Code: _____ Telephone Number: _____ ____ Home ____ Work ____ Cell Email: _____ Have you filed these allegations of employment discrimination with another federal or local agency? _____ Yes _____No If yes, which agency: _____ Contact Name: _____ Phone Number: _____
	Name (First, Middle, Last):_____ Street Address: _____ City, State, Zip Code: _____ Telephone Number: _____ ____ Home ____ Work ____ Cell Email: _____
	☐ **Race** ☐ American Indian/Alaskan Native ☐ Asian ☐ Black/African American ☐ Native Hawaiian or Other Pacific Islander ☐ White ☐ **National Origin** ☐ Hispanic or Latino ☐ Other ☐ **Color** ☐ **Religion** ☐ **Sex/Gender** ☐ Female ☐ Male ☐ **Pregnancy** ☐ **Retaliation** ☐ **Veteran Status** ☐ **Disability**
	☐ ☐ ☐ ☐ ☐ ☐ ☐

Your Complaint:

Please describe below what you believe the employer did or failed to do to cause discrimination or retaliation.

Answer the following questions below and describe in detail the alleged discrimination or retaliation:

-Why you believe the act(s) were (1) discriminatory based on your race, sex, color, religion, national origin, disability, veteran status; and/or (2) in retaliation for filing a complaint, participating in discrimination proceedings or otherwise opposing discrimination under any of the above listed bases;

-Specific dates, places, names and titles of person(s) involved;

-What harm, if any, was caused to you or others with whom you work as a result of the alleged discriminatory or retaliatory act(s);

-What explanation, if any, was offered for the act(s) by the employer or their representatives; and

-Any information you may have on federal contracts held by the company.

Please attach additional pages, if needed.

Do you think other people experienced the same discrimination you described?	Do you know if other employees or applicants were allegedly discriminated against in the same way as you indicated above? _____ Yes* _____No Do you know if there were people outside of your protected class who were treated more favorably than you were? _____ Yes* _____No *Note: If you answer yes, please be prepared to provide to OFCCP the names and titles of the individuals who faced similar discrimination.
Do you have an attorney or other representative?	If you are represented by an attorney or other person or organization, please provide their contact information below. Name (First, Middle, Last):_____ Street Address: _____ City, State, Zip Code: _____ Telephone Number: _____ Email: _____ If you have an attorney or other representative, who should we contact for additional information regarding your complaint? ____Me ____ Representative
Signature and Verification	I declare under penalty of perjury that the information given above is true and correct to the best of my knowledge or belief. A willful false statement is punishable by law. I hereby authorize the release of any medical information needed for this investigation. Signature of Complainant: _____ Date: _____

BILLING CODE 4510–CM–C

U.S. Department of Labor

Office of Federal Contract Compliance Programs

Complaint of Employment Discrimination by Federal Government Contractors or Subcontractors

Use this form to file an employment discrimination or retaliation complaint under any of the three laws enforced by the Office of Federal Contract Compliance Programs (OFCCP):

- Executive Order 11246, as amended,
- Section 503 of the Rehabilitation Act of 1973, as amended, and
- the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended.

These laws make it illegal for companies doing business with the Federal Government to discriminate against applicants and employees based on race, color, religion, sex, national origin, disability status or status as a protected veteran.

Instructions:

Print or type the information when filling in the form. Tell us what happened to you that you believe caused discrimination or retaliation, and who did it to you. Also tell us where and when things happened, who saw what happened, and who has information about what happened to you.

When describing what happened on page two of the form, tell us how it changed your work. For example, let us know if it caused you not to be hired for a job, or caused you to be fired, demoted, lose a promotion, or have your job assignment changed. Tell us if what happened caused you to get laid-off. We also want to know if what happened involved training, pregnancy leave, harassment, wages, pay, benefits, accommodation for a disability or for religious observances, segregation of facilities, or recall back to work.

You can use a separate piece of paper to continue telling us what happened to you if you need more space to write. Remember to attach the extra piece of paper to the complaint form when you are done.

If you are filing a complaint of discrimination because of your veteran status, remember to attach your Report of Separation and a Certificate of Release or Discharge from Active Duty (also known as DD Form 214). If one is not provided, we will ask you to provide one.

Where to file the complaint?

You should send the completed form to the OFCCP regional office that covers the state where the alleged discrimination occurred. Send OFCCP your form by U.S. mail, fax, or email. A list of regional offices and the states that each office covers can be found at: http://www.dol.gov/ofccp/contacts/regkeyp.htm.

When to file a complaint?

Complaints based on your race, color, religion, sex/gender, or national origin must be filed within **180 days** after the last act taken by your employer that you think was either discrimination or retaliation.

Complaints based on your disability or status as a protected veteran must be filed within **300 days** from the last act taken by your employer that you think was either discrimination or retaliation.

Only the director of OFCCP can extend these deadlines.

Non-Retaliation

OFCCP regulations, Title VII and the ADA require employers to take all necessary steps to assure that there is no retaliation against any person who files a complaint or assists in its investigation. This includes any intimidation, threat, coercion or discrimination. Please notify OFCCP immediately if you believe that you have experienced such retaliation.

Privacy Act Statement

Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), Title VII of the Civil Rights Act of 1964 (Title VII), as amended and Title I of the Americans with Disabilities Act of 1990 (ADA), as amended authorize the collection of this information. OFCCP uses this information to process complaints and conduct investigations of alleged violations of the above laws. OFCCP will provide a copy of this complaint to the employer against whom it is filed, and when the matters alleged are covered by Title VII and/or the ADA, to the U.S. Equal Employment Opportunity Commission (EEOC). The information collected may be: 1) verified with others who may have knowledge relevant to the complaint; 2) used in settlement negotiations with the employer or in the course of presenting evidence at a hearing; or 3) disclosed to other agencies with jurisdiction over the complaint.

Providing this information is voluntary; however, failure to provide the information may delay or prevent OFCCP from investigating your complaint and, for matters covered by Title VII or the ADA, may affect your right to sue under those laws.

Public Burden Statement

The estimated time to complete this form is 1 hour, including time for reviewing instructions, filling out the form and sending it to OFCCP. Please note that you are not required to respond to this collection of information unless it displays a currently valid OMB Control Number.

If you have comments regarding the estimate or any other aspect of this complaint form, including suggestions for reducing the burden, send them to the OFCCP Policy Division (1250–0002), 200 Constitution Avenue, N.W., Room C3325, Washington, D.C. 20210. Please do not send the completed complaint form to this address.

Definitions:

Veterans Status [9] includes the following categories of protected veterans:

Disabled Veteran—A veteran of the United States military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs, or a veteran who was discharged or released from active duty because of a service-connected disability.

Armed Forces Service Medal Veteran—A veteran who, while serving on active duty in the U.S. military, ground, naval or air service, participated in a United States military operation for which an Armed Forces service medal was awarded.

Recently Separated Veteran—Any veteran who was discharged or released from active duty in the U.S. military ground, naval, or air service three years or fewer from the date of the alleged discriminatory or retaliatory activity.

Active Duty Wartime or Campaign Badge Veteran—A veteran who served on active duty in the U.S. military, ground, naval, or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, under the laws administered by the Department of Defense.

Pre-JVA Veteran—A veteran who is an employee of or applicant to a contractor with a contract of $25,000 or more entered into prior to December 1, 2003 and unmodified since to $100,000 or more, and who is a special disabled veteran, veteran of the Vietnam era, pre-JVA recently separated veteran, or other protected veteran as defined below:

[9] 41 CFR 60–300.2

Special Disabled Veteran—A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under the laws administered by the Department of Veterans Affairs for disability; rated at 30 percent or more; or rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap; or a person who was discharged or released from active duty because of a service connected disability.

Veteran of the Vietnam Era—A veteran who served on active duty for a period of more than 180 days, and was discharged or released with other than a dishonorable discharge, if any part of such active duty occurred in the Republic of Vietnam between February 28, 1961 and May 7, 1975; or between August 5, 1964 and May 7, 1975, in all other cases; or was discharged or released from active duty for a service-connected disability if any part of such active duty was performed in the Republic of Vietnam between February 28, 1961 and May 7, 1975; or between August 5, 1964 and May 7, 1975.

Pre-JVA Recently Separated Veteran—A pre-JVA recently separated veteran means a pre-JVA veteran separated during the one-year period beginning on the date of the pre-JVA veteran's discharge or release from active duty.

Other Protected Veteran—A veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized, under the laws administered by the Department of Defense.

[FR Doc. 2014–02426 Filed 2–4–14; 8:45 am]

BILLING CODE 4510–CM–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (14–004)]

Notice of Intent to Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant Partially Exclusive License

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive, copyright-only license in the United States to practice the inventions described in Scene Analysis Software described in NASA Case Nos. KSC–12975 entitled ''A Photogrammetry Tool for Forensic Analysis;'' and KSC–12663 entitled ''Dual Camera—Single Target, Position Measurement System;'' to Rapid Line Industries, Inc., having its principal place of business at 455 N. Ottawa St., Joliet, IL 60432. The copyright in the software and documentation have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7, and the fields of use may be limited to: (1) for the purpose of assessing damage to vehicles; (2) for the purpose of determining liability arising from incidents involving two or more vehicles; and (3) for the purpose of modeling and designing custom parts for vehicles.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of the Chief Counsel, Mail Code CC–A, NASA John F. Kennedy Space Center, Kennedy Space Center, FL 32899. Telephone: 321–867–2076; Facsimile: 321–867–1817.

FOR FURTHER INFORMATION CONTACT: Shelley Ford, Patent Counsel, Office of the Chief Counsel, Mail Code CC–A, NASA John F. Kennedy Space Center, Kennedy Space Center, FL 32899. Telephone: 321–867–2076; Facsimile: 321–867–1817. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/.*

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–02335 Filed 2–4–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Sunshine Act Meeting; National Museum and Library Services Board

AGENCY: Institute of Museum and Library Services (IMLS), NFAH.

ACTION: Notice of Meeting.

SUMMARY: The National Museum and Library Services Board, which advises the Director of the Institute of Museum and Library Services in awarding national awards and medals, will meet by teleconference on February 20, 2014, to review nominations for the 2014 National Medal for Museum and Library Service.

DATE AND TIME: Thursday, February 20, 2014, at 1 p.m. EST.

PLACE: The meeting will be held by teleconference originating at the Institute of Museum and Library Services. 1800 M Street NW., 9th Floor, Washington, DC 20036. Telephone: (202) 653–4676.

STATUS: Closed. The meeting will be closed pursuant to subsections (c)(4) and (c)(9) of section 552b of Title 5, United States Code because the Board will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; and information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action.

FOR FURTHER INFORMATION CONTACT: Katherine Maas, Program Specialist, Institute of Museum and Library Services, 1800 M Street NW., 9th Floor, Washington, DC 20036. Telephone: (202) 653–4798.

Dated: January 30, 2014.

Nancy E. Weiss,

General Counsel.

[FR Doc. 2014–02559 Filed 2–3–14; 4:15 pm]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

National Science Board

Sunshine Act Meeting

The National Science Board's Task Force on Administrative Burdens, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the re-

scheduling of a teleconference for the transaction of National Science Board business. This teleconference had originally been scheduled for January 30, 2014.

NEW DATE AND TIME: Tuesday, February 4, 2014, 5:00 p.m.–6:00 p.m. EST.

PREVIOUS DATE AND TIME: January 30, 2014 at 4:00 p.m.

SUBJECT MATTER: Task Force members will discuss a draft report and recommendations.

STATUS: Open.

This meeting will be held by teleconference. A public listening line will be available. Members of the public must contact the Board Office [call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*] for the public listening number. Please refer to the National Science Board Web site *www.nsf.gov/nsb/notices* for additional information and schedule updates. Point of contact for this meeting is Lisa Nichols or John Veysey.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2014–02519 Filed 2–3–14; 11:15 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Investigative Hearing

On Thursday, February 20, 2014, the National Transportation Safety Board (NTSB) will convene an investigative hearing to gather additional factual information for the ongoing investigation of the UPS Airbus A300–600 accident at Birmingham, Alabama, that occurred in August 2013. The NTSB Chairman Deborah A.P. Hersman will preside over the investigative hearing.

On August, 14, 2013, about 0447 central daylight time, UPS flight 1354, an Airbus A300–600, N155UP, crashed short of runway 18 while on approach to Birmingham-Shuttlesworth International Airport (BHM), Birmingham, Alabama. The two flight crewmembers were fatally injured, and the airplane was destroyed by impact forces and a postcrash fire. The cargo flight was operating under the provisions of 14 *Code of Federal Regulations* Part 121 and originated from Louisville International Airport, Louisville, Kentucky. Instrument meteorological conditions existed in the area at the time of the accident.

The flight crew was landing the airplane on runway 18 because the longer runway at BHM was closed for repairs at the time of the airplane's arrival. Review of the cockpit voice recorder and the flight data recorder indicated that the flight crew was executing a non-precision localizer approach using vertical VNAV guidance, and continued the descent below the decision altitude. Despite not having reported the airport in sight, the crew continued the descent and received enhanced ground proximity warning system sink rate warnings; they then indicated that they had the airport in sight. The airplane's vertical speed began to reduce as the airplane contacted trees and a power line; the airplane then impacted the ground about 0.75 nautical mile from the threshold of runway 18.

The investigative hearing will discuss the following issue areas:

- Execution of nonprecision approaches, including initial and recurrent training, adherence to standard operating procedures, and proficiency
- Human factors issues associated with effective crew coordination and resource management applicable to this accident, including decision-making, communication, fatigue, fitness for duty, and monitoring and cross-checking, and policies, standard operating procedures, guidance, and training provided to UPS crewmembers.
- Dispatch procedures, including the training, evaluation, roles, and responsibilities of UPS dispatchers, and the limitations of dispatch-related software.

Parties to the hearing will include the Federal Aviation Administration, UPS, Independent Pilots Association, Transport Workers Union, and Airbus. The accredited representative from the French Bureau d'Enquêtes et d'Analyses pour la sécurité de l'aviation civile will participate on the technical panel.

At the start of the hearing, the public docket will be opened. Included in the docket are photographs, interview transcripts, and other documents.

Order of Proceedings

1. Opening Statement by the Chairman of the Board of Inquiry
2. Introduction of the Board of Inquiry and Technical Panel
3. Introduction of the Parties to the Hearing
4. Introduction of Exhibits by Hearing Officer
5. Overview of the incident and the investigation by Investigator-In-Charge
6. Calling of Witnesses by Hearing Officer and Examination of Witness by Board of Inquiry, Technical Panel, and Parties
7. Closing Statement by the Chairman of the Board of Inquiry

The hearing docket is DCA13MA133.

The Investigative Hearing will be held in the NTSB Board Room and Conference Center, located at 429 L'Enfant Plaza E SW., Washington, DC, on Thursday, February 20, 2014, beginning at 8:30 a.m. The public can view the hearing in person or by live Webcast at *www.ntsb.gov.* Web cast archives are generally available by the end of the next day following the hearing, and webcasts are archived for a period of 3 months from after the date of the event.

Individuals requiring reasonable accommodation and/or wheelchair access directions should contact Ms. Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Friday, February 14, 2014.

NTSB Media Contact: Mr. Eric Weiss—*Eric.Weiss@ntsb.gov*

NTSB Investigative Hearing Officer: Mr. John Lovell—*john.lovell@ntsb.gov*

Sheryl L. Chappell,

Executive Secretariat.

[FR Doc. 2014–02407 Filed 2–4–14; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0221]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on November 8, 2013 (78 FR 67203).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 35, ''Medical Use of Byproduct Material.''

3. *Current OMB approval number:* 3150–0010.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* Reports of medical events, doses to an embryo/fetus or nursing child, or leaking sources are reportable on occurrence. A specialty board certification entity desiring to be recognized by the NRC must submit a one-time request for recognition and infrequently revise the information.

6. *Who will be required or asked to report:* Physicians and medical institutions holding an NRC license authorizing the administration of byproduct material or radiation from this material to humans for medical use. A specialty board certification entity desiring to have its certifying process and board certificate recognized by the NRC.

7. *An estimate of the number of annual responses:* 240,145 ((NRC: 31,431 + 1,035 recordkeepers = 32,466) + (Agreement States: 201,053 + 6,624 recordkeepers + 2 specialty certification entity = 207,679)).

8. *The estimated number of annual respondents:* 7,661 (1,035 for NRC Licenses, 6,624 for Agreement States, and 2 for specialty board certification entities).

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,066,031 hours (144,203 for NRC Licenses and 921,826 for Agreement States + 2 for specialty board certification entities).

10. *Abstract:* Part 35 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Medical Use of Byproduct Material,'' contains NRC's requirements and provisions for the medical use of byproduct material and for issuance of specific licenses authorizing the medical use of this material. These requirements and provisions provide for the radiation safety of workers, the general public, patients, and human research subjects. Part 35 contains mandatory requirements that apply to NRC licensees authorized to administer byproduct material or radiation therefrom to humans for medical use. These requirements also provide voluntary provisions for specialty boards to apply to have their certification processes recognized by the NRC so that their board certified individuals can use the certifications as proof of training and experience.

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by March 7, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Danielle Jones, Desk Officer, Office of Information and Regulatory Affairs (3150–0010), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Danielle_Y_Jones@omb.eop.gov* or submitted by telephone at 202–395–1741.

The Acting NRC Clearance Officer is Kristen Benney, telephone: 301–415–6355.

Dated at Rockville, Maryland, this 31st day of January, 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–02424 Filed 2–4–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0015]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 5, ''Occupational Dose Record for a Monitoring Period.''

2. *Current OMB approval number:* 3150–0006.

3. *How often the collection is required:* Annually.

4. *Who is required or asked to report:* NRC licensees who are required to comply with Part 20 of Title 10 of the *Code of Federal Regulations* (10 CFR).

5. *The number of annual respondents:* 4,146 respondents (104 reactors plus 4,042 materials licensees).

6. *The number of hours needed annually to complete the requirement or request:* 130,852 hours (6,000 hours reporting plus 124,852 hours recordkeeping).

7. *Abstract:* The NRC Form 5 is used to record and report the results of individual monitoring for occupational radiation exposure during a monitoring (one-calendar year) period to ensure regulatory compliance with annual radiation dose limits specified in 10 CFR 20.1201.

Submit, by April 7, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee, publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*.

The document will be available on the NRC's home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0015. You may submit your comments by any of the following methods: Electronic comments to *http://www.regulations.gov* and search for Docket No. NRC–2014–0015. Mail comments to the Acting NRC Clearance Officer, Kristen Benney (T–5 F53), U.S. Nuclear Regulatory

Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Kristen Benney (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6355, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 30th day of January, 2014.

For the Nuclear Regulatory Commission.

Kristen Benney,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–02365 Filed 2–4–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–09067; NRC–2014–0020]

License Exemption for Uranerz Energy Corporation

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption to the financial assurance requirements to Uranerz Energy Corporation (Uranerz) in response to their annual financial assurance update for the Nichols Ranch uranium in situ recovery (ISR) project.

ADDRESSES: Please refer to Docket ID NRC–2014–0020 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Ron Linton, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–7777; email: *Ron.Linton@nrc.gov.*

I. Background

NRC materials license SUA–1597, License Condition 9.5, requires Uranerz to submit to NRC for review and approval an annual update of the financial surety to cover third-party costs for decommissioning and decontamination, pursuant to 10 CFR 40, Appendix A, Criterion 9, for the Nichols Ranch ISR project located in Johnson and Campbell Counties, Wyoming. By letter dated December 20, 2012, Uranerz submitted to the NRC its Nichols Ranch annual surety update for 2012–2013 (ADAMS Accession No ML13004A100). NRC staff reviewed the annual financial surety update and found the surety reclamation bond value reasonable for the required reclamation activities (See ADAMS Accession No ML13227A378). The Wyoming Department of Environmental Quality (WDEQ) holds the reclamation bond but does not have a standby trust agreement (STA) in place, as required by 10 CFR 40, Appendix A, Criterion 9.

II. Description of Action

As of December 17, 2012, surety instruments for NRC uranium milling licensees regulated under 10 CFR 40, Appendix A, Criterion 9, are required to have a STA in place, pursuant to Criterion 9, which states, ''[I]f a trust is not used, then a standby trust fund must be set up to receive funds in the event the Commission or State regulatory agency exercises its right to collect the surety.'' The purpose of an STA is to provide a separate account to hold decommissioning funds in the event of a default. Since an STA is not established, the NRC has to either require an STA or grant an exemption to the requirements of the regulation. The NRC has the discretion, under 10 CFR 40.14(a), to grant such exemptions from the requirements of a regulation in 10 CFR 40, if it determines the exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

The NRC staff has reviewed WDEQ financial assurance requirements. Wyoming law requires that a separate account be set up to receive forfeited decommissioning funds, but does not specifically require an STA. Section 35–11–424 of the Code of Wyoming states, ''(a) All forfeitures collected under the provisions of this act shall be deposited with the State treasurer in a separate account for reclamation purposes.'' WDEQ holds permit bonds in a fiduciary fund called an agency fund. If a bond is forfeited, the forfeited funds are moved to a special revenue account. Although the special revenue account is not an STA, the special revenue account serves a similar purpose in that forfeited funds are not deposited into the State treasury for general fund use, but instead are set aside in the special revenue account to be used exclusively for reclamation [decommissioning] purposes.

NRC has elected to grant an exemption to the STA requirements in 10 CFR 40, Appendix A, Criterion 9, for the current surety arrangement and for this surety cycle to allow time for further discussion with WDEQ. The NRC staff will further explore the financial assurance standby trust requirements in the NRC regulations and the financial assurance requirements in Wyoming regulations to determine if the State of Wyoming separate account provision is equivalent to NRC's requirement for a STA.

III. Discussion

A. The Exemption is Authorized by Law

The NRC staff concluded that 10 CFR 40.14(a) allows for an exemption to the requirements of the regulation in 10 CFR 40, Appendix A, Criterion 9.

B. The Exemption Presents no Undue Risk to Public Health and Safety

The exemption is related to the financial surety. The regulations in 10 CFR 40, Appendix A, Criterion 9(d), allows for the surety arrangements to be held by the State. NRC has determined that while the WDEQ does not require an STA, the special revenue account serves a similar purpose in that forfeited funds are not deposited into the State treasury for general fund use, but instead are set aside in the special revenue account to be used exclusively for reclamation [decommissioning] purposes. Therefore, the exemption presents no undue risk to public health and safety.

C. The Exemption is Consistent With the Common Defense and Security

The exemption does not involve the common defense or security. Therefore, granting the exemption will have no effect on the common defense and security.

D. Environmental Considerations

The NRC staff has determined that granting of an exemption from the requirements of 10 CFR 40.14(a) belongs

to a category of regulatory actions that are eligible for categorical exclusion (i.e., that do not require an environmental assessment). The exemption from the requirement to have an STA in place is eligible for categorical exclusion under 10 CFR 51.22(c)(25), which states:

> Granting of an exemption from the requirements of any regulation of this chapter, provided that * * * (vi) The requirements from which an exemption is sought involve: * * * (H) Surety, insurance, or indemnity requirements * * *
>
> The staff finds that the STA exemption involves surety, insurance and/or indemnity requirements and, therefore, an environmental assessment is not required.

IV. Conclusions

Accordingly, the NRC has determined that, pursuant to 10 CFR 40.14(a) the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Therefore, the NRC hereby grants Uranerz Energy Corporation an exemption from the requirements of 10 CFR 40, Appendix A, Criterion 9 for the current surety cycle that an STA must be set up to receive decommissioning funds.

Dated at Rockville, Maryland, this 28th day of January 2014.

For the Nuclear Regulatory Commission.

Andrew Persinko,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2014–02477 Filed 2–4–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0018; EA–13–241]

Certain Panoramic and Underwater Irradiators Authorized To Possess Byproduct Material; Order Imposing Compensatory Measures (Effective Immediately)

I

The Licensee identified in Attachment 1 to this Order holds a license issued in accordance with the Atomic Energy Act of 1954 and 10 CFR part 36 by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing possession of greater than 370 terabecquerels (10,000 curies) of byproduct material in the form of sealed sources in panoramic irradiators that have dry or wet storage of the sealed sources, or in underwater irradiators in which both the source and the product being irradiated are under water. Commission regulations at 10 CFR 20.1801 or equivalent Agreement State regulations require Licensees to secure, from unauthorized removal or access, licensed materials that are stored in controlled or unrestricted areas. Commission regulations at 10 CFR 20.1802 or equivalent Agreement State regulations require Licensees to control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and near Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its Licensees in order to strengthen Licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and license requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by Licensees as prudent measures to address the current threat environment. Therefore, the Commission is imposing requirements, as set forth in Attachment 2 [1] on the Licensee identified in Attachment 1 [2] of this Order who currently possesses, or has near term plans to possess, greater than 370 terabecquerels (10,000 curies) of byproduct material in the form of sealed sources. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment.

Attachment 3 of this Order contains the requirements for fingerprinting and criminal history record checks for individuals when the Licensee's reviewing official is determining access to Safeguards Information or unescorted access to the panoramic or underwater irradiator sealed sources. These requirements will remain in effect until the Commission determines otherwise.

The Commission concludes that these security measures must be embodied in an Order, consistent with the established regulatory framework. The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of Safeguards Information. Section 147 of the Atomic Energy Act of 1954, as amended, grants the Commission explicit authority to ''issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information. . . .'' This authority extends to information concerning special nuclear material, source material, and byproduct material, as well as production and utilization facilities. Licensees must ensure proper handling and protection of Safeguards Information to avoid unauthorized disclosure in accordance with the specific requirements for the protection of Safeguards Information contained in Attachment 2 to the NRC's ''Order Imposing Requirements for the Protection of Certain Safeguards Information'' (EA–13–040). The Commission hereby provides notice that it intends to treat all violations of the requirements contained in Attachment 2 to the NRC's ''Order Imposing Requirements for the Protection of Certain Safeguards Information'' (EA–13–040), applicable to the handling and unauthorized disclosure of Safeguards Information, as serious breaches of adequate protection of the public health and safety and the common defense and security of the United States.

Access to Safeguards Information is limited to those persons who have established a need-to-know the information, are considered to be trustworthy and reliable, have been fingerprinted and undergone a Federal Bureau of Investigation (FBI) identification and criminal history records check in accordance with the NRC's ''Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information'' (EA–13–041). A need-to-know means a determination by a person having responsibility for

[1] Attachment 2 contains some requirements that are SAFEGUARDS INFORMATION, and cannot be released to the public. The remainder of the requirements contained in Attachment 2 that are not SAFEGUARDS INFORMATION are being released to the public.

[2] Attachment 1 contains sensitive information and will not be released to the public.

protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or Licensee duties of employment. Individuals who have been fingerprinted and granted access to Safeguards Information by the reviewing official under the NRC Order EA–13–041, dated June 5, 2013, do not need to be fingerprinted again for purposes of being considered for unescorted access.

This Order also requires that a reviewing official must consider the results of the FBI criminal history records check in conjunction with other applicable requirements to determine whether an individual may be granted or allowed continued unescorted access. The reviewing official may be one that has previously been approved by the NRC in accordance with the NRC Order EA–13–041 dated June 5, 2013. Licensees may nominate additional reviewing officials for making unescorted access determinations in accordance with the EA–13–041 Order. The nominated reviewing officials must have access to Safeguards Information or require unescorted access to the radioactive material as part of their job duties.

In order to provide assurance that the Licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all Licensees who hold licenses issued by the NRC or an Agreement State authorizing possession greater than 370 terabecquerels (10,000 curies) of byproduct material in the form of sealed sources in a panoramic or underwater irradiator shall implement the requirements identified in Attachments 2 and 3 to this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 147, 149, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR part 30, part 36, and part 73, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT THE LICENSEE IDENTIFIED IN ATTACHMENT 1 TO THIS ORDER SHALL COMPLY WITH THE REQUIREMENTS OF THIS ORDER AS FOLLOWS:

A. The Licensee shall, notwithstanding the provisions of any Commission or Agreement State regulation or license to the contrary, comply with the requirements described in Attachments 2 and 3 to this Order. This Order is effective immediately.

B.1. The Licensee shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachments 2 or 3, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission or Agreement State regulation or its license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

2. If the Licensee considers that implementation of any of the requirements described in Attachments 2 or 3 to this Order would adversely impact safe operation of the facility, the Licensee must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachments 2 or 3 requirement in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C.1. In accordance with the NRC's ''Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information'' (EA–13–041) issued on June 5, 2013, only the NRC-approved reviewing official shall review results from an FBI criminal history records check. The Licensee may use a reviewing official previously approved by the NRC as its reviewing official for determining access to Safeguards Information or the Licensee may nominate another individual specifically for making unescorted access to radioactive material determinations, using the process described in EA–13–041.

The reviewing official must have access to Safeguards Information or require unescorted access to the radioactive material as part of their job duties. The reviewing official shall determine whether an individual may have, or continue to have, unescorted access to the panoramic or underwater irradiator sealed sources that equal or exceed 370 Terabecquerels (10,000 curies).

Fingerprinting and the FBI identification and criminal history records check are not required for individuals exempted from fingerprinting requirements under 10 CFR 73.61 [72 FR 4948 (February 2, 2007)]. In addition, individuals who have a favorably decided U.S. Government criminal history records check within the last five (5) years, or have an active Federal security clearance (provided in each case that the appropriate documentation is made available to the Licensee's reviewing official), have satisfied the Energy Policy Act of 2005 fingerprinting requirement and need not be fingerprinted again for purposes of being considered for unescorted access.

2. No person may have access to Safeguards Information or unescorted access to the panoramic or underwater irradiator sources if the NRC has determined, in accordance with its administrative review process based on fingerprinting and an FBI identification and criminal history records check, either that the person may not have access to Safeguards Information or that the person may not have unescorted access to a utilization facility or radioactive material subject to regulation by the NRC.

D. Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment 3 to this Order. Individuals who have been fingerprinted and granted access to Safeguards Information by the reviewing official under Order EA–13–041 do not need to be fingerprinted again for purposes of being considered for unescorted access.

E. The Licensee may allow any individual who currently has unescorted access to the panoramic or underwater irradiator sealed sources, in accordance with this Order, to continue to have unescorted access during the pendency of a decision by the reviewing official (based on fingerprinting, an FBI criminal history records check and a trustworthiness and reliability determination) that the individual may continue to have unescorted access to the panoramic or underwater irradiator sealed sources.

F.1. The Licensee shall, within twenty (20) days of the date of this Order, submit to the Commission a schedule for completion of each requirement described in Attachments 2 and 3.

2. The Licensee shall report to the Commission when they have achieved full compliance with the requirements described in Attachments 2 and 3.

G. Notwithstanding any provisions of the Commission's or Agreement State's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

Licensee response to Conditions B.1, B.2, F.1, and F.2 above shall be submitted to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Licensee submittals that contain specific physical protection or security information considered to be Safeguards Information shall be put in a separate enclosure or attachment and, marked as ''SAFEGUARDS INFORMATION—MODIFIED HANDLING'' and mailed. No electronic transmittals (i.e., no email or FAX) to the NRC in accordance with Attachment 2 to the NRC's ''Order Imposing Requirements for the Protection of Certain Safeguards Information'' (EA–13–040).

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within twenty (20) days of the date of this Order. In addition, the Licensee and any other person adversely affected by this Order may request a hearing of this Order within twenty (20) days of the date of the Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made, in writing, to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee relies and the reasons as to why the Order should not have been issued. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

All documents filed in the NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted

by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/EHD/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 23rd day of January 2014.

For the Nuclear Regulatory Commission.

Brian E. Holian,

Acting Director, Office of Federal and State Materials and Environmental Management Programs.

Attachment 1: Applicable Materials Licensee—Redacted

Attachment 2: Compensatory Measures for Panoramic and Underwater Irradiator Licensees Revision 4

These compensatory measures (CMs) are established to delineate Licensee responsibility in response to the current threat environment in the aftermath of the terrorist attacks of September 11, 2001. The following security measures apply to Licensees who, now and in the future, possess greater than 370 Terabecquerels (TBq) [10,000 Ci] of byproduct material in the form of sealed sources in panoramic irradiators that have dry or wet storage of the sealed sources, or in underwater irradiators in which both the source and the product being irradiated are underwater.

1. Use and store the radioactive material only within a security zone that isolates the material from unauthorized access and facilitates detection if such access occurs.

The security zone is an area, defined by the Licensee, that provides for both isolation of radioactive material and access control. The Licensee must demonstrate for this area a means to detect any attempt of unauthorized access to licensed material. ''Isolation'' means to deter persons, materials, or vehicles from entering or leaving through other than established access control points. ''Access control'' means to allow only approved individuals into the security zone. Thus, isolation and access control aid in the detection of unauthorized access or activities deemed by the Licensee to be indicative of, or contributory to, the loss, theft, or release of material. The security zone does not have to be the same as the restricted area or controlled area, as defined in 10 CFR part 20.

Security zones can be permanent or temporary to meet transitory or intermittent business activities (such as during periods of maintenance, source delivery and source replacement). Different isolation/access control measures may be used for periods during which the security zone is occupied versus unoccupied.

2. Continuously control access to the security zone and limit admittance to those individuals who are approved and require access to perform their duties.

A. For individuals granted access to safeguards information or unescorted access to the security zone, Licensees must provide reasonable assurance that individuals are trustworthy and reliable, and do not constitute an unreasonable risk to the common defense and security. ''Access'' means that an individual could exercise some physical control over the material or device containing radioactive material.

i. The trustworthiness and reliability of individuals shall be determined based on a background investigation. The background investigation shall address at least the past 3 years and, as a minimum, include fingerprinting and a Federal Bureau of Investigation (FBI) criminal history check, verification of work or education references as appropriate to the length of employment, and confirmation of eligibility for employment in the United States.

ii. Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment 3 to this Order.

iii. A reviewing official that the licensee nominated and has been approved by the NRC, in accordance with NRC ''Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information,'' may continue to make trustworthiness and reliability determinations. The Licensee may also nominate another individual specifically for making unescorted access determinations using the process identified in the NRC ''Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information.'' The nominated reviewing official must have access to Safeguards Information or require unescorted access to the radioactive material as part of their job duties.

B. [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.]

3. Implement a system (i.e., devices and/or trained individuals) to monitor, detect, assess and respond to unauthorized entries into or activities in the security zone.

A. [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.]

B. Provide enhanced security measures when temporary security zones are established, during periods of maintenance, source delivery and shipment, and source replacement, that will provide additional assurance for enhanced detection and assessment of and response to unauthorized individuals or activities involving the radioactive material. Such security measures shall include, but not be limited to:

i. Advanced notification to the local law enforcement agency (LLEA) for radioactive source exchanges, deliveries, and shipments.

ii. For shipments of sources, establish a positive means of transferring the security responsibility, between the shipper/carrier and the consignee (receiver), for communicating with the LLEA.

C. Provide a positive measure to validate that there has been no unauthorized removal of the radioactive material from the security zone.

D. Maintain continuous communications capability among the various components for intrusion detection and assessment to bring about a timely response.

E. [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.]

4. [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.]

Attachment 3: Requirements for Fingerprinting and Criminal History Checks of Individuals When Licensee's Reviewing Official Is Determining Access to Safeguards Information or Unescorted Access to the Panoramic or Underwater Irradiator Sealed Sources

General Requirements

Licensees shall comply with the following requirements of this attachment.

1. Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted access to safeguards information (SGI) or unescorted access to the panoramic or underwater irradiator sealed sources. The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) and ensure that the provisions contained in this Order and this attachment are satisfied.

2. The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information'' section of this attachment.

3. Fingerprints for access to SGI or unescorted access need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.59 for access to SGI or 10 CFR 73.61 for unescorted access, has a favorably-decided U.S. Government criminal history check (e.g., National Agency Check, Transportation Worker Identification Credentials in accordance with 49 CFR part 1572, Bureau of Alcohol Tobacco Firearms and Explosives background checks and clearances in accordance with 27 CFR part 555, Health and Human Services security risk assessments for possession and use of select agents and toxins in accordance with 27 CFR part 555, Hazardous Material security threat assessments for hazardous material endorsement to commercial drivers license in accordance with 49 CFR part 1572, Customs and Border Protection's Free and Secure Trace Program [1] within the last five (5) years, or has an active Federal security clearance. Written confirmation from the agency/employer which granted the Federal security clearance or reviewed the criminal history check must be provided for either of the latter two cases. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires access to SGI or unescorted access to radioactive materials associated with the Licensee's activities.

4. All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthy and reliability requirements of this Order, in making a determination whether to grant, or continue to allow, access to SGI or unescorted access to the panoramic or underwater irradiator sealed sources.

6. The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for access to SGI or unescorted access to the panoramic or underwater irradiator sealed sources.

7. The Licensee shall document the basis for its determination whether to grant, or continue to allow, access to SGI or unescorted access to the panoramic or underwater irradiator sealed sources.

Prohibitions

A Licensee shall not base a final determination to deny an individual access to radioactive materials solely on the basis of information received from the FBI involving: An arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A Licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, Licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T–03B46M, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking access to SGI or unescorted access to the panoramic or underwater irradiator sealed sources, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling 301–415–7232, or by email to *forms@nrc.gov.* Practicable alternative formats are set forth in 10 CFR 73.4. The Licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the Licensee for

[1] The FAST program is a cooperative effort between the Bureau of Customs and Border Protection and the governments of Canada and Mexico to coordinate processes for the clearance of commercial shipments at the U.S.–Canada and U.S.–Mexico borders. Participants in the FAST program, which requires successful completion of a background records check, may receive expedited entrance privileges at the northern and southern borders.

corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application (Note: other fees may apply to obtain fingerprints from your local law enforcement agency). Licensees should submit payments electronically via *http://www.pay.gov.* Payments through Pay.gov can be made directly from the Licensee's credit/debit card. Licensees will need to establish a password and user ID before they can access Pay.gov. To establish an account, Licensee requests must be sent to *paygo@nrc.gov.* The request must include the Licensee's name, address, point of contact, email address, and phone number. The NRC will forward each request to Pay.gov and someone from Pay.gov will contact the Licensee with all of the necessary account information.

Licensees shall make payments for processing before submitting applications to the NRC. Combined payment for multiple applications is acceptable. Licensees shall include the Pay.gov payment receipt(s) along with the application(s). For additional guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at 301–415–7513. The application fee (currently $26) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of Licensee fingerprint submissions. The Commission will directly notify Licensees subject to this regulation of any fee changes.

The Commission will forward to the submitting Licensee all data received from the FBI as a result of the Licensee's application(s) for criminal history checks, including the FBI fingerprint record.

Right To Correct and Complete Information

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available for his/her review. The Licensee may make a final determination on access to SGI or unescorted access to the panoramic or underwater irradiator sealed sources based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to SGI or unescorted access to the panoramic or underwater irradiator sealed sources, the Licensee shall provide the individual its documented basis for denial. Access to SGI or unescorted access to the panoramic or underwater irradiator sealed sources shall not be granted to an individual during the review process.

Protection of Information

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining access to SGI or unescorted access to the panoramic or underwater irradiator sealed sources. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The Licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or denial to access SGI or unescorted access to the panoramic or underwater irradiator sealed sources. After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

[FR Doc. 2014–02479 Filed 2–4–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30898; File No. 812–13760]

J.P. Morgan Exchange-Traded Fund Trust, et al.; Notice of Application

January 30, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to perform creations and redemptions of Creation Units in-kind in a master-feeder structure.

APPLICANTS: J.P. Morgan Exchange-Traded Fund Trust (''Trust''), J.P. Morgan Investment Management Inc. (''Initial Adviser''), and SEI Investments Distribution Co. (''SEI'').

FILING DATES: The application was filed on March 10, 2010, and amended on December 27, 2010, May 24, 2013, November 12, 2013, and January 28, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 24, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: the Trust and the Initial Adviser, 270 Park Avenue, New York, NY 10017; SEI, 1 Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel at (202) 551–6879, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a statutory trust organized under the laws of Delaware. The Trust will register under the Act as an open-end management investment company with multiple series.

2. The Initial Adviser will register as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and will be the investment adviser to the Funds. Any other Adviser (defined below) will also be registered as an investment adviser under the Advisers Act. The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust will enter into a distribution agreement with one or more distributors (each, a ''Distributor''). The distributor for the Initial Fund will be SEI Investments Distribution Co. Each Distributor will be a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and will act as distributor and principal underwriter of one or more of the Funds. The Distributor of any Fund may be an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of that Fund's Adviser and/or Sub-Advisers. No Distributor will be affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the initial series of the Trust described in the application (''Initial Fund''), as well as any additional series of the Trust and other open-end management investment companies, or series thereof, that may be created in the future (''Future Funds''), each of which will operate as an exchanged-traded fund (''ETF'') and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. The Initial Fund and Future Funds, together, are the ''Funds.'' [1]

5. Applicants state that a Fund may operate as a feeder fund in a master-feeder structure (''Feeder Fund''). Applicants request that the order permit a Feeder Fund to acquire shares of another registered investment company in the same group of investment companies having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) of the Act and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B) of the Act (''Master-Feeder Relief''). Applicants may structure certain Feeder Funds to generate economies of scale and incur lower overhead costs.[2] There would be no ability by Fund shareholders to exchange Shares of Feeder Funds for shares of another feeder series of the Master Fund.

6. Each Fund, or its respective Master Fund, will hold certain securities, currencies, other assets and other investment positions (''Portfolio Holdings'') selected to correspond generally to the performance of its Underlying Index. Certain of the Funds will be based on Underlying Indexes that will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised solely of foreign and domestic, or solely foreign, equity and/or fixed income securities (''Foreign Funds'').

7. Applicants represent that each Fund, or its respective Master Fund, will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] Operating in a master-feeder structure could also impose costs on a Feeder Fund and reduce its tax efficiency. The Feeder Fund's Board will consider any such potential disadvantages against the benefits of economies of scale and other benefits of operating within a master-feeder structure. In a master-feeder structure, the Master Fund—rather than the Feeder Fund—would generally invest its portfolio in compliance with the requested order.

(''Component Securities'') and TBA Transactions [3], and in the case of Foreign Funds, Component Securities and Depositary Receipts [4] representing Component Securities. Each Fund, or its respective Master Fund, may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

8. The Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index [5] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's, or its respective Master Fund's, Portfolio Holdings before the commencement of trading of Shares on the Listing Exchange (defined below).[6] The information provided on the Web site will be formatted to be reader-friendly.

9. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

10. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[7] A ''Self-Indexing Fund'' is a Fund for which an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[8] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

11. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated. Prior orders granted to self-indexing ETFs (''Prior Self-Indexing Orders'') addressed these concerns by creating a framework that required: (i) Transparency of the Underlying Indexes; (ii) the adoption of policies and procedures not otherwise required by the Act designed to mitigate such conflicts of interest; (iii) limitations on the ability to change the rules for index compilation and the component securities of the index; (iv) that the index provider enter into an agreement with an unaffiliated third party to act as ''Calculation Agent''; and (v) certain limitations designed to separate employees of the index provider, adviser and Calculation Agent (clauses (ii) through (v) are hereinafter referred to as ''Policies and Procedures'').[9]

12. Instead of adopting the same or similar Policies and Procedures, Applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing

[3] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[4] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds, or their respective Master Funds, may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund, or its respective Master Fund, will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund, or its respective Master Fund.

[5] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[6] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[7] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Underlying Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[8] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[9] *See, e.g.,* In the Matter of WisdomTree Investments Inc., et al., Investment Company Act Release Nos. 27324 (May 18, 2006) (notice) and 27391 (June 12, 2006) (order); In the Matter of IndexIQ ETF Trust, et al., Investment Company Act Release Nos. 28638 (Feb. 27, 2009) (notice) and 28653 (March 20, 2009) (order); and Van Eck Associates Corporation, et al., et al., Investment Company Act Release Nos. 29455 (Oct. 1, 2010) (notice) and 29490 (Oct. 26, 2010) (order).

Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the Portfolio Holdings that will form the basis for the Fund's calculation of its NAV at the end of the Business Day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will provide an effective alternative mechanism for addressing any such potential conflicts of interest.

13. Applicants represent that each Self-Indexing Fund's Portfolio Holdings will be as transparent as the portfolio holdings of existing actively managed ETFs. Applicants observe that the framework set forth in the Prior Self-Indexing Orders was established before the Commission began issuing exemptive relief to allow the offering of actively-managed ETFs.[10] Unlike passively-managed ETFs, actively-managed ETFs do not seek to replicate the performance of a specified index but rather seek to achieve their investment objectives by using an ''active'' management strategy. Applicants contend that the structure of actively managed ETFs presents potential conflicts of interest that are the same as those presented by Self-Indexing Funds because the portfolio managers of an actively managed ETF by definition have advance knowledge of pending portfolio changes. However, rather than requiring Policies and Procedures similar to those required under the Prior Self-Indexing Orders, Applicants believe that actively managed ETFs address these potential conflicts of interest appropriately through full portfolio transparency, as the conditions to their relevant exemptive relief require.

14. In addition, Applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[11]

15. The Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Adviser or an associated person (''Inside Information Policy''). Any Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [12] and Inside Information Policy of the Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit [13] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

16. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

17. In light of the foregoing, Applicants believe it is appropriate to allow the Self-Indexing Funds to be fully transparent in lieu of Policies and Procedures from the Prior Self-Indexing Orders discussed above.

18. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[14] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that

[10] *See, e.g.,* In the Matter of Huntington Asset Advisors, Inc., et al., Investment Company Act Release Nos. 30032 (April 10, 2012) (notice) and 30061 (May 8, 2012) (order); In the Matter of Russell Investment Management Co., et al., Investment Company Act Release Nos. 29655 (April 20, 2011) (notice) and 29671 (May 16, 2011) (order); In the Matter of Eaton Vance Management, et al., Investment Company Act Release Nos. 29591 (March 11, 2011) (notice) and 29620 (March 30, 2011) (order) and; In the Matter of iShares Trust, et al., Investment Company Act Release Nos. 29543 (Dec. 27, 2010) (notice) and 29571 (Jan. 24, 2011) (order).

[11] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

[12] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[13] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

[14] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions)[15] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[16] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[17] will be excluded from the Deposit Instruments and the Redemption Instruments;[18] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[19] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

19. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[20] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[21]

20. Creation Units will consist of specified large aggregations of Shares, e.g., at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' i.e., a broker-dealer or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

21. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

22. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. With respect to Feeder Funds, the Transaction Fee would be paid indirectly to the Master Fund.[22] In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the

[15] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[16] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[17] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[18] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[19] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[20] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[21] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[22] Applicants are not requesting relief from section 18 of the Act. Accordingly, a Master Fund may require a Transaction Fee payment to cover expenses related to purchases or redemptions of the Master Fund's shares by a Feeder Fund only if it requires the same payment for equivalent purchases or redemptions by any other feeder fund. Thus, for example, a Master Fund may require payment of a Transaction Fee by a Feeder Fund for transactions for 20,000 or more shares so long as it requires payment of the same Transaction Fee by all feeder funds for transactions involving 20,000 or more shares.

purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[23] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

23. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

24. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[24] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

25. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

26. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only.[25] Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of

[23] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[24] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

[25] The Master Funds will not require relief from sections 2(a)(32) and 5(a)(1) because the Master Funds will issue individually redeemable securities.

investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for the underlying foreign securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fifteen (15) calendar days.[26] Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fifteen (15) calendar days following the tender of Creation Units for redemption.[27]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fifteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fifteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.[28]

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly 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.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser and are not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[29] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an

[26] Certain countries in which a Fund may invest have historically had settlement periods of up to fifteen (15) calendar days.

[27] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

[28] In addition, the requested exemption from section 22(e) would only apply to in-kind redemptions by the Feeder Funds and would not apply to in-kind redemptions by other feeder funds.

[29] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the 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 a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund, or its respective Master Fund, in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund, or its respective Master Fund, under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[30]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund, nor its respective Master Fund, will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund, or its respective Master Fund, to purchase shares of other investment companies for short-term cash management purposes or pursuant to the Master-Feeder Relief. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

19. Applicants also are seeking the Master-Feeder Relief to permit the Feeder Funds to perform creations and redemptions of Shares in-kind in a master-feeder structure. Applicants assert that this structure is substantially identical to traditional master-feeder structures permitted pursuant to the exception provided in section 12(d)(1)(E) of the Act. Section 12(d)(1)(E) provides that the percentage limitations of section 12(d)(1)(A) and (B) shall not apply to a security issued by an investment company (in this case, the shares of the applicable Master Fund) if, among other things, that security is the only investment security held by the investing investment company (in this case, the Feeder Fund). Applicants believe the proposed master-feeder structure complies with section 12(d)(1)(E) because each Feeder Fund will hold only investment securities issued by its corresponding Master Fund; however, the Feeder Funds may receive securities other than securities of its corresponding Master Fund if a Feeder Fund accepts an in-kind creation. To the extent that a Feeder Fund may be deemed to be holding both shares of the Master Fund and other securities, applicants request relief from section 12(d)(1)(A) and (B). The Feeder Funds would operate in compliance with all other provisions of section 12(d)(1)(E).

Sections 17(a)(1) and (2) of the Act

20. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''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 the 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. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

[30] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

21. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

22. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Holdings currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to Applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Holdings held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of Applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, Applicants submit that, by using the same standards for valuing Portfolio Holdings held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

23. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[31] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[32] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

24. To the extent that a Fund operates in a master-feeder structure, applicants also request relief permitting the Feeder Funds to engage in in-kind creations and redemptions with the applicable Master Fund. Applicants state that the customary section 17(a)(1) and 17(a)(2) relief would not be sufficient to permit such transactions because the Feeder Funds and the applicable Master Fund could also be affiliated by virtue of having the same investment adviser. However, applicants believe that in-kind creations and redemptions between a Feeder Fund and a Master Fund advised by the same investment adviser do not involve ''overreaching'' by an affiliated person. Such transactions will occur only at the Feeder Fund's proportionate share of the Master Fund's net assets, and the distributed securities will be valued in the same manner as they are valued for the purposes of calculating the applicable Master Fund's NAV. Further, all such transactions will be effected with respect to pre-determined securities and on the same terms with respect to all investors. Finally, such transaction would only occur as a result of, and to effectuate, a creation or redemption transaction between the Feeder Fund and a third-party investor. Applicants believe that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transactions are consistent with the policy of each Fund and will be consistent with the investment objectives and policies of each Fund of Funds, and the proposed transactions are consistent with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief, other than the section 12(d)(1) Relief and the section 17 relief related to a master-feeder structure, will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

[31] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from Section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[32] Applicants acknowledge that the receipt of 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 a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by Section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's, or its respective Master Fund's, Portfolio Holdings.

6. No Adviser or any Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for a Fund, or its respective Master Fund, through a transaction in which the Fund, or its respective Master Fund, could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund, or its respective Master Fund, within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund, or its respective Master Fund, within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund, or its respective Master Fund, for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund, or its respective Master Fund, or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund, or its respective Master Fund, or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, or its respective Master Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of Section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund, or its respective Master Fund, to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund, or its respective Master Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund, or its respective Master Fund, and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund, or its respective Master Fund, under rule 12b-l under the Act) received from a Fund, or its respective Master Fund, by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, or its respective Master Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund, or its respective Master Fund, by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, or its respective Master Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund, or its respective Master Fund, to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, or its respective Master Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund, or its respective Master Fund, in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund, or its respective Master Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund, or its respective Master Fund, in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that

purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund, or its respective Master Fund, will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund, or its respective Master Fund, in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund, or its respective Master Fund, will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent (i) the Fund, or its respective Master Fund, acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund, or its respective Master Fund, to acquire securities of one or more investment companies for short-term cash management purposes or (ii) the Fund acquires securities of the Master Fund pursuant to the Master-Feeder Relief.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–02383 Filed 2–4–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [79 FR 6244, February 3, 2014].

STATUS: Open Meeting.

PLACE: 100 F Street NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: February 5, 2014 at 3:00 p.m.

CHANGE IN THE MEETING: Deletion of an Item.

The following item will not be considered during the Commission's Open Meeting on February 5, 2014 at 3:00 p.m.:

The Commission will consider whether to adopt rules revising the disclosure, reporting, and offering process for asset-backed securities. The revisions would require asset-backed issuers to provide enhanced disclosures including information for certain asset classes about each asset in the underlying pool in a standardized, tagged format and revise the shelf offering process and eligibility criteria for asset-backed securities.

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: February 3, 2014.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2014–02600 Filed 2–3–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 79 FR 6243 (February 3, 2014).

STATUS: Closed Meeting.

PLACE: 100 F Street NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, February 6, 2014.

CHANGE IN THE MEETING: Cancellation of Meeting.

The Closed Meeting scheduled for Thursday, February 6, 2014 at 2:00 p.m. has been cancelled.

For further information please contact the Office of the Secretary at (202) 551–5400.

Dated: January 31, 2014.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2014–02508 Filed 2–3–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71446; File No. SR–ISE–2014–04]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Market Maker Risk Parameters

January 30, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 17, 2014, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to mitigate market maker risk by adopting an Exchange-provided risk management functionality.

The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to ISE Rules 722 and 804, the Exchange automatically removes a market maker's quotes in all series of an options class when certain parameter settings are triggered. Specifically, there are currently four parameters that can be set by market makers on a class-by-class basis. These parameters are available for market maker quotes in single options series and for market maker quotes in complex instruments on the complex order book. Market makers establish a time frame during which the system calculates: (1) The number of contracts executed by the market maker in an options class; (2) the percentage of the total size of the market maker's quotes in the class that has been executed; (3) the absolute value of the net between contracts bought and contracts sold in an options class, and (4) the absolute value of the net between (a) calls purchased plus puts sold, and (b) calls sold plus puts purchased. The market maker establishes limits for each of these four parameters, and when the limits are exceeded within the prescribed time frame, the market maker's quotes in that class are removed or curtailed. It is mandatory for market makers to enter values into all four of the quotation risk management parameters for all options classes in which it enters quotes.[3]

The Exchange now proposes to enhance its risk management offering to further strengthen risk management for market maker quotes. While the parameters described in the preceding paragraph are set on a class-by-class basis, the Exchange now proposes to adopt functionality that will allow market makers to manage their risk across the entire market. Specifically, the Exchange proposes to adopt functionality to allow market maker quotes to be removed from the trading system if a specified number of curtailment events occur across the ISE market. If the specified number of curtailment events is exceeded within the prescribed time period, the market maker's quotes in all classes in which it quotes will automatically be removed from the trading system.

As proposed, market makers must request the Exchange to set the proposed market wide parameter to govern its trading activity. Once this parameter is set, the trading system will count the number of times a market maker's pre-set curtailment, as specified in Rule 804(g) (for regular orders) and Rule 722, Supplementary Material .04 (for complex orders), has been triggered. Once the specified number of curtailment events has been reached, the trading system will remove all of the market maker's quotes in all classes in which it makes a market thereby reducing the risk to the market maker in the event the market maker is suffering from a systems issue or due to the occurrence of unusual or unexpected market activity. Any quotes sent by the market maker after the proposed market wide parameter has been triggered will be rejected until such time that the market maker notifies the Exchange that it is ready to come out of its curtailment. In the interests of maintaining fair and orderly markets, the Exchange believes it is important that market makers communicate their readiness to the Exchange in a non-automated manner, such as by email or telephone. Once notified by the market maker, the Exchange will reactivate the market maker's quotes and the market maker will once again be active in the options classes in which it makes markets.

As an example, suppose market maker ABCD, who makes a market in 50 options classes on the Exchange, sets the proposed market wide parameter so that it is triggered at 25 curtailment events within a 20 second time period. On a given trading day, if market maker ABCD is curtailed, within the prescribed time period, 25 times across all 50 options classes in which it makes a market then all of market maker ABCD's quotes on ISE in all 50 options classes will be removed from the trading system. The 25 curtailment events can occur in just one class or any number of classes in which market maker ABCD makes a market on the Exchange.

While the proposed risk management functionality is a useful feature that serves an important risk management purpose, it operates consistent with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS. Specifically, any marketable orders or quotes that are executable against a market maker's quotes that are received prior to the time this functionality is engaged will be automatically executed at the price up to the market maker's size, regardless of whether such execution results in executions in excess of the market maker's pre-set parameters.

The proposed market wide parameter is meant to provide market makers with protection from the risk of multiple executions across multiple series of an option or across multiple options. The risk to market makers is not limited to a single series in an option or even to all series in an option; market makers that quote in multiple series of multiple options have significant exposure, requiring them to offset or hedge their overall positions. The proposed functionality will be useful for market makers, who are required to continuously quote in assigned options classes. Quoting across many series in an option or multiple options creates the possibility of executions that can create large, unintended principal positions that could expose market makers to unnecessary risk. The proposed functionality is intended to assist Exchange market makers in managing their market risk, and providing deep and liquid markets for the benefit to all investors.

While entering values into the proposed market wide parameter will be mandatory, the Exchange notes that market makers who prefer to use their own risk-management systems can set values that assure the Exchange-provided parameter will not be

[3] *See* Securities Exchange Act Release No. 70132 (August 7, 2013), 78 FR 49311 (August 13, 2013) (SR–ISE–2013–38).

triggered.[4] Accordingly, the proposal does not require members to manage their risk using the Exchange-provided tools. The Exchange expects to implement the proposed functionality in January 2014. The Exchange will provide at least two weeks' notice to members via an Exchange circular prior to implementing the proposed functionality to allow members the opportunity to perform any system changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act'') [5] in general, and furthers the objectives of Section 6(b)(5) of the Act [6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes the proposed rule change enhances its risk management offering to further strengthen risk management for market maker quotes. The proposed market wide parameter is appropriate and reasonable because it offers functionality for market makers to manage their risk. The proposed market wide parameter will protect market makers from inadvertent exposure to excessive risk and thereby allow market makers to quote aggressively which removes impediments to a free and open market and benefits all Exchange members.

The Exchange believes that requiring market makers to set values into the proposed risk parameter provided by the Exchange will not be unreasonably burdensome, as all ISE market makers currently utilize the Exchange's risk management functionality. Moreover, the Exchange is proposing this rule change at the request of its market makers to further reduce their risk in the event the market maker is suffering from a systems issue or due to the occurrence of unusual or unexpected market activity. As discussed above, the proposed market wide parameter will protect market makers from inadvertent exposure to excessive risk. Reducing such risk will enable market makers to enter quotations without any fear of inadvertent exposure to excessive risk, which in turn will benefit investors through increased liquidity for the execution of their orders. Such increased liquidity benefits investors because they receive better prices and because it lowers volatility in the options market. The Exchange notes a similar functionality is offered by the BATS Exchange, Inc. (''BATS'').[7] The Risk Monitor Mechanism provides BATS participants, and particularly market makers, protection from the risk of multiple executions across multiple series of an option or across multiple options. The Risk Monitor Mechanism uses a counting program that users may configure to govern trading. The counting program counts executions, contract volume and notional value, within a specified time period established by a user and on an absolute basis for each trading day. The BATS trading system engages the Risk Monitor Mechanism when the counting program has determined that a user's trading has triggered a setting whereby the Risk Monitor Mechanism then automatically removes the user's orders in all series of a particular option or in all series of all options until the counting program has been reset.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition. The proposed rule change is meant to protect ISE market makers from inadvertent exposure to excessive risk. Accordingly, the proposed rule change will have no impact on competition. Market makers who prefer to use their own risk-management systems can enter out-of-range values so that the Exchange-provided parameters will not be triggered. Accordingly, the proposal does not require members to manage their risk using an Exchange-provided tool.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) [9] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml);* or
- Send an Email to *rule-comments@sec.gov*. Please include File No. SR–ISE–2014–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2014–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

[4] For example, a market maker could set the value for the total number of curtailment events across the market at a high number so as not to trigger the Exchange-provided parameter.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *See* BATS Rules, Chapter XXI, Rule 21.16, Risk Monitor Mechanism.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2014–04 and should be submitted by February 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–02380 Filed 2–4–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71445; File No. SR–EDGX–2014–01]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter IX of Its Rulebook

January 30, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 16, 2014, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter IX of its rulebook to incorporate certain rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'') and the NASDAQ Stock Market LLC (''NASDAQ'') relating to arbitration and mediation, in addition to making certain non-substantive changes. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com*, at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background and General Description of Proposed Rule Change

On July 30, 2007, the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange LLC, and NYSE Regulation, Inc. (''NYSER'') consolidated their member firm regulation operations into a combined organization, FINRA, and entered into a plan to allocate to FINRA regulatory responsibility for common rules and common members (''17d–2 Agreement'').[3] The 17d–2 Agreement was entered into in accordance with the requirements of Rule 17d–2 of the Commission,[4] which permits self-regulatory organizations (''SROs'') to allocate regulatory responsibilities with respect to common members and common rules. On January 5, 2010, the Exchange and FINRA entered into a Regulatory Services Agreement (''RSA''), whereby FINRA was retained to perform certain regulatory services on behalf of the Exchange for non-common rules. On May 13, 2013, the Exchange and FINRA amended the RSA and retained FINRA to perform market surveillance functions as of July 2013. Accordingly, since Exchange launch in July 2010, FINRA has been performing all arbitration, mediation, and other dispute resolution services, as may be needed from time to time, on behalf of EDGX.

To facilitate FINRA's performance of these functions under the RSA and to further harmonize the rules of FINRA and the Exchange generally, the Exchange is proposing to conform the text of its rules governing arbitration and mediation (Chapter IX) to the FINRA Code of Arbitration Procedure for Customer Disputes (12000 Series), FINRA Code of Arbitration Procedure for Industry Disputes (13000 Series) and the FINRA Code of Mediation (14000 Series).

The Exchange proposes to make the following changes to its current rules in Chapter IX of its rulebook.

Proposed Amendments to Current Rules

The Exchange proposes to amend current Rule 9.1 (Code of Arbitration) to make the rule substantially similar to NASDAQ Rule 10100.[5] The Exchange proposes to replace the reference to NASD Code of Arbitration with FINRA Code of Arbitration,[6] clarify the meaning of ''Exchange arbitrations,''[7] and add a sentence stating that Members must comply with FINRA arbitration rules as if they were rules of the Exchange.

The Exchange proposes to replace current Rule 9.2 (Jurisdiction) with amended Rule 9.2 (Matters Eligible for Submission), which is substantially similar to FINRA Rule 10101 and NASDAQ Rule 10101.[8] Amended Rule 9.2 will state that the Exchange adopts the FINRA Code of Arbitration for any dispute, claim or controversy arising out of or in connection with the business of any Member, or arising out of the employment or termination of employment of associated person(s) with any Member: Between or among Members; between or among Members and associated persons; and between or among Members or associated persons and public customers, or others, except for any type of dispute, claim, or controversy that is not permitted to be arbitrated under the FINRA Code of Procedure.

The Exchange proposes to amend current Rule 9.3 (Predispute Arbitration

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56148 (July 26, 2007), 72 FR 42146 (Aug. 1, 2007).

[4] 17 CFR 240.17d–2.

[5] *See* NASDAQ Rule 10100.

[6] *See* FINRA Rule 12000 Series (Code of Arbitration Procedure for Customer Disputes); FINRA Rule 13000 (Code of Arbitration Procedure for Industry Disputes.

[7] They would be defined as ''every claim, dispute or controversy arising out of or in connection with matters eligible for submission under Rule 9.2.''

[8] *See* FINRA Rules 10101 and NASDAQ Rule 10101.

Agreements) to incorporate FINRA Rule 2268 [9] by reference, instead of restating the predispute arbitration agreement rules in full.

The Exchange proposes to amend current Rule 9.5 (Payment of Awards), to re-name its title as ''Failure to Act under Provisions of FINRA Code of Arbitration,'' to expand the rule to include additional conduct deemed inconsistent with just and equitable principles of trade and a violation of Rule 3.1 (Business Conduct of Members), using the language of FINRA/NASDAQ IM–10100, and FINRA IM–12000 and IM–13000.[10] These prohibited acts include: Failure to submit a dispute for arbitration under the FINRA Code of Arbitration as required by the FINRA Code of Arbitration; failure to comply with any injunctive order issued pursuant to the FINRA Code of Arbitration; failure to appear or to produce any document in his or her or its possession or control as directed pursuant to provisions of the FINRA Code of Arbitration; failure to honor an award, or comply with a written and executed settlement agreement, obtained in connection with an arbitration submitted for disposition under the FINRA Code of Arbitration where timely motion has not been made to vacate or modify such award pursuant to applicable law; or, failure to comply with a written and executed agreement obtained in connection with a mediation submitted for disposition pursuant to the FINRA Code of Mediation.[11] Rule 9.5(b) is proposed to be amended to provide that action by Members requiring associated persons to waive the arbitration of disputes contrary to the provisions of the FINRA Code of Arbitration is a violation of Exchange Rule 3.1.

The Exchange proposes to amend current Rule 9.6 to extend the application of the rule (currently applicable to arbitration) to mediation.

The Exchange proposes to add proposed Rule 9.7 (Mediation) to state that FINRA's mediation services, as governed by the 14000 Series of FINRA's Rules (the Code of Mediation Procedure), are also available to Members who voluntarily agree to submit matters for mediation. The Exchange also proposes to incorporate by reference the FINRA Code of Mediation into its rules so that Members have the same obligations to comply as if such rules and interpretations were part of the Exchange's rules.

The Exchange proposes to add Rule 9.8 (Regulatory Services Agreement) to state that FINRA staff will perform arbitrations and mediations on behalf of the Exchange pursuant to a regulatory services agreement (''RSA'') with FINRA in accordance with the FINRA Codes of Arbitration and Mediation.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed changes will provide greater harmonization between Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for dual members. As previously noted, the proposed rule text is substantially similar to FINRA's/NASDAQ's current rule text, which has already been approved by the Commission. As such, the proposed rule change will foster cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to provide greater harmonization between Exchange and FINRA rules of similar purpose for arbitration and mediation matters, resulting in less burdensome and more efficient regulatory compliance for dual members and facilitating FINRA's performance of its regulatory functions under the RSA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [14] of the Act and Rule 19b–4(f)(6) [15] thereunder. The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for thirty (30) days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five (5) business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five (5) business days prior to the date of filing.[16] The proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b–4 [17] because the proposed rule change would not significantly affect investors or the public interest; rather, the proposed rule change will promote greater harmonization between the Exchange and FINRA rules of similar purpose, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. Additionally, the proposed rule change does not raise any new policy issues not previously considered by the Commission nor impose any significant burden on competition because it would result in

[9] *See* FINRA Rule 2268.

[10] *See* FINRA Rules IM–10100, IM–12000, and IM–13000. *See also* NASDAQ Rule IM–10100.

[11] *See* FINRA Rule 14000 Series (Code of Mediation Procedure).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] 17 CFR 240.19b–4(f)(6).

less burdensome and more efficient regulatory compliance for common members and facilitating FINRA's performance of its regulatory functions under the 17d–2 Agreement. Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act[18] and paragraph (f)(6) of Rule 19b-4 thereunder.[19] In addition, in its guidance on the proposed rules of SROs,[20] the Commission concluded that filings based on the rules of another SRO already approved by the Commission are eligible for immediate effectiveness under Rule 19b–4(f)(6). The Commission noted that ''a proposed rule change appropriately may be filed as an immediately effective rule so long as it is based on and similar to another SRO's rule and each policy issue raised by the proposed rule (i) has been considered previously by the Commission when the Commission approved another exchange's rule (that was subject to notice and comment), and (ii) the rule change resolved such policy issue in a manner consistent with such prior approval.'' [21] As discussed herein, the rule changes proposed herein are based on parallel NASDAQ and FINRA rules on arbitration and mediation. The proposed rule change would allow greater consistency between EDGX and FINRA rules, which should benefit EDGX and FINRA members, regulators, and the investing public. In addition, the Exchange requests the Commission waive the 30-day operative delay to provide greater harmonization between Exchange and FINRA rules, resulting in less burdensome and more efficient regulatory compliance for common members and facilitating FINRA's performance of its regulatory functions.

Based on the foregoing, the Commission believes that the proposed rule change should become immediately effective and waives the 30-day pre-operative waiting period contained in Rule 19b–4(f)(6)(iii) under the Act so that the Exchange may immediately implement this rule change.[22]

At any time within sixty (60) days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–EDGX–2014–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2014–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2014–01 and should be submitted on or before February 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–02379 Filed 2–4–14; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6).

[20] *See* Securities and Exchange Act Release No. 58092 (July 3, 2008), 73 FR 40144 (July 11, 2008).

[21] *Id.* at 40149.

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71447; File No. SR–Topaz–2014–04]

Self-Regulatory Organizations; Topaz Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Market Maker Risk Parameters

January 30, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 17, 2014, the Topaz Exchange, LLC (d/b/a ISE Gemini) (the ''Exchange'' or ''Topaz'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to mitigate market maker risk by adopting an Exchange-provided risk management functionality.

The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to Topaz Rule 804, the Exchange automatically removes a market maker's quotes in all series of an options class when certain parameter settings are triggered. Specifically, there are currently four parameters that can be set by market makers on a class-by-class basis. These parameters are available for market maker quotes in single options series. Market makers establish a time frame during which the system calculates: (1) The number of contracts executed by the market maker in an options class; (2) the percentage of the total size of the market maker's quotes in the class that has been executed; (3) the absolute value of the net between contracts bought and contracts sold in an options class, and (4) the absolute value of the net between (a) calls purchased plus puts sold, and (b) calls sold plus puts purchased. The market maker establishes limits for each of these four parameters, and when the limits are exceeded within the prescribed time frame, the market maker's quotes in that class are removed or curtailed. It is mandatory for market makers to enter values into all four of the quotation risk management parameters for all options classes in which it enters quotes.[3]

The Exchange now proposes to enhance its risk management offering to further strengthen risk management for market maker quotes. While the parameters described in the preceding paragraph are set on a class-by-class basis, the Exchange now proposes to adopt functionality that will allow market makers to manage their risk across the entire market. Specifically, the Exchange proposes to adopt functionality to allow market maker quotes to be removed from the trading system if a specified number of curtailment events occur across the Topaz market. If the specified number of curtailment events is exceeded within the prescribed time period, the market maker's quotes in all classes in which it quotes will automatically be removed from the trading system.

As proposed, market makers must request the Exchange to set the proposed market wide parameter to govern its trading activity. Once this parameter is set, the trading system will count the number of times a market maker's pre-set curtailment, as specified in Rule 804(g), has been triggered. Once the specified number of curtailment events has been reached, the trading system will remove all of the market maker's quotes in all classes in which it makes a market thereby reducing the risk to the market maker in the event the market maker is suffering from a systems issue or due to the occurrence of unusual or unexpected market activity. Any quotes sent by the market maker after the proposed market wide parameter has been triggered will be rejected until such time that the market maker notifies the Exchange that it is ready to come out of its curtailment. In the interests of maintaining fair and orderly markets, the Exchange believes it is important that market makers communicate their readiness to the Exchange in a non-automated manner, such as by email or telephone. Once notified by the market maker, the Exchange will reactivate the market maker's quotes and the market maker will once again be active in the options classes in which it makes markets.

As an example, suppose market maker ABCD, who makes a market in 50 options classes on the Exchange, sets the proposed market wide parameter so that it is triggered at 25 curtailment events within a 20 second time period. On a given trading day, if market maker ABCD is curtailed, within the prescribed time period, 25 times across all 50 options classes in which it makes a market then all of market maker ABCD's quotes on Topaz in all 50 options classes will be removed from the trading system. The 25 curtailment events can occur in just one class or any number of classes in which market maker ABCD makes a market on the Exchange.

While the proposed risk management functionality is a useful feature that serves an important risk management purpose, it operates consistent with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS. Specifically, any marketable orders or quotes that are executable against a market maker's quotes that are received prior to the time this functionality is engaged will be automatically executed at the price up to the market maker's size, regardless of whether such execution results in executions in excess of the market maker's pre-set parameters.

The proposed market wide parameter is meant to provide market makers with protection from the risk of multiple executions across multiple series of an option or across multiple options. The risk to market makers is not limited to a single series in an option or even to all series in an option; market makers that quote in multiple series of multiple options have significant exposure, requiring them to offset or hedge their overall positions. The proposed functionality will be useful for market makers, who are required to continuously quote in assigned options classes. Quoting across many series in an option or multiple options creates the possibility of executions that can create large, unintended principal positions that could expose market makers to unnecessary risk. The proposed functionality is intended to assist Exchange market makers in managing their market risk, and providing deep and liquid markets for the benefit to all investors.

While entering values into the proposed market wide parameter will be mandatory, the Exchange notes that market makers who prefer to use their own risk-management systems can set values that assure the Exchange-provided parameter will not be triggered.[4] Accordingly, the proposal does not require members to manage their risk using the Exchange-provided tools. The Exchange expects to implement the proposed functionality in January 2014. The Exchange will provide at least two weeks' notice to members via an Exchange circular prior to implementing the proposed functionality to allow members the opportunity to perform any system changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act'')[5] in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes the proposed rule change enhances its risk management offering to further strengthen risk management for market maker quotes. The proposed market wide parameter is appropriate and reasonable because it offers functionality for market makers to manage their risk. The proposed market

[3] *See* Securities Exchange Act Release No. 70644 (October 9, 2013), 78 FR 62785 (October 22, 2013) (SR–Topaz–2013–06).

[4] For example, a market maker could set the value for the total number of curtailment events across the market at a high number so as not to trigger the Exchange-provided parameter.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

wide parameter will protect market makers from inadvertent exposure to excessive risk and thereby allow market makers to quote aggressively which removes impediments to a free and open market and benefits all Exchange members.

The Exchange believes that requiring market makers to set values into the proposed risk parameter provided by the Exchange will not be unreasonably burdensome, as all Topaz market makers currently utilize the Exchange's risk management functionality. Moreover, the Exchange is proposing this rule change at the request of its market makers to further reduce their risk in the event the market maker is suffering from a systems issue or due to the occurrence of unusual or unexpected market activity. As discussed above, the proposed market wide parameter will protect market makers from inadvertent exposure to excessive risk. Reducing such risk will enable market makers to enter quotations without any fear of inadvertent exposure to excessive risk, which in turn will benefit investors through increased liquidity for the execution of their orders. Such increased liquidity benefits investors because they receive better prices and because it lowers volatility in the options market. The Exchange notes a similar functionality is offered by the BATS Exchange, Inc. (''BATS'').[7] The Risk Monitor Mechanism provides BATS participants, and particularly market makers, protection from the risk of multiple executions across multiple series of an option or across multiple options. The Risk Monitor Mechanism uses a counting program that users may configure to govern trading. The counting program counts executions, contract volume and notional value, within a specified time period established by a user and on an absolute basis for each trading day. The BATS trading system engages the Risk Monitor Mechanism when the counting program has determined that a user's trading has triggered a setting whereby the Risk Monitor Mechanism then automatically removes the user's orders in all series of a particular option or in all series of all options until the counting program has been reset.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition. The proposed rule change is meant to protect Topaz market makers from inadvertent exposure to excessive risk. Accordingly, the proposed rule change will have no impact on competition. Market makers who prefer to use their own risk-management systems can enter out-of-range values so that the Exchange-provided parameters will not be triggered. Accordingly, the proposal does not require members to manage their risk using an Exchange-provided tool.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)[9] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml);* or
- Send an Email to *rule-comments@sec.gov.* Please include File No. SR–Topaz–2014–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Topaz–2014–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Topaz–2014–04 and should be submitted by February 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–02381 Filed 2–4–14; 8:45 am]

BILLING CODE 8011–01–P

[7] *See* BATS Rules, Chapter XXI, Rule 21.16, Risk Monitor Mechanism.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71444; File No. SR–EDGA–2014–01]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter IX of Its Rulebook

January 30, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 16, 2014, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter IX of its rulebook to incorporate certain rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'') and the NASDAQ Stock Market LLC (''NASDAQ'') relating to arbitration and mediation, in addition to making certain non-substantive changes. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background and General Description of Proposed Rule Change

On July 30, 2007, the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange LLC, and NYSE Regulation, Inc. (''NYSER'') consolidated their member firm regulation operations into a combined organization, FINRA, and entered into a plan to allocate to FINRA regulatory responsibility for common rules and common members (''17d–2 Agreement'').[3] The 17d–2 Agreement was entered into in accordance with the requirements of Rule 17d–2 of the Commission,[4] which permits self-regulatory organizations (''SROs'') to allocate regulatory responsibilities with respect to common members and common rules. On January 5, 2010, the Exchange and FINRA entered into a Regulatory Services Agreement (''RSA''), whereby FINRA was retained to perform certain regulatory services on behalf of the Exchange for non-common rules. On May 13, 2013, the Exchange and FINRA amended the RSA and retained FINRA to perform market surveillance functions as of July 2013. Accordingly, since Exchange launch in July 2010, FINRA has been performing all arbitration, mediation, and other dispute resolution services, as may be needed from time to time, on behalf of EDGA.

To facilitate FINRA's performance of these functions under the RSA and to further harmonize the rules of FINRA and the Exchange generally, the Exchange is proposing to conform the text of its rules governing arbitration and mediation (Chapter IX) to the FINRA Code of Arbitration Procedure for Customer Disputes (12000 Series), FINRA Code of Arbitration Procedure for Industry Disputes (13000 Series) and the FINRA Code of Mediation (14000 Series).

The Exchange proposes to make the following changes to its current rules in Chapter IX of its rulebook.

Proposed Amendments to Current Rules

The Exchange proposes to amend current Rule 9.1 (Code of Arbitration) to make the rule substantially similar to NASDAQ Rule 10100.[5] The Exchange proposes to replace the reference to NASD Code of Arbitration with FINRA Code of Arbitration,[6] clarify the meaning of ''Exchange arbitrations,'' [7] and add a sentence stating that Members must comply with FINRA arbitration rules as if they were rules of the Exchange.

The Exchange proposes to replace current Rule 9.2 (Jurisdiction) with amended Rule 9.2 (Matters Eligible for Submission), which is substantially similar to FINRA Rule 10101 and NASDAQ Rule 10101.[8] Amended Rule 9.2 will state that the Exchange adopts the FINRA Code of Arbitration for any dispute, claim or controversy arising out of or in connection with the business of any Member, or arising out of the employment or termination of employment of associated person(s) with any Member: between or among Members; between or among Members and associated persons; and between or among Members or associated persons and public customers, or others, except for any type of dispute, claim, or controversy that is not permitted to be arbitrated under the FINRA Code of Procedure.

The Exchange proposes to amend current Rule 9.3 (Predispute Arbitration Agreements) to incorporate FINRA Rule 2268 [9] by reference, instead of restating the predispute arbitration agreement rules in full.

The Exchange proposes to amend current Rule 9.5 (Payment of Awards), to re-name its title as ''Failure to Act under Provisions of FINRA Code of Arbitration,'' to expand the rule to include additional conduct deemed inconsistent with just and equitable principles of trade and a violation of Rule 3.1 (Business Conduct of Members), using the language of FINRA/NASDAQ IM–10100, and FINRA IM–12000 and IM–13000.[10] These prohibited acts include: failure to submit a dispute for arbitration under the FINRA Code of Arbitration as required by the FINRA Code of Arbitration; failure to comply with any injunctive order issued pursuant to the FINRA Code of Arbitration; failure to appear or to produce any document in his or her or its possession or control as directed pursuant to provisions of the FINRA Code of Arbitration; failure to

[3] *See* Securities Exchange Act Release No. 56148 (July 26, 2007), 72 FR 42146 (Aug. 1, 2007).

[4] 17 CFR 240.17d–2.

[5] *See* NASDAQ Rule 10100.

[6] *See* FINRA Rule 12000 Series (Code of Arbitration Procedure for Customer Disputes); FINRA Rule 13000 (Code of Arbitration Procedure for Industry Disputes.

[7] They would be defined as ''every claim, dispute or controversy arising out of or in connection with matters eligible for submission under Rule 9.2.''

[8] *See* FINRA Rules 10101 and NASDAQ Rule 10101.

[9] *See* FINRA Rule 2268.

[10] *See* FINRA Rules IM–10100, IM–12000, and IM–13000. *See also* NASDAQ Rule IM–10100.

honor an award, or comply with a written and executed settlement agreement, obtained in connection with an arbitration submitted for disposition under the FINRA Code of Arbitration where timely motion has not been made to vacate or modify such award pursuant to applicable law; or, failure to comply with a written and executed agreement obtained in connection with a mediation submitted for disposition pursuant to the FINRA Code of Mediation.[11] Rule 9.5(b) is proposed to be amended to provide that action by Members requiring associated persons to waive the arbitration of disputes contrary to the provisions of the FINRA Code of Arbitration is a violation of Exchange Rule 3.1.

The Exchange proposes to amend current Rule 9.6 to extend the application of the rule (currently applicable to arbitration) to mediation.

The Exchange proposes to add proposed Rule 9.7 (Mediation) to state that FINRA's mediation services, as governed by the 14000 Series of FINRA's Rules (the Code of Mediation Procedure), are also available to Members who voluntarily agree to submit matters for mediation. The Exchange also proposes to incorporate by reference the FINRA Code of Mediation into its rules so that Members have the same obligations to comply as if such rules and interpretations were part of the Exchange's rules.

The Exchange proposes to add Rule 9.8 (Regulatory Services Agreement) to state that FINRA staff will perform arbitrations and mediations on behalf of the Exchange pursuant to a regulatory services agreement (''RSA'') with FINRA in accordance with the FINRA Codes of Arbitration and Mediation.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed changes will provide greater harmonization between Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for dual members. As previously noted, the proposed rule text is substantially similar to FINRA's/NASDAQ's current rule text, which has already been approved by the Commission. As such, the proposed rule change will foster cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to provide greater harmonization between Exchange and FINRA rules of similar purpose for arbitration and mediation matters, resulting in less burdensome and more efficient regulatory compliance for dual members and facilitating FINRA's performance of its regulatory functions under the RSA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[14] of the Act and Rule 19b–4(f)(6)[15] thereunder. The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for thirty (30) days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five (5) business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five (5) business days prior to the date of filing.[16] The proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b–4[17] because the proposed rule change would not significantly affect investors or the public interest; rather, the proposed rule change will promote greater harmonization between the Exchange and FINRA rules of similar purpose, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. Additionally, the proposed rule change does not raise any new policy issues not previously considered by the Commission nor impose any significant burden on competition because it would result in less burdensome and more efficient regulatory compliance for common members and facilitating FINRA's performance of its regulatory functions under the 17d–2 Agreement. Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act[18] and paragraph (f)(6) of Rule 19b–4 thereunder.[19] In addition, in its guidance on the proposed rules of SROs,[20] the Commission concluded that filings based on the rules of another SRO already approved by the Commission are eligible for immediate effectiveness under Rule 19b–4(f)(6). The Commission noted that ''a proposed rule change appropriately may be filed as an immediately effective rule so long as it is based on and similar to another SRO's rule and each policy issue raised by the proposed rule (i) has been considered previously by the Commission when the Commission approved another exchange's rule (that was subject to notice and comment), and (ii) the rule change resolved such

[11] *See* FINRA Rule 14000 Series (Code of Mediation Procedure).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6).

[20] *See* Securities and Exchange Act Release No. 58092 (July 3, 2008), 73 FR 40144 (July 11, 2008).

policy issue in a manner consistent with such prior approval.'' [21] As discussed herein, the rule changes proposed herein are based on parallel NASDAQ and FINRA rules on arbitration and mediation. The proposed rule change would allow greater consistency between EDGA and FINRA rules, which should benefit EDGA and FINRA members, regulators, and the investing public. In addition, the Exchange requests the Commission waive the 30-day operative delay to provide greater harmonization between Exchange and FINRA rules, resulting in less burdensome and more efficient regulatory compliance for common members and facilitating FINRA's performance of its regulatory functions.

Based on the foregoing, the Commission believes that the proposed rule change should become immediately effective and waives the 30-day pre-operative waiting period contained in Rule 19b–4(f)(6)(iii) under the Act so that the Exchange may immediately implement this rule change.[22]

At any time within sixty (60) days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov. Please include File Number* SR–EDGA–2014–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2014–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2014–01 and should be submitted on or before February 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–02378 Filed 2–4–14; 8:45 am]

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[21] *Id.* at 40149.

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71449; File Nos. SR–EDGA–2013–34; SR–EDGX–2013–43]

Self-Regulatory Organizations; EDGA Exchange, Inc.; EDGX Exchange, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, in Connection With the Proposed Business Combination Involving BATS Global Markets, Inc. and Direct Edge Holdings LLC

January 30, 2014.

I. Introduction

On November 29, 2013, EDGA Exchange, Inc. (''EDGA'') and EDGX Exchange, Inc. (''EDGX'' and, together with EDGA, the ''DE Exchanges'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] proposed rule changes in connection with the proposed business combination (''Combination'') of their indirect parent company, Direct Edge Holdings LLC (''DE Holdings''), and BATS Global Markets, Inc., the parent company of BATS Exchange, Inc. (''BATS'') and BATS–Y Exchange, Inc. (''BYX'' and, together with BATS, the ''BATS Exchanges'') (the DE Exchanges and the BATS Exchanges are the ''Exchanges'').[4] On December 9, 2013, EDGA and EDGX each filed an Amendment No. 1 to their respective proposed rule changes. The proposed rule changes, as modified by Amendment No. 1, were published for comment in the **Federal Register** on December 17, 2013.[5] The Commission received no comments on the proposal. On January 29, 2014, EDGA and EDGX each filed an Amendment No. 2 to their respective proposed rule changes.[6] This Order approves the proposed rule changes, as modified by Amendment Nos. 1 and 2.

The Commission has reviewed carefully the proposed rule changes and finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule changes are consistent with

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Commission approved corresponding proposed rule changes submitted by the BATS Exchanges relating to the Combination. *See* Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (approving SR–BATS–2013–059 and SR–BYX–2013–039) (''BATS Exchanges Approval Order'').

[5] *See* Securities Exchange Act Release Nos. 71046 (December 11, 2013), 78 FR 76416 (SR–EDGA–2013–34) and 71045 (December 11, 2013) 78 FR 76480 (SR–EDGX–2013–43) (''Notices'').

[6] Amendment No. 2 makes technical amendments to language in the DEI Certificate of Incorporation (as defined below) and the DE Exchange Certificate of Incorporation (as defined below) based on comments from the State of Delaware, Department of State, Division of Corporations. Specifically, these comments are to: (1) Add references to certain applicable Delaware General Corporations Law sections in the DEI Certificate of Incorporation, (2) add the state and zip code for DEI's registered office, and (3) add several introductory paragraphs describing the Delaware filing history of the DE Exchanges Certificate of Incorporation. Amendment No. 2 is not subject to notice and comment because it is a technical amendment that does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

[7] In approving the proposed rule changes, the Commission has considered their impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

Sections 6(b)(1) and (3) of the Act,[8] which, among other things, requires a national securities exchange to be so organized and have the capacity to be able to carry out the purposes of the Act, and to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange, and assure the fair representation of its members in the selection of its directors and administration of its affairs, and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The Commission also finds that the proposal is consistent with Section 6(b)(5) of the Act,[9] which requires that the rules of the exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

II. Discussion

A. Corporate Structure

1. Current Structure

DE Holdings, a Delaware limited liability company, owns 100 percent of the equity interest in Direct Edge, Inc., a Delaware corporation (''DEI''). DEI, in turn, owns 100 percent of the equity interest of each DE Exchange. In addition, DE Holdings owns 100 percent of the equity interest in Direct Edge ECN LLC d/b/a DE Route, a Delaware limited liability company and the routing broker-dealer for the DE Exchanges (''DE Route'').

As a limited liability company, ownership in DE Holdings is represented by units held by ''LLC Members.'' Certain of the DE Holdings LLC Members are Members [10] or affiliates of Members of the Exchange. International Securities Exchange Holdings, Inc. (''ISE Holdings'') is the only LLC Member of DE Holdings to beneficially own greater than 20 percent of the equity interest in DE Holdings.[11] Other than ISE Holdings, the only firms beneficially owning ten percent or greater of DE Holdings (but in each case less than 20 percent) are Citadel Securities LLC, The Goldman Sachs Group, Inc., and an affiliate of KCG Holdings, Inc. No LLC Member beneficially owns five percent or greater, but less than ten percent of DE Holdings. Five other firms as well as various individuals each beneficially own less than five percent of DE Holdings.

BATS Global Markets, Inc., a Delaware corporation, owns 100 percent of the equity interests in two registered national securities exchanges, BATS and BYX, each a Delaware corporation. BATS Global Markets, Inc. also owns 100 percent of the equity interest in BATS Trading, Inc., a Delaware corporation (''BATS Trading''), that is a broker-dealer registered with the Commission that provides routing services outbound from and, in certain instances inbound to, each of the BATS Exchanges. Currently, BATS Global Markets, Inc. is beneficially owned primarily by a consortium of several unaffiliated firms, including Members [12] or affiliates of Members of the BATS Exchanges. No firm beneficially owns 20 percent or greater of BATS Global Markets, Inc., and the only firms beneficially owning ten percent or greater of BATS Global Markets, Inc. are: (1) GETCO Investments, LLC, an affiliate of KCG Holdings, Inc., (2) BGM Holding, L.P., a holding company itself owned by entities affiliated with the Spectrum Equity Investors and TA Associates Management private investment funds, and (3) Strategic Investments I, Inc., an affiliate of Morgan Stanley. Seven other firms each beneficially own five percent or greater, but less than ten percent of BATS Global Markets, Inc., while seven other firms as well as various individuals each beneficially own less than five percent of BATS Global Markets, Inc.

2. The Combination

In connection with the Combination, several new entities were formed. BATS Global Markets Holdings, Inc., a Delaware corporation, is currently a wholly owned subsidiary of BATS Global Markets, Inc., and is currently a shell company with no material assets or operations. BATS Global Markets Holdings, Inc., in turn, owns 100 percent of the equity interest in each of Blue Merger Sub Inc., a Delaware corporation (''Blue Merger Sub''), and Delta Merger Sub LLC, a Delaware limited liability company (''Delta Merger Sub''). Each of Blue Merger Sub and Delta Merger Sub are currently shell companies with no material assets or operations.

As described in more detail below, at the closing of the Combination (''Closing''), BATS Global Markets, Inc. and DE Holdings will each become intermediate holding companies, held under a single new holding company upon the Closing. The new holding company, currently named ''BATS Global Markets Holdings, Inc.,'' will at that time change its name to ''BATS Global Markets, Inc.'' In addition, the current parent company of the BATS Exchanges, BATS Global Markets, Inc., will at that time change its name to ''BATS Global Markets Holdings, Inc.'' For ease of reference, this Order will refer to the current parent company of each BATS Exchange as ''Current BGM'' when referring to the entity prior to the Closing, and as ''BGM Holdings'' when referring to that entity after the Closing. The entity that will become the new top-level holding company that will, after Closing, own BGM Holdings and DE Holdings, will be referred to as ''New BGM.''

At the Closing, among other things, (1) Blue Merger Sub will merge with and into Current BGM, whereupon the separate existence of Blue Merger Sub will cease and Current BGM (to be renamed ''BGM Holdings'') will be the surviving company (the ''BATS Merger''); (2) Delta Merger Sub will merge with and into DE Holdings, whereupon the separate existence of Delta Merger Sub will cease and DE Holdings will be the surviving company (the ''Direct Edge Merger''); (3) by virtue of the BATS Merger and without any action required on the part of Current BGM, New BGM, Blue Merger Sub or any holder of Current BGM stock, each outstanding share of Current BGM stock issued and outstanding will be converted into the right to receive shares of New BGM stock, and each outstanding share of Blue Merger Sub issued and outstanding will be converted into one share of Current BGM, such that Current BGM will become a wholly owned subsidiary of New BGM; and (4) by virtue of the Direct Edge Merger and without any action required on the part of DE Holdings, New BGM, Delta Merger Sub, or any LLC Member, each LLC Member's membership interests in DE Holdings will be converted into the right to receive shares of New BGM stock, and each unit of ownership interest of Delta Merger Sub issued and outstanding will be converted into one

[8] 15 U.S.C. 78f(b)(1) and (b)(3).

[9] 15 U.S.C. 78f(b)(5).

[10] With respect to each of the DE Exchanges, the term ''Member'' is defined in Rule 1.5(n) of the DE Exchanges' Rules as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.''

[11] For purposes of this Order, references to the beneficial ownership of a ''firm'' refers to the aggregate beneficial ownership of the firm and its affiliated entities. *See* Notices, *supra* note 5, at 76417 n.13 and 76481 n.13.

[12] With respect to each of the BATS Exchanges, the term ''Member'' is defined in Rule 1.5(n) of the BATS Exchanges' Rules as ''any registered broker or dealer that has been admitted to membership in the Exchange.''

unit of ownership of DE Holdings, such that DE Holdings will become a wholly owned subsidiary of New BGM.

As a result of the Combination, New BGM will own: (1) 100 percent of the equity interest in BGM Holdings (the entity previously referred to as Current BGM), and (2) 100 percent of the LLC membership interests in DE Holdings. BGM Holdings will continue to own 100 percent of the equity interest in the BATS Exchanges and BATS Trading. DE Holdings will continue to own 100 percent of the equity interest in DE Route and DEI. DEI will, in turn, continue to own 100 percent of the equity interest in the DE Exchanges. Each of the BATS Exchanges and BATS Trading, on the one hand, and the DE Exchanges and DE Route, on the other hand, will continue to operate separately.

The ownership of New BGM, as the new top-level holding company for the combined businesses, will be divided among the several firms and individuals that previously held equity interests in each of Current BGM and DE Holdings. Of the firms and individuals that are expected to hold equity interests in New BGM after the Closing, none will beneficially own 20 percent or greater of New BGM and only an affiliate of KCG Holdings, Inc. will beneficially own ten percent or greater. Seven firms will beneficially own five percent or greater, but less than ten percent, while 12 other firms as well as various individuals will each beneficially own less than five percent of New BGM.[13]

B. Proposed Rule Changes

Section 19(b) of the Act and Rule 19b–4 thereunder require a self-regulatory organization (''SRO'') to file proposed rule changes with the Commission. Although New BGM,[14] DE Holdings, and DEI are not SROs, certain provisions of their proposed certificates of incorporation and bylaws, along with other corporate documents, are rules of the exchange, if they are stated policies, practices, or interpretations, as defined in Rule 19b–4 under the Act, and must be filed with the Commission pursuant to Section 19(b)(4) of the Act and Rule 19b–4 thereunder. Accordingly, each of the DE Exchanges filed with the Commission the following documents, along with other corporate documents, in connection with the Combination: (1) The proposed Resolutions of the DE Holdings board of managers regarding the Combination (the ''Resolutions'') making certain determinations regarding New BGM and the impact of the Combination on the DE Exchanges; (2) the proposed Amended and Restated Certificate of Incorporation of New BGM (the ''New BGM Charter''); [15] (3) the proposed Amended and Restated Bylaws of New BGM (the ''New BGM Bylaws''); [16] (4) the proposed Seventh Amended and Restated Limited Liability Company Operating Agreement of Direct Edge Holdings LLC (the ''New DE Holdings LLC Agreement''); (5) the proposed amendments to the DEI Certificate of Incorporation (the ''DEI Certificate of Incorporation''); (6) the proposed amendments to the Bylaws of DEI (the ''DEI Bylaws''); (7) the proposed amendments to the Certificate of Incorporation of the DE Exchanges (each, and collectively, the ''DE Exchange Certificate of Incorporation''); (8) the proposed amendments to the Bylaws of the DE Exchanges (each, and collectively, the ''DE Exchange Bylaws''); (9) the proposed amendments to Rule 2.3 of each of the DE Exchanges to reflect the affiliation between each DE Exchange and two additional registered national securities exchanges; (10) the proposed amendments to Rule 2.10 of each of the DE Exchanges to reflect the new affiliated entities of each DE Exchange; and (11) the proposed amendments to Rule 2.12 of each of the DE Exchanges to reflect the affiliation between the DE Exchanges and the routing broker for BATS and BYX. Each of the DE Exchanges also requested that the Commission approve the proposed indirect acquisition by an affiliate of the DE Exchanges of a Member of the DE Exchanges and the resulting affiliation between the DE Exchanges and the Member of the DE Exchanges, as required under Exchange Rule 2.10.[17]

1. Voting and Ownership Limitations

The New BGM Charter includes restrictions on the ability to own and vote shares of capital stock of New BGM.[18] These limitations are designed to prevent any stockholder from exercising undue control over the operation of any of the BATS Exchanges or the DE Exchanges and to assure that the BATS Exchanges, the DE Exchanges, and the Commission are able to carry out their regulatory obligations under the Act.

Specifically, the proposed New BGM Charter includes restrictions on the ability to vote and own shares of stock of New BGM. Under the proposed New BGM Charter: (1) No person, either alone or together with its Related

[13] ISE Holdings, which will beneficially own greater than five percent, but less than ten percent of New BGM, will receive common stock of New BGM designated as Class A Non-Voting Common Stock. As set forth in the New BGM Charter (as defined below), shares of Class A Non-Voting Common Stock are generally non-voting, except with respect to certain actions that would adversely affect the preferences, rights or powers of the holders of Class A Non-Voting Common Stock disproportionately relative to Voting Common Stock or the Class B Non-Voting Common Stock. *See* proposed New BGM Charter, Article FOURTH, para. (b)(ii). ISE Holdings' shares of Class A Non-Voting Common Stock may convert to Voting Common Stock: (1) Automatically with respect to any shares transferred to persons other than Related Persons of ISE Holdings; (2) upon the termination of the Investor Rights Agreement; and (3) automatically with respect to any shares of Class A Non-Voting Common Stock sold by ISE Holdings in any public offering of the stock of New BGM. *See* proposed New BGM Charter, Article FOURTH, para. (c); and Investor Rights Agreement, Section 2.2(j).

[14] The DE Exchanges are filing with the Commission the New BGM Charter and New BGM Bylaws because, as noted above, after the Combination, New BGM will be the ultimate parent company of the DE Exchanges, and, as such, the New BGM Charter and New BGM Bylaws will be considered rules of the Exchange under Section 19(b)(1) of the Act.

[15] The DE Exchanges note that the New BGM Charter is substantially similar to the Current BGM Charter. *See* Notices, *supra* note 5, at 76420 and 76484.

[16] The DE Exchanges note that the New BGM Charter is substantially similar to the Current BGM Charter. *See* Notices, *supra* note 5, at 76420 and 76484.

[17] *See* Notices, *supra* note 5, at 76440 and 76504.

[18] These provisions are generally consistent with ownership and voting limits approved by the Commission for other SROs. *See e.g.,* Securities Exchange Act Release Nos. 70210 (August 15, 2013), 78 FR 51758 (August 21, 2013) (SR–NYSE–2013–42, SR–NYSEMKT–2013–50 and SR–NYSEArca–2013–62) (order approving proposed transaction in which NYSE Euronext will become a wholly owned subsidiary of IntercontinentalExchange Group, Inc.) (''IntercontinentalExchange Group, Inc. Combination Order''); 62716 (August 13, 2010), 75 FR 51295 (August 19, 2010) (File No. 10–198) (order approving registration application of BYX as a national securities exchange) (''BYX Approval Order); 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (File Nos. 10–194 and 10–196) (order approving registration application of EDGX Exchange, Inc. and EDGA Exchange, Inc.) (''EDGX and EDGA Approval Order''); 58375 (August 18, 2008), 73 FR 49498 (August 21, 2008) (File No. 10–182) (order approving registration of BATS as a national securities exchange) (''BATS Approval Order''); 55293 (February 14, 2007), 72 FR 8033 (February 22, 2007) (SR–NYSE–2006–120) (order approving proposed combination between NYSE Group, Inc. and Euronext N.V.) (''NYSE-Euronext Merger Order''); 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR–NYSE–2005–77) (order approving merger of New York Stock Exchange, Inc. and Archipelago, and demutualization of New York Stock Exchange, Inc.) (''NYSE Inc.-Archipelago Merger Order''); 53963 (June 8, 2006), 71 FR 34660 (June 15, 2006) (File No. SR–NSX–2006–03) (''NSX Demutualization Order''); 53128 (January 13, 2006), 71 FR 3550 (File No. 10–131) (order approving registration application of NASDAQ as a national securities exchange) (''NASDAQ Approval Order''); 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR–CHX–2004–26) (''CHX Demutualization Order''); and 49098 (January 16, 2004), 69 FR 3974 (January 27, 2004) (SR–Phlx–2003–73) (''Phlx Demutualization Order'').

Persons,[19] at any time may, directly, indirectly or pursuant to any voting trust, agreement, plan or other arrangement (other than the Investor Rights Agreement), vote or cause the voting of shares of the capital stock of New BGM or give any consent or proxy with respect to shares representing more than 20 percent of the voting power of the then issued and outstanding capital stock of New BGM,[20] and (2) no person, either alone or together with its Related Persons, enter into any agreement, plan or other arrangement (other than the Investor Rights Agreement) with any other Person,[21] either alone or together with its Related Persons, under circumstances that would result in the shares of capital stock of New BGM that are subject to such agreement, plan or other arrangement not being voted on any matter or matters or any proxy relating thereto being withheld, where the effect of such agreement, plan or other arrangement would be to enable any Person, either alone or together with its Related Persons, to vote, possess the right to vote or cause the voting of shares of the capital stock of New BGM that would represent more than 20 percent of said voting power (the ''New BGM Voting Restrictions'').[22]

In addition, the New BGM Charter includes ownership restrictions that provide that: (1) No Person, either alone or together with its Related Persons, may own, directly or indirectly, of record or beneficially, shares constituting more than 40 percent of any class of capital stock of New BGM, and (2) no Member of any of the BATS Exchanges or the DE Exchanges, either alone or together with its Related Persons, may own, directly or indirectly, of record or beneficially, shares constituting more than 20 percent of any class of capital stock of New BGM (the ''New BGM Ownership Restrictions'').[23]

If any stockholder purports to transfer to any person any shares that would violate the New BGM Voting Restrictions or New BGM Ownership Restrictions (''New BGM Voting and Ownership Restrictions''), then New BGM shall record on the books only that number of shares that would not violate that restriction and shall treat the remaining shares as owned by the purported transferor for all purposes.[24] If any stockholder of New BGM purports to vote, or grant any proxy or enter into any agreement, plan or other arrangement relating to the voting of shares that would violate the New BGM Voting and Ownership Restrictions, then New BGM shall not honor such vote, proxy, agreement, plan or other arrangement to the extent that such provisions would be violated and any shares subject to that arrangement shall not be entitled to vote to the extent of such violation.[25]

The New BGM Charter would provide that the New BGM Voting and Ownership Restrictions would apply only for so long as New BGM directly or indirectly controls a national securities exchange registered under Section 6 of the Act with the Commission.[26]

The New BGM board of directors may waive the New BGM Ownership Restrictions applicable to non-Member stockholders and the New BGM Voting Restrictions, if, in connection with taking such action, the board of directors adopts a resolution stating that the waiver:

- Will not impair the ability of any exchange subsidiary to carry out its functions and responsibilities as an ''exchange'' under the Act and the rules and regulations promulgated thereunder;
- is otherwise in the best interests of New BGM, its stockholders and its exchange subsidiaries; and
- will not impair the Commission's ability to enforce the Act or the rules and regulations promulgated thereunder.[27]

Any such waiver would not be effective until approved by the Commission pursuant to Section 19 of the Act.[28] However, the New BGM board of directors cannot waive the voting and ownership limits above 20 percent for a Member of any of the BATS Exchanges or any of the DE Exchanges and their Related Persons.[29] Further, the New BGM board of directors also cannot waive the voting and ownership limits above the 20% threshold if such person or its Related Persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Act).[30]

Members that trade on an exchange traditionally have had ownership interests in such exchange. As the Commission has noted in the past, however, a member's interest in an exchange could become so large as to cast doubt on whether the exchange can fairly and objectively exercise its self-regulatory responsibilities with respect to that member.[31] A member that is a controlling shareholder of an exchange might be tempted to exercise that controlling influence by directing the exchange to refrain from, or the exchange may hesitate to, diligently monitor and surveil the member's conduct or diligently enforce its rules and the federal securities laws with respect to conduct by the member that violates such provisions.[32]

In addition, as proposed, DE Holdings will be a wholly-owned subsidiary of New BGM and the New DE Holdings LLC Agreement identifies this ownership structure.[33] Any changes to the New DE Holdings LLC Agreement, including any change in the provision that identifies New BGM as the sole member of DE Holdings, must be filed with and approved by the Commission pursuant to Section 19 of the Act.[34] Similarly, as proposed, DEI will be a wholly owned subsidiary of DE Holdings, and in turn, each of the DE Exchanges will be a wholly-owned subsidiary of DEI. The Certificate of Incorporation of DEI identifies DE Holdings as the sole stockholder of

[19] *See* proposed New BGM Charter, Article FIFTH, para. (a)(ii) (defining ''Related Person''). *See* Notices, *supra* note 5, at 76420–21 and 76484–85.

[20] *See* proposed New BGM Charter, Article FIFTH, para. (b)(i)(C).

[21] *See id.* at Article FIFTH, para. (a)(i) (defining ''Person'').

[22] *See id.* at Article FIFTH, para. (b)(i)(C).

[23] *See id.* at Article FIFTH, paras. (b)(i)(A) and (B). The limitations imposed by the New BGM Ownership Restrictions and New BGM Voting Restrictions shall not apply in the case of any class of stock that does not have the right to vote in the election of members of the board of directors of New BGM or on other matters that may require the approval of the holders of voting shares of New BGM (other than matters affecting the rights, preferences or privileges of said class of stock). *See id.* at Article FIFTH, para. (b)(ii)(A).

[24] *See id.* at Article FIFTH, para. (d).

[25] *Id.* If any stockholder purports to sell, transfer, assign, convert, pledge, or own any shares in violation of the New BGM Voting and Ownership Restrictions, then New BGM shall have the right to, and shall promptly after confirming such violation and to the extent funds are legally available, redeem the shares transferred in violation of the restriction. *See id.* at Article FIFTH, para. (e).

[26] *See id.* at Article FIFTH, para. (b)(i).

[27] *See id.* at Article FIFTH, para. (b)(ii)(B). In making this determination, the BGM board of directors may impose on the Person in question and its Related Persons such conditions and restrictions that it may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Act and the governance of the applicable exchange subsidiary. *Id.*

[28] *See id.* at Article FIFTH, para. (b)(ii)(B).

[29] *See id.* at Article FIFTH, paras. (b)(i)(B) and (b)(ii)(B).

[30] *See id.* at Article FIFTH, para.(b)(iii).

[31] *See, e.g.,* IntercontinentalExchange Group, Inc. Combination Order; BYX Approval Order; EDGX and EDGA Approval Order; BATS Approval Order; NYSE-Euronext Merger Order; NYSE Inc.-Archipelago Merger Order; NSX Demutualization Order; NASDAQ Approval Order; CHX Demutualization Order; and Phlx Demutualization Order, *supra* note 18.

[32] *See, e.g., id.*

[33] *See* proposed New DE Holdings LLC Agreement (identifying New BGM as the sole LLC Member of the company).

[34] *See id.* at Article XII, Section 12.02(b) and 15 U.S.C. 78s(b).

DEI.[35] The Bylaws of the DE Exchanges identify DEI as the sole stockholder of the DE Exchanges.[36] Any changes to the DEI Certificate of Incorporation, including any change in the provision that identifies DE Holdings as the sole stockholder of DEI, must be filed with and approved by the Commission pursuant to Section 19 of the Act.[37] Similarly, any changes to the Bylaws of the DE Exchanges, including any change in the provision that identifies DEI as the sole stockholder of the DE Exchanges, must be filed with and approved by the Commission pursuant to Section 19 of the Act.[38] Further, pursuant to the New DE Holdings LLC Agreement, New BGM may not sell, assign, transfer, convey, gift, exchange or otherwise dispose of any or all of its interest in DE Holdings except pursuant to an amendment to the New DE Holdings LLC Agreement, which would not be effective until filed with and approved by the Commission under Section 19 of the Exchange Act.[39] Similarly, pursuant to the DE Exchange Bylaws, DEI may not transfer or assign, in whole or in part, its ownership interest in each DE Exchange.[40]

The Commission believes that these provisions are consistent with the Act. These requirements should minimize the potential that a person could improperly interfere with or restrict the ability of the Commission or the Exchange to effectively carry out their regulatory oversight responsibilities under the Act.

2. Jurisdiction; Books and Records; Due Regard

As described above, following the Closing, New BGM will be the sole LLC Member of DE Holdings, DE Holdings will be the sole stockholder of DEI, and DEI will be the sole stockholder of the DE Exchanges. Although New BGM, DE Holdings and DEI will not carry out any regulatory functions, their activities with respect to the operation of the DE Exchanges must be consistent with, and must not interfere with, the self-regulatory obligations of each DE Exchange. The New BGM Charter, New BGM Bylaws, New DE Holdings LLC Agreement and DEI Bylaws therefore include certain provisions that are designed to maintain the independence of the DE Exchanges'[41] self-regulatory functions, enable the DE Exchanges to operate in a manner that complies with the federal securities laws, including the objectives of Sections 6(b)[42] and 19(g)[43] of the Act, and facilitate the ability of the DE Exchanges and the Commission to fulfill their regulatory and oversight obligations under the Act.[44]

For example, under the New BGM Bylaws, New DE Holdings LLC Agreement and DEI Bylaws, for so long as New BGM, DE Holdings or DEI, as the case may be, directly or indirectly, controls either or both of the DE Exchanges, the board of directors (or sole LLC Member in the case of DE Holdings), officers, employees and agents of each of New BGM, DE Holdings and DEI, must give due regard to the preservation of independence of the self-regulatory functions of the DE Exchanges, as well as to its obligations to investors and the general public and shall not take any actions that would interfere with the effectuation of any decisions by either of the boards of directors of the DE Exchanges relating to its regulatory functions (including disciplinary matters) or which would interfere with the ability of such exchange to carry out its responsibilities under the Act.[45] The New BGM Bylaws, New DE Holdings LLC Agreement, and DEI Bylaws would further require that New BGM, DE Holdings or DEI, as the case may be, comply with the United States federal securities laws and rules and regulations thereunder and shall cooperate with the Commission and each of the DE Exchanges, pursuant to and to the extent of their respective regulatory authority.[46] In addition, the New BGM Bylaws, New DE Holdings LLC Agreement, and DEI Bylaws provide that the officers, directors,[47] employees and agents of New BGM, DE Holdings and DEI, as the case may be, by virtue of the acceptance of their position, shall be deemed to agree to: (1) Comply with the U.S. federal securities laws and the rules and regulations thereunder; and (2) to cooperate with the Commission and the DE Exchanges in respect of the Commission's oversight responsibilities regarding the DE Exchanges and the self-regulatory functions and responsibilities of the DE Exchanges, and New BGM, DE Holdings and DEI will take reasonable steps to cause its officers, directors, employees and agents to so cooperate.[48] Furthermore, New BGM, DE Holdings and DEI and their respective officers, directors, employees and agents will be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts, the Commission, and each DE Exchange, as applicable, for purposes of any suit, action, or proceeding pursuant to the U.S. federal securities laws or the rules or regulations thereunder arising out of, or relating to, the activities of such exchange.[49]

The New BGM Bylaws, New DE Holdings LLC Agreement, and DEI Bylaws provide that New BGM, DE Holdings, DEI and their respective officers, directors, employees and agents must submit to the Commission's jurisdiction with respect to activities relating to any of the DE Exchanges,[50] and, for so long as New BGM, DE Holdings, and/or DEI control, directly or indirectly, such DE Exchange, New BGM, DE Holdings and DEI, as the case may be, agree to provide the Commission and each DE Exchange with access to its books and records that are related to the operation or administration of each DE Exchange.[51] In addition, to the extent they are related to the operation or administration of the DE Exchanges, the books, records, premises, officers, directors, agents, and employees of New BGM, DE Holdings and DEI shall be deemed to be the books, records, premises, officers, directors, agents, and

[35] *See* proposed DEI Certificate of Incorporation, Article SEVENTH, para. 4.

[36] *See* proposed DE Exchange Bylaws, Article I(cc).

[37] *See* proposed DEI Certificate of Incorporation, Article SEVENTH, para.3.

[38] 15 U.S.C. 78s(b).

[39] *See* proposed New DE Holdings LLC Agreement, Article VII.

[40] *See* proposed DE Exchange Bylaws, Article IV, Section 7.

[41] The provisions in the New BGM Holdings Charter applies to ''Exchange Subsidiaries,'' which is defined as any direct or indirect subsidiary of New BGM that is a registered with the Commission as a national securities exchange as provided in Section 6 of the Act. The DE Exchanges, as well as the BATS Exchanges, will be Exchange Subsidiaries upon the Closing of the Combination.

[42] 15 U.S.C. 78f(b).

[43] 15 U.S.C. 78s(g).

[44] *See e.g.,* proposed New BGM Bylaws, Article XIV; proposed New DE Holdings LLC Agreement, Articles X and XI; and proposed DEI Bylaws, Article VII.

[45] *See* proposed New BGM Bylaws, Article XIV, Section 14.01; proposed New DE Holdings LLC Agreement, Article X, Section 10.01; and proposed DEI Bylaws Article VII, Section 7.1.

[46] *See* proposed New BGM Bylaws, Article XIV, Section 14.01; proposed New DE Holdings LLC Agreement, Article X, Section 10.02(a); and proposed DEI Bylaws, Article VII, Section 7.2.

[47] The Commission notes that DE Holdings does not have a board of directors. Therefore, the proposed New DE Holdings LLC Agreement does not reference directors in the provisions identified in this section. Otherwise, the DE Holdings' provisions identified in this section are substantively the same as those in the proposed New BGM Bylaws and proposed DEI Bylaws.

[48] *See* proposed New BGM Bylaws, Article XIV, Section 14.04; proposed New DE Holdings LLC Agreement, Article X, Section 10.02(a); and proposed DEI Bylaws, Article VII, Section 7.2.

[49] *See* proposed New BGM Bylaws, Article XIV, Section 14.05; proposed New DE Holdings LLC Agreement, Article X, Section 10.03(a); and proposed DEI Bylaws, Article VII, Section 7.3.

[50] *Id.*

[51] *See* proposed New BGM Bylaws, Article XIV, Section 14.03; proposed New DE Holdings LLC Agreement, Article XI, Section 11.02(b); and proposed DEI Bylaws, Article V, Section 5.8(b).

employees of the respective DE Exchange for purposes of, and subject to oversight pursuant to, the Act.[52] The New BGM Bylaws, New DE Holdings LLC Agreement, and DEI Bylaws further provide that all books and records of New BGM, DE Holdings and DEI shall be maintained at a location within the United States.[53]

The New BGM Bylaws, New DE Holdings LLC Agreement, and DEI Bylaws also provide that all books and records of each DE Exchange reflecting confidential information pertaining to the self-regulatory function of the DE Exchanges (including but not limited to disciplinary matters, trading data, trading practices and audit information) that shall come into the possession of New BGM, DE Holdings or DEI, as the case may be, shall not be made available other than to those officers, directors, employees and agents of New BGM, DE Holdings or DEI, as the case may be, that have a reasonable need to know the contents thereof, and shall be retained in confidence by New BGM, DE Holdings, or DEI, the members of their respective board of directors (as applicable), their officers, employees and agents, and not used for any non-regulatory purposes.[54] The New BGM Bylaws, New DE Holdings LLC Agreement, and DEI Bylaws, however, specify that the New BGM Bylaws, New DE Holdings LLC Agreement, and DEI Bylaws (including these confidentiality provisions) shall not be interpreted so as to limit or impede the rights of the Commission or the DE Exchanges to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any officers, directors, employees or agents of New BGM, DE Holdings or DEI, as the case may be, to disclose such confidential information to the Commission or the DE Exchanges.[55]

The New BGM Charter, New DE Holdings LLC Agreement and DEI Bylaws provide that, for so long as New BGM, DE Holdings or DEI, as the case may be, controls, directly or indirectly, a registered national securities exchange, before any amendment to or repeal of any provision of the proposed New BGM Charter, New DE Holdings LLC Agreement or DEI Bylaws, as the case may be, may be effective, those changes must be submitted to the board of directors of each of the DE Exchanges, and if the amendment is required to be filed with, or filed with and approved by the Commission pursuant to Section 19(b) of the Act,[56] such change shall not be effective until filed with, or filed with and approved by, the Commission.[57] Each DE Exchange represents that these provisions will assist the Exchange in fulfilling its self-regulatory obligations and in administering and complying with the requirements of the Act.[58]

The Commission finds that these provisions are consistent with the Act, and that they are intended to assist each DE Exchange in fulfilling its self-regulatory obligations and in administering and complying with the requirements of the Act. The Commission also notes that, even in the absence of these provisions, under Section 20(a) of the Act,[59] any person with a controlling interest in any of the DE Exchanges shall be jointly and severally liable with and to the same extent that each DE Exchange is liable under any provision of the Act, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action. In addition, Section 20(e) of the Act[60] creates aiding and abetting liability for any person who knowingly provides substantial assistance to another person in violation of any provision of the Act or rule thereunder. Further, Section 21C of the Act[61] authorizes the Commission to enter a cease-and-desist order against any person who has been ''a cause of'' a violation of any provision of the Act through an act or omission that the person knew or should have known would contribute to the violation.

3. Change in Control

Upon the Closing of the Combination, New BGM will become the sole owner of DE Holdings. The current Limited Liability Company Operating Agreement of DE Holdings (''Current DE Holdings LLC Agreement'')[62] includes certain restrictions on the ability to vote and own units of DE Holdings. Specifically, the Current DE Holdings LLC Agreement provides that: (1) No Person,[63] either alone or together with its Related Persons,[64] may own, directly or indirectly, of record or beneficially, Units representing in the aggregate a Percentage Interest[65] of more than 40 percent of DE Holdings, and no Member, either alone or together with its Related Persons, may own, directly or indirectly, of record or beneficially, Units representing in the aggregate a Percentage Interest more than 20 percent of DE Holdings (''Current DE Holdings Ownership Limitation''), and (2) subject to an exception for ISE Holdings, no Person, either alone or together with its Related Persons, at any time, may, directly, indirectly or pursuant to any of various arrangements, vote or cause the voting of Units or give any consent or proxy with respect to Units representing a Percentage Interest more than 20 percent of DE Holdings (''Current DE Holdings Voting Limitation'').[66]

The Current DE Holdings Operating Agreement also provides that the Current DE Holdings Ownership Limitation and the Current DE Holdings Voting Limitation may be waived (except with respect to Exchange members and their Related Persons) pursuant to an amendment to the Current DE Holdings LLC Agreement adopted by the board of managers of DE Holdings, if, in connection with the adoption of such amendment, the board of managers adopts a resolution stating that it is the determination of such board that such amendment: (1) Will not impair the ability of each DE Exchange to carry out its functions and responsibilities under the Act and the rules and regulations promulgated thereunder; (2) is otherwise in the best interests of DE Holdings, its LLC Members, and the DE Exchanges; (3)

[52] *Id.*

[53] *See* proposed New BGM Bylaws, Article XIV, Section 14.03; and proposed New DE Holdings LLC Agreement, Article XI, Section 11.01(b); and proposed DEI Bylaws, Article VII, Section 7.5. *See also* proposed DE Exchange Bylaws, Article XI, Section 3.

[54] *See* proposed New BGM Bylaws, Article XIV, Section 14.02; proposed New DE Holdings LLC Agreement, Article XI, Section 11.02(a); and DEI Bylaws, Article V, Section 5.8(a).

[55] *See id.*

[56] 15 U.S.C. 78s(b).

[57] *See* proposed New BGM Charter, Article TWELFTH; proposed New DE Holdings LLC Agreement, Article XII, Section 12.02(b); and proposed DEI Bylaws, Article VI, Section 6.4.

[58] *See* Notices, *supra* note 5, at 76421 and 76486.

[59] 15 U.S.C. 78t(a).

[60] 15 U.S.C. 78t(e).

[61] 15 U.S.C. 78u-3.

[62] DE Holdings currently operates pursuant to the Sixth DE Holdings LLC Agreement. However, the Fourth DE Holdings LLC Agreement was the last version filed with and approved by the Commission. *See* Notices, *supra* note 5, at 76424 n.71 and 76488 n.71.

[63] *See* Current DE Holdings LLC Agreement, Article I, Section 1.1 (defining ''Person'').

[64] *See id.* at Article I, Section 1.1 (defining ''Related Persons''). *See* Notices, *supra* note 5, at 76416 n.17 and 76480 n.17.

[65] Percentage Interest means, with respect to a LLC Member, the ratio of the number of Units held by the LLC Member to the total of all of the issued and outstanding Units, expressed as a percentage. For purposes of the Current DE Holdings Voting Limitation and the Current DE Holdings Ownership Limitation, Percentage Interest also includes Units owned, directly or directly, of record or beneficially, by a Person, either alone or together with its Related Persons. *See* Current DE Holdings LLC Agreement, Article I, Section I, Section 1.1 (also defining ''Units'' and ''Person'').

[66] *See* Current DE Holdings LLC Agreement, Article XII, Section 12.1(a).

will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder; and (4) shall not be effective until it is filed with and approved by the Commission.[67]

In connection with the Combination, the Current DE Holdings Operating Agreement will be amended and restated to (among other changes): (1) remove the Current DE Holdings Ownership Limitation and the Current DE Holdings Voting Limitation and (2) specify that the sole stockholder of DE Holdings will be New BGM. In addition, as noted below, the New BGM Charter, which will become effective contemporaneously with the Closing, will contain ownership and voting limitation provisions that are substantively the same as the Current DE Holdings Ownership Limitation and the Current DE Holdings Voting Limitation.

Because the Current DE Holdings LLC Agreement will be amended to eliminate the Current DE Holdings Ownership Limitation and the Current DE Holdings Voting Limitation contemporaneously with the Combination, New BGM's acquisition of ownership and voting rights in DE Holdings upon Closing would not cause New BGM to contravene the Current DE Holdings Ownership Limitation or the Current DE Holdings Voting Limitation. Therefore, in this instance, although New BGM will possess ownership and voting rights in excess of the Current DE Holdings Ownership Limitation and the Current DE Holdings Voting Limitation, no waiver of these provisions is necessary.

Nevertheless, because the Combination will result in a change of ownership of DE Holdings (in that New BGM will become the sole stockholder of DE Holdings), the DE Exchanges and the board of managers of DE Holdings represented that it was appropriate for the board of managers of DE Holdings to adopt the Resolutions, which set forth certain determinations with respect to New BGM and the Combination similar to those that would have been necessary to waive the Current DE Holdings Ownership Limitation and Current DE Holdings Voting Limitation.

Specifically, the board of managers of DE Holdings made the determination that the consummation of the Combination: (1) Will not impair the ability of each DE Exchange to carry out its functions and responsibilities under the Act and the rules and regulations promulgated thereunder, is in the best interests of DE Holdings, its LLC Members and the DE Exchanges, and will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder; (2) the acquisition of the proposed share ownership and the acquisition or exercise of the proposed voting rights by New BGM in DE Holdings will not impair the ability of each DE Exchange to carry out its functions and responsibilities as an ''exchange'' under the Act and the rules and regulations promulgated thereunder, that it is otherwise in the best interests of the DE Holdings, its LLC Members and the DE Exchanges, and that it will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder; (3) no party to the Combination, including New BGM, nor any of its Related Persons, is subject to ''statutory disqualification'' within the meaning of Section 3(a)(39) of the Act; [68] and (4) neither New BGM, nor any of its Related Persons (excluding BATS Trading, which is a Member of the DE Exchanges),[69] is a Member.[70]

The Commission believes that it is consistent with the Act to allow New BGM to wholly-own and vote all of the outstanding units of DE Holdings. The Commission notes that, as the new top-level holding company for the combined businesses, New BGM will have ownership divided among the several firms and individuals that previously held equity interests in each of Current BGM and DE Holdings.[71] According to the DE Exchanges, of the firms and individuals that are expected to hold equity interests in New BGM after the Closing, none will beneficially own 20 percent or greater of New BGM and only an affiliate of KCG Holdings, Inc. will beneficially own 10 percent or greater.[72] The Commission also notes that, while the Current DE Holdings Ownership Limitation and Current DE Holdings Voting Limitation will no longer be in the New DE Holdings LLC Agreement, the New DE Holdings LLC Agreement will specify that DE Holdings' sole stockholder will be New BGM, and the New BGM Charter will contain substantively identical ownership and voting limitation provisions.[73] Further, as discussed above, New BGM has included in its corporate documents certain provisions designed to maintain the independence of each DE Exchange's regulatory functions from New BGM, DE Holdings and DEI.[74] Accordingly, the Commission does not believe that the Combination will impair the ability of either DE Exchange to carry out its functions and responsibilities as an ''exchange'' under the Act and the rules and regulations promulgated thereunder, or the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder.

4. Miscellaneous Changes to the Corporate Governance Documents of DE Holdings, DEI and the DE Exchanges

As noted above the Current DE Holdings Operating Agreement will be amended and restated to (among other changes): (1) Remove the Current DE Holdings Ownership Limitation and the Current DE Holdings Voting Limitation and (2) specify that the sole stockholder of DE Holdings will be New BGM.[75] As described in more detail in the Notices, the other proposed changes to the Current DE Holdings Operating Agreement are to reflect DE Holdings' proposed new status as an intermediate holding company and to delete, or replace as appropriate, various other provisions that are applicable to a limited liability company with multiple LLC Members, but not to one with a sole LLC Member.[76]

[67] *See* Current DE Holdings LLC Agreement, Article XII, Section 12.1(b). In granting such a waiver, the DE Holdings board of directors has the discretion to impose on the person and its Related Persons, such conditions and restrictions that it deems necessary, appropriate or desirable in furtherance of the objectives of the Act and the rules and regulations promulgated thereunder, and the governance of each DE Exchange. *Id.*

[68] 15 U.S.C. 78c(a)(39).

[69] As noted below, BATS Trading is a routing broker-dealer and a Member that is affiliated with the DE Exchanges. As part of the proposed rule changes, the DE Exchanges seek for the Commission to approve BATS Trading's affiliation with the DE Exchanges pursuant to Rules 2.10 and 2.12 of each DE Exchange.

[70] The Resolutions also contain a determination that the execution and delivery of the merger agreement by New BGM constituted notice of New BGM's intention to acquire ownership and voting rights in excess of the Current DE Holdings Ownership Limitation and Current DE Holdings Voting Limitation, respectively, in writing and not less than 45 days before the Closing. *See* Current DE Holdings Operating Agreement, Article XII, Section 12.1(d).

[71] *See* Notices, *supra* note 5, at 76418 and 76482.

[72] *See id.*

[73] *See* proposed New DE Holdings LLC Agreement and proposed New BGM Charter, Article FIFTH.

[74] *See* proposed New BGM Bylaws, Article XIV, proposed New DE Holdings LLC Agreement Articles X and XI; and proposed DEI Bylaws Articles V and VII.

[75] *See supra* Section II.B.3.

[76] *See* Notices, *supra* note 5, at 76425–26 and 76489–90 (discussing changes to provisions that were adopted in light of DE Holdings being owned by multiple LLC Members; replacing provisions containing procedures for transfer of units with a provision prohibiting any transfers; replacing various board of managers governance provisions with provisions that provide that DE Holdings will be managed by its sole LLC Member; and replacing provisions governing distributions and calculations of profit and loss with more simplified provisions).

The DE Exchanges also propose various changes to the DEI Certificate of Incorporation and the DEI Bylaws, as described in more detail in the Notices.[77] For example, the DE Exchanges propose to amend the DEI Certificate of Incorporation to delete certain provisions that describe circumstances that require the majority or supermajority vote of the LLC Members or the board of managers of DE Holdings. According to the DE Exchanges, these provisions will no longer be necessary because, upon Closing, DE Holdings will no longer have a board of managers and will only have one LLC Member.[78] The proposed rule change also modifies the language in the amendment provision in the DEI Certificate of Incorporation and the DEI Bylaws to conform them to the procedures in the New BGM Bylaws.[79] Further, the DE Exchanges propose to delete references to ''Owner Directors''[80] in the DEI Bylaws because the DE Exchanges propose to eliminate that category of directors from their board.

The DE Exchanges also propose to delete a provision in the DEI Bylaws relating to the handling of regulatory funds in the possession of DEI.[81] The DE Exchanges note that, pursuant to the rules of the DE Exchanges, DEI is not permitted to come into possession of regulatory funds and therefore retaining that provision in the corporate documents is unnecessary and potentially confusing.[82] The DE Exchanges also propose various other minor changes to conform the DEI corporate governance documents to those of the BATS Exchanges and other ministerial changes, as described in more detail in the Notices.[83]

In addition, as described in more detail in the Notices, each DE Exchange proposes to revise its DE Exchange Certificate of Incorporation and DE Exchange Bylaws to conform them to certificates of incorporation and bylaws of the BATS Exchanges.[84] The DE Exchanges stated that they believed that it was important to have a consistent, uniform approach to corporate governance for all of the Exchanges held under New BGM.[85]

The Commission finds that these provisions are consistent with the Act. In large part, the proposed changes discussed in this section conform the corporate governance documents of DE Holdings, DEI and the DE Exchanges with provisions previously approved and in BATS' corporate documents and rules prior to the Combination. Other proposed changes correspond to provisions in BATS' corporate documents and rules approved by the Commission as part of the Combination.[86] The remaining changes update the governing documents of DE Holdings, DEI and the DE Exchanges to reflect the new corporate structure and other ministerial changes.

C. Affiliation Between BATS Exchanges and DE Exchanges

Rule 2.3 of each of the DE Exchanges generally provides that, in order to be eligible for membership in a DE Exchange, a registered broker or dealer is required to be a member of another national securities association or national securities exchange. As discussed above, as a result of the Combination, the BATS Exchanges will become affiliated with the DE Exchanges. The Exchange believes that it is appropriate to limit membership to registered broker-dealers that are members of at least one national securities association or national securities exchange that is not affiliated with the DE Exchanges. Therefore, the DE Exchanges propose to amend Rule 2.3 of each of the DE Exchanges to specify that a registered broker-dealer will be eligible for membership only if it is a member of a national securities association or national securities exchange other than or in addition to BATS, BYX, EDGA or EDGX.

The Commission notes that the proposed changes to Rule 2.3 of each of the DE Exchanges extends the membership eligibility criteria in a way that is consistent with the current Rule 2.3 of each of the BATS Exchanges, taking into account the each DE Exchange's affiliation with each other and the DE Exchanges new affiliation with the BATS Exchanges after the Closing.

D. Affiliation With BATS Trading

As discussed above, as a result of the Combination, New BGM will, indirectly, wholly own the BATS Exchanges, the DE Exchanges, BATS Trading and DE Route. BATS Trading is a registered broker-dealer and a member of Financial Industry Regulation Authority. BATS Trading is also a member of each of the BATS Exchanges and the DE Exchanges.[87]

Rule 2.10 of each DE Exchange generally provides that, without the prior approval of the Commission, (1) each DE Exchange or any entity with which each DE Exchange is affiliated (as defined in Rule 12b-2 under the Act), may not directly or indirectly acquire or maintain an ownership interest in a Member of each DE Exchange, and (2) a Member of each DE Exchange may not be or become an affiliate of the DE Exchange, or an affiliate of any affiliate of the DE Exchanges. Rule 2.10 of each of the DE Exchanges, however, provides that nothing in Rule 2.10 shall prohibit a DE Exchange from being an affiliate of its member, DE Route, or the other DE Exchange.[88] The DE Exchanges note that the purpose of Rule 2.10 is to prevent or manage potential conflicts of interest that could arise from the DE Exchanges or their affiliates having an ownership interest in a Member, particularly with respect to the Exchanges' obligation under Section 19(g) of the Act[89] to enforce its Members' compliance with the Act, the Commission's rules thereunder, and DE Exchanges' Rules.[90]

BATS Trading is currently a Member of each DE Exchange. The DE Exchanges

[77] *See* Notices, *supra* note 5, at 76426–27 and 76490–91.

[78] *See* Notices, *supra* note 5, at 76427 and 76491.

[79] *Id. See also* proposed DEI Certificate of Incorporation, Article SEVENTH, para. 4 (''For so long as the Corporation shall control, directly or indirectly, an Exchange Subsidiary, before any amendment to or repeal of any provision of this Certificate of Incorporation shall be effective, those changes shall be submitted to the board of directors of each Exchange Subsidiary and if the same must be filed with, or filed with and approved by, the Securities and Exchange Commission (the ''SEC'') before the changes may be effective under Section 19 of the Exchange Act and the rules promulgated thereunder by the SEC or otherwise, then the proposed changes to this Certificate of Incorporation of this Corporation shall not be effective until filed with, or filed with and approved by, the SEC, as the case may be.''); and proposed DEI Bylaws, Article VI, para. 6.4 (proposing similar changes to the amendment provision).

[80] *See* Notices, *supra* note 5 at 76427 and 76491 (defining ''Owner Directors'').

[81] *See* Notices, *supra* note 5, at 76428 and 76492.

[82] *Id.* Specifically, the DE Exchanges Bylaws each prohibit the DE Exchanges from distributing any regulatory funds to DEI and require that such funds only be applied to fund the legal and regulatory operations of the DE Exchanges or pay restitution and disgorgement of funds intended for customers. *See* DE Exchange Bylaws, Article X, Section 4.

[83] *See* Notices, *supra* note 5, at 76426–29 and 76490–93.

[84] *See* Notices, *supra* note 5, at 76429–39 and 76493–503 (describing in detail changes to the DE Exchanges corporate documents to unify the governance and corporate practices of all four Exchanges).

[85] The DE Exchanges are proposing several amendments to the DE Exchange Bylaws that reflect changes that the BATS Exchanges proposed to make to their bylaws as a result of the Combination. The BATS Exchanges described these proposed revisions in the BATS Exchanges' companion rule filings related to the Combination. *See* Securities Exchange Act Release Nos. 71023 (December 6, 2013), 78 FR 75607 (December 12, 2013) (SR–BATS–059) and 71024 (December 6, 2013), 78 FR 75585 (December 12, 2013) (SR–BYX–2013–039). *See also* Notices, *supra* note 5, at 76429 and 76493.

[86] *See* BATS Exchanges Approval Order, *supra* note 4.

[87] *See* Notices, *supra* note 5, at 76440 and 76504.

[88] *See infra* note 98 and accompanying text.

[89] 15 U.S.C. 78s(g).

[90] *See* Notices, *supra* note 5, at 76440 and 76504.

proposed to become affiliated with BATS Trading, and BATS Trading provides certain routing services to the DE Exchanges. Specifically, the DE Exchanges proposed to receive through BATS Trading orders routed inbound to the DE Exchanges from each of the BATS Exchanges, both of which will also be affiliates of the DE Exchanges as a result of the Combination. Accordingly, the DE Exchanges have asked the Commission to approve an amendment to Rule 2.10 that will permit the affiliation between each of the DE Exchanges and their Member, BATS Trading.[91]

Recognizing that the Commission has previously expressed concern regarding the potential for conflicts of interest in instances where a member firm is affiliated with an exchange, particularly where a member is routing orders to such affiliated exchange,[92] each DE Exchange previously implemented limitations and conditions to the affiliation between each DE Exchange and DE Route, also an affiliated member, to permit each DE Exchange to accept inbound orders that DE Route routes in its capacity as a facility of an affiliated exchange (EDGA or EDGX as applicable).[93] Again recognizing the Commission's concerns, the DE Exchanges have now proposed that BATS Trading operate as an affiliated inbound router subject to substantially similar limitations and conditions.[94]

Specifically, the DE Exchanges proposed that BATS Trading, operating as a facility of the BATS Exchanges, provide routing services from each of the BATS Exchanges to each DE Exchange, subject to the following conditions and limitations set forth in the proposed Rule 2.12(a) of each DE Exchange: [95]

- Each DE Exchange would enter into (1) a plan pursuant to Rule 17d-2 under the Exchange Act with a non-affiliated SRO to relieve each DE Exchange of regulatory responsibilities for BATS Trading with respect to rules that are common rules between each DE Exchange and the non-affiliated SRO, and (2) a regulatory services contract with a non-affiliated SRO to perform regulatory responsibilities for BATS Trading for unique rules of each DE Exchange.
- The regulatory services contract would require the DE Exchanges to provide the non-affiliated SRO with information, in an easily accessible manner, regarding all exception reports, alerts, complaints, trading errors, cancellations, investigations, and enforcement matters (collectively ''Exceptions'') in which BATS Trading is identified as a participant that has potentially violated the rules of the DE Exchanges or Commission rules, and would require that the non-affiliated SRO provide a report, at least quarterly, to the DE Exchanges quantifying all such exception reports, alerts, complaints, trading errors, cancellations, investigations, and enforcement matters in which BATS Trading is identified as a participant that has potentially violated the rules of the DE Exchanges or the Commission.
- Each DE Exchange, on behalf of the holding company indirectly owning the DE Exchanges, would establish and maintain procedures and internal controls reasonably designed to ensure that BATS Trading does not develop or implement changes to its system on the basis of non-public information obtained as a result of its affiliation with the DE Exchanges, until such information is available generally to similarly situated members of the DE Exchanges in connection with the provision of inbound order routing to the DE Exchanges.

In addition, in the Notices, the DE Exchanges also stated that the provision of such routing services also is conditioned on the requirement that each DE Exchange may furnish to BATS Trading the same information and on the same terms as the Exchange makes available in the normal course of business to other uses.[96]

Although the Commission continues to be concerned about potential unfair competition and conflicts of interest between an exchange's self-regulatory obligations and its commercial interest when the exchange is affiliated with one of its members, for the reasons discussed below, the Commission believes that it is consistent with the Act to permit BATS Trading to be affiliated with the DE Exchanges and to provide inbound routing to the DE Exchanges, subject to the conditions described above.

The DE Exchanges have proposed four conditions applicable to BATS Trading's inbound routing activities, which are enumerated above. The Commission believes that these conditions mitigate its concerns about potential conflicts of interest and unfair competitive advantage. In particular, the Commission believes that a non-affiliated SRO oversight of BATS Trading,[97] combined with the non-affiliated SRO's monitoring of BATS Trading's compliance with the equity trading rules and quarterly reporting to each DE Exchange, will help to protect the independence of each DE Exchange's regulatory responsibilities with respect to BATS Trading. The Commission also believes that the requirement that each DE Exchange establish and maintain procedures and internal controls reasonably designed to ensure that BATS Trading does not develop or implement changes to its system based on non-public information obtained as a result of its affiliation with the DE Exchanges, until such

[91] The current Rule 2.10 of each of the DE Exchanges states that nothing in the rule shall prohibit each DE Exchange from being an affiliate of DE Route or the other DE Exchange. Because the DE Exchanges will be affiliated with BATS Trading and the BATS Exchanges, as well as DE Route, after Closing, the DE Exchanges propose to expand this provision to specifically permit the DE Exchanges' affiliation with BATS Trading and the BATS Exchanges.

The DE Exchanges also propose to make several changes to Rule 2.10 of each DE Exchange to reflect the proposed change in the corporate structure of the DE Exchanges after Closing. Specifically, Rule 2.10 currently states that nothing in Rule 2.10 shall prohibit a Member or its affiliate from acquiring or holding an equity interest in DE Holdings that is permitted by the DE Holdings Ownership and Voting Limitations. Furthermore, Rule 2.10 currently states, in relevant part, that nothing in Rule 2.10 shall prohibit a Member from being or becoming an affiliate of the DE Exchanges, or an affiliate of any affiliate of the DE Exchanges, solely by reason of such Member or any officer, director, manager, managing member, partner or affiliate of such Member being or becoming a director serving on the board of directors of DE Holdings. Because New BGM will replace DE Holdings as the ultimate parent company of the DE Exchanges after Closing, New BGM's governing documents, as opposed to the revised DE Holdings governing documents, set forth the relevant ownership and voting limitations, and provide for Member representation on the New BGM board of directors. Therefore, the DE Exchanges propose to replace the references to DE Holdings and its governing documents in Rule 2.10 with references to New BGM and its governing documents. *See* Notices, *supra* note 5, at 76440 and 76504.

[92] *See e.g.,* Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006). *See also* Securities Exchange Act Release No. 57648 (April 11, 2008), 73 FR 20981 (April 17, 2008).

[93] *See* Rule 2.12 of each of the DE Exchanges. *See also* Securities Exchange Act Release No. 61698, (March 12, 2010), 75 FR 13151 (March 18, 2010) (approving registration application of EDGA and EDGX and approving conditions and limitations which allowed EDGA and EDGX to receive inbound routes of orders by DE Route in its capacity as an order routing facility of EDGX and EDGA on a twelve month pilot). The Commission later approved proposals to make the pilots permanent. *See* Securities Exchange Act Release No. 69870 (June 27, 2013), 78 FR 40225 (July 3, 2013) (EDGX–2013–17); and Securities Exchange Act Release No. 69871 (June 27, 2013), 78 FR 40253 (July 3, 2013) (EDGA–2013–13).

[94] *See* Notices, *supra* note 5, at 76439 and 76503.

[95] *See* Rule 2.12 of each of the DE Exchanges. *See also* Notices, *supra* note 5, at 76439 and 76503. Additionally, Rule 2.12(b) will require that BATS Trading operate as an outbound router on behalf of each of the BATS Exchanges in accordance with the rules of each BATS Exchange.

[96] *See* Notices, *supra* note 5, at 76439 and 76503.

[97] The oversight will be accomplished through the Rule 17d-2 agreement and the regulatory contract.

information is available generally to similarly situated members of the DE Exchanges, is reasonably designed to ensure that BATS Trading cannot misuse any information advantage it may have because of its affiliation with the DE Exchanges.

Further, the Commission notes that the proposed conditions for the operation of BATS Trading as an affiliated inbound router on behalf of each DE Exchange are consistent with conditions the Commission has approved for other exchanges.[98] The Commission therefore finds the proposed operation of BATS Trading as an affiliated inbound router of the DE Exchanges is consistent with the Act.

III. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule changes are consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [99] that the proposed rule changes (SR–EDGA–2013–34 and SR–EDGX–2013–43), as amended, are approved. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[100]

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

In the Matter of Able Energy, Inc.; Et al.; Order of Suspension of Trading

February 3, 2014

Order of Suspension of Trading

In the Matter of Able Energy, Inc., ACI Global Corp., Alternative Energy Development Corp., Allied Products Corp., AEC Holdings Corp., Auction Floor, Inc., American Gold Resources Corp., Angus Energy Corp., Ashby Corporation Ltd., Aksys, Ltd., Allison Industries Ltd., Alchemy Creative, Inc., Allenergy Inc., American Green Group, Inc., Anviron Holding Co. (The), American Patriot Corp., Aquis Communications Group, Inc., Aquamatrix, Inc., ARTISTdirect, Inc., Ascendia Brands, Inc., Ausam Energy Corp., American TonerServe Corp., Atlantis Plastics, Inc., Axiom Management, Inc., BBMF Corp., Barricini, Inc., Butterfield-Blair, Inc., d/b/a Novahead, Inc., Laura (RONALD S.) Enterprises, Inc., b-Fast Corp., BioGold Fuels Corp., Bioponic Phytoceuticals, Inc., BrightStar Information Technology Group, Inc., BAXL Holdings, Inc., Calibre Energy, Inc., Cambridge Resources Corp., Capacitive Deionization Technologies Systems, Inc., Certified Environmental Group, Inc., CareGuide, Inc., Chill Tech Industries, Inc., Chatsworth Data Solutions, Inc., Caliber Energy, Inc., Color Q, Inc., Consolidated American Industries Corp., Corporate Media International, Inc., China Oil & Methanol Group, Inc., Comedia Corp., Concorde America, Inc., Custom Restaurant & Hospitality Group, Inc. (The), Consolidated Biofuels, Inc., Creston Resources, Ltd., ClearStory Systems, Inc., Coattec Industries, Inc., CO2 Tech Ltd., Cardiovascular Sciences, Inc., CyberCash, Inc., Cheyenne Resources Corp., DAL International Ltd., Digital Fusion Multimedia Corp., DealerAdvance, Inc., DataLogic International, Inc., Datamarine International, Inc., Domestic Energy Corp., DNAPrint Genomics, Inc., Deep Earth Resources, Inc., Deep Field Technologies, Inc., Direct Coating, Inc., Display Technologies, Inc., DiaSys Corp., eAutoclaims, Inc., EnterConnect Inc., Effective Control Transport, Inc., EdgeTech International, Inc., Eagle Ventures International, Inc., Electric & Gas Technology, Inc., Electric Motors Corp., Encore Energy Systems, Inc., E' Prime Aerospace Corp., Environmental Power Corp., Eagle Resource Holdings, Inc., ER Urgent Care Holdings, Inc., Estore of N.Y., Inc., Exact Energy Resources, Inc., Freedom Bank (Bradenton, FL), 4–D Neuroimaging, Federated Purchaser, Inc., Forefront Holdings, Inc., First Montauk Financial Corp., First Mortgage Corp., First National Entertainment Corp., Finch Pruyn & Co., Inc., Flair Petroleum Corp., fSONA Systems Corp., Grand Adventures Tour & Travel Publishing Corp., Global Materials & Services, Inc., Global Industrial Services, Inc., Geerlings & Wade, Inc., Geotel, Inc., Global IT Holdings, Inc., Grand Entertainment & Music, Inc., Geeks On Call Holdings, Inc., Grayling Wireless USA, Inc., Gold Coast Resources, Inc., Harvest Bio-Organic International Co., Ltd., HC Innovations, Inc., HealthGate Data Corp., Hastings Manufacturing Co., Hemi Energy Group, Inc., Hemisphere Gold, Inc., Harold's Stores, Inc., H3 Enterprises, Inc., Henley, L.P., IBSG International, Inc., Impact E Solutions Corp., Interfac Mining, Inc., IFSA Strongman, Inc., Ignis Petroleum Group, Inc., Innovative Impact Design, Inc., International Airline Support Group, Inc., ImageMax, Inc., Infinity Medical Group, Inc., Immune-Tree International, Inc., Introgen Therapeutics, Inc., Interep National Radio Sales, Inc., Isonics Corp., Integrated Data Corp., Integrated Water Resources, Inc., IX Energy Holdings, Inc., Itzyourmall, Inc., Jinhua Marine Biological (USA), Inc., Juniper Content Corp., Karat Platinum, Inc., Karver International, Inc., LDF Inc., Logistical Support, Inc., LifeHouse Retirement Properties, Inc., Link Plus Corp., ShoLodge, Inc., Latin American Telecommunications Venture Company, Las Vegas Central Reservations Corp., Lottery & Wagering Solutions, Inc., Luxon Holdings, Inc., Mobile Entertainment, Inc., Master Distribution Systems, Inc., MDM Group, Inc., Medical Finance, Inc., MagStar Technologies, Inc., Moore-Handley, Inc., MicroMed Cardiovascular, Inc., Market 99 Ltd., Merco Sud Agro-Financial Equities Corp., MSH Entertainment Corp., Mascot Silver-Lead Mines, Inc., Monarch Staffing, Inc., MitoPharm Corp., My Healthy Access, Inc., New China Ventures, Ltd., New Dover Capital Corp., New Generation Technology Holding Inc., North Country Hospitality, Inc., National Medical Financial Services Corporation, National Maintenance Group, Inc., NutriOne Corp., Nostalgia Network, Inc. (The), NP Energy Corp., Narrowstep, Inc., NS8 Corp., Navitone Technologies, Inc., North West Oil Group, Inc., Nextera Enterprises, Inc., Nyvatex Oil Corporation (The), Obee's Franchise Systems, Inc., Ofek Capital Corp., CEVA International, Inc., Online Sales Strategies, Inc., Panacos Pharmaceuticals, Inc., Patio Bahia Inc., Phoenix Associates Land Syndicate, Prime Companies, Inc., Piccolo Educational Systems, Inc., Pamet Systems, Inc., Panglobal Brands, Inc., Pensador Resources, Inc., Pop3 Media Corp., PreMD Inc., Phoenix India Acquisition Corp., Quantex Capital Corp., QMAC Energy, Inc., QMed, Inc., Raduga Inc., Intercorp Excelle, Inc., RFP Express, Inc., Rockelle Corp., Remote Knowledge, Inc., Rosedale Decorative Products Ltd., ReSourcePhoenix.com,

[98] *See, e.g.,* Securities Exchange Act Release Nos. 62716 (August 13, 2010), 75 FR 51295 (August 19, 2010) (order approving the exchange registration of BATS Y-Exchange, Inc.), and 65456 (September 30, 2011), 76 FR 62118 (October 6, 2011) (order approving a proposal by NYSE Arca, Inc. (''NYSE Arca'') to make permanent the pilot program that permits NYSE Arca to accept inbound orders routed by its affiliated broker-dealer).

They are also consistent with the conditions and limitations on inbound routing to the DE Exchange by its affiliate DE Route. *See supra* note 96 and accompanying text.

[99] 15 U.S.C. 78s(b)(2).

[100] 17 CFR 200.30–3(a)(12).

Inc., RedRoller Holdings, Inc., Response USA, Inc., RAM Venture Holdings Corp., RxElite, Inc., Scrip Advantage, Inc., SeaEscape Entertainment, Inc., Sherwood Brands, Inc., Stamford Industrial Group, Inc., Sivoo Holdings, Inc., SK Realty Ventures, Inc., Skyline Multimedia Entertainment, Inc., Solica, Inc., Sunnylife Global, Inc., Source Direct Holdings, Inc., Solei Systems, Inc., Shopsmith, Inc., Startec, Inc., Smart SMS Corp., SunStar Healthcare, Inc., SWMX, Inc., SweetskinZ Holdings, Inc., SkyMarkHoldings Inc., Synvista Therapeutics, Inc., Syratech Corp., Syzygy Entertainment, Ltd., Total Containment, Inc., Teknowledge Corp., TEK DigiTel Corp., The Fight Zone, Inc., Tidelands Oil & Gas Corp., Triad Innovations, Inc., Taj Systems, Inc., Tank Sports, Inc., TransferOrbit Corp., Tri-S Security Corp., TrueYou.com, Inc., Westwood Group, Inc. (The), Turning Wheel Holdings, Inc., TeleData World Services, Inc., Tianxin Mining (USA), Inc., Ultimate Franchise Systems, Inc., UpSnap, Inc., U.S. Aerospace, Inc., uWink, Inc., VCampus Corp., Vitalstate, Inc., Vzillion, Inc., We R You Corp., World Health Alternatives, Inc., WiFiMed Holdings Co., Inc., Wi-Fi TV, Inc., WebSky, Inc., Walker Financial Corp., World Logistics Services, Inc., World Am, Inc., Westlin Corp., Worldwide Auction Solutions, Inc., WWEBNET, Inc., XA, Inc., Xensor Corp. 500–1.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Able Energy, Inc. because questions have arisen as to its operating status, if any. Able Energy, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ABLE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ACI Global Corp. because questions have arisen as to its operating status, if any. ACI Global Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ACGJ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Alternative Energy Development Corp. because questions have arisen as to its operating status, if any. Alternative Energy Development Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ADEC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Allied Products Corp. because questions have arisen as to its operating status, if any. Allied Products Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ADPC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AEC Holdings Corp. because questions have arisen as to its operating status, if any. AEC Holdings Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''AECS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Auction Floor, Inc. because questions have arisen as to its operating status, if any. Auction Floor, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''AFLO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Gold Resources Corp. because questions have arisen as to its operating status, if any. American Gold Resources Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''AGDO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Angus Energy Corp. because questions have arisen as to its operating status, if any. Angus Energy Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''AGSC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ashby Corporation Ltd. because questions have arisen as to its operating status, if any. Ashby Corporation Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''AHBY.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Aksys, Ltd. because questions have arisen as to its operating status, if any. Aksys, Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''AKSY.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Allison Industries Ltd. because questions have arisen as to its operating status, if any. Allison Industries Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ALLD.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Alchemy Creative, Inc. because questions have arisen as to its operating status, if any. Alchemy Creative, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ALMY.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Allenergy Inc. because questions have arisen as to its operating status, if any. Allenergy Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ALRY.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Green Group, Inc. because questions have arisen as to its operating status, if any. American Green Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''AMNE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Anviron Holding Co. (The) because questions have arisen as to its operating status, if any. Anviron Holding Co. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ANVH.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Patriot Corp. because questions have arisen as to its operating status, if any. American Patriot Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''APAT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Aquis Communications Group, Inc. because questions have arisen as to its operating status, if any. Aquis Communications Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''AQIS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Aquamatrix, Inc. because questions have arisen as to its operating status, if any. Aquamatrix, Inc. is quoted on OTC Link operated by

OTC Markets Group, Inc. under the ticker symbol ''AQMT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ARTISTdirect, Inc. because questions have arisen as to its operating status, if any. ARTISTdirect, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ARTD.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ascendia Brands, Inc. because questions have arisen as to its operating status, if any. Ascendia Brands, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ASCBQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ausam Energy Corp. because questions have arisen as to its operating status, if any. Ausam Energy Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ASMFQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American TonerServe Corp. because questions have arisen as to its operating status, if any. American TonerServe Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ASVPQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Atlantis Plastics, Inc. because questions have arisen as to its operating status, if any. Atlantis Plastics, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ATPL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Axiom Management, Inc. because questions have arisen as to its operating status, if any. Axiom Management, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''AXMA.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BBMF Corp. because questions have arisen as to its operating status, if any. BBMF Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''BBMF.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Barricini, Inc. because questions have arisen as to its operating status, if any. Barricini, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''BCCC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Butterfield-Blair, Inc., d/b/a Novahead, Inc. because questions have arisen as to its operating status, if any. Butterfield-Blair, Inc., d/b/a Novahead, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''BFBL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Laura (RONALD S.) Enterprises, Inc. because questions have arisen as to its operating status, if any. Laura (RONALD S.) Enterprises, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''BFIT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of b-Fast Corp. because questions have arisen as to its operating status, if any. b-Fast Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''BFTC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BioGold Fuels Corp. because questions have arisen as to its operating status, if any. BioGold Fuels Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''BIFC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Bioponic Phytoceuticals, Inc. because questions have arisen as to its operating status, if any. Bioponic Phytoceuticals, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''BPYT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BrightStar Information Technology Group, Inc. because questions have arisen as to its operating status, if any BrightStar Information Technology Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''BTSR.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BAXL Holdings, Inc. because questions have arisen as to its operating status, if any. BAXL Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''BXLH.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Calibre Energy, Inc. because questions have arisen as to its operating status, if any. Calibre Energy, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CABE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cambridge Resources Corp. because questions have arisen as to its operating status, if any. Cambridge Resources Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CBRP.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Capacitive Deionization Technologies Systems, Inc. because questions have arisen as to its operating status, if any. Capacitive Deionization Technologies Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CDTN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Certified Environmental Group, Inc. because questions have arisen as to its operating status, if any. Certified Environmental Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CENV.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Careguide, Inc. because questions have arisen as to its operating status, if any. Careguide, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CGUE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Chill Tech Industries, Inc. because questions have arisen as to its operating status, if any. Chill Tech Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CHIL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Chatsworth Data Solutions, Inc. because questions have arisen as to its operating status, if any. Chatsworth Data Solutions, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CHWD.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Caliber Energy, Inc. because questions have arisen as to its operating status, if any. Caliber Energy, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CLBN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Color Q, Inc. because questions have arisen as to its operating status, if any. Color Q, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CLOR.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Consolidated American Industries Corp. because questions have arisen as to its operating status, if any. Consolidated American Industries Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CMDJ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Corporate Media International, Inc. because questions have arisen as to its operating status, if any. Corporate Media International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CMDL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of China Oil & Methanol Group, Inc. because questions have arisen as to its operating status, if any. China Oil & Methanol Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CMNO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Comedia Corp. because questions have arisen as to its operating status, if any. Comedia Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CMTN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Concorde America, Inc. because questions have arisen as to its operating status, if any. Concorde America, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CNDD.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Custom Restaurant & Hospitality Group, Inc. (The) because questions have arisen as to its operating status, if any. Custom Restaurant & Hospitality Group, Inc. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CRHY.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Consolidated Biofuels, Inc. because questions have arisen as to its operating status, if any. Consolidated Biofuels, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CSBF.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Creston Resources, Ltd. because questions have arisen as to its operating status, if any. Creston Resources, Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CSTJ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ClearStory Systems, Inc. because questions have arisen as to its operating status, if any. ClearStory Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CSYS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Coattec Industries, Inc. because questions have arisen as to its operating status, if any. Coattec Industries, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CTCK.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CO2 Tech Ltd. because questions have arisen as to its operating status, if any. CO2 Tech Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CTTD.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cardiovascular Sciences, Inc. because questions have arisen as to its operating status, if any. Cardiovascular Sciences, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CVSC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CyberCash, Inc. because questions have arisen as to its operating status, if any. CyberCash, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CYCHZ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cheyenne Resources Corp. because questions have arisen as to its operating status, if any. Cheyenne Resources Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''CYRS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of DAL International Ltd. because questions have arisen as to its operating status, if any. DAL International Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DALN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Digital Fusion Multimedia Corp. because questions have arisen as to its operating status, if any. Digital Fusion Multimedia Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DFMCF.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of DealerAdvance, Inc. because questions have arisen as to its operating status, if any. DealerAdvance, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DLAD.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of DataLogic International, Inc. because questions have arisen as to its operating status, if any. DataLogic International, Inc. is quoted on OTC Link operated by OTC

Markets Group, Inc. under the ticker symbol ''DLGI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Datamarine International, Inc. because questions have arisen as to its operating status, if any. Datamarine International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DMAR.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Domestic Energy Corp. because questions have arisen as to its operating status, if any. Domestic Energy Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DMEC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of DNAPrint Genomics, Inc. because questions have arisen as to its operating status, if any. DNAPrint Genomics, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DNAG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Deep Earth Resources, Inc. because questions have arisen as to its operating status, if any. Deep Earth Resources, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DPER.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Deep Field Technologies, Inc. because questions have arisen as to its operating status, if any. Deep Field Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DPFD.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Direct Coating, Inc. because questions have arisen as to its operating status, if any. Direct Coating, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DTCO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Display Technologies, Inc. because questions have arisen as to its operating status, if any. Display Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DTEK.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of DiaSys Corp. because questions have arisen as to its operating status, if any. DiaSys Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''DYXC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of eAutoclaims, Inc. because questions have arisen as to its operating status, if any. eAutoclaims, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''EACC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of EnterConnect Inc. because questions have arisen as to its operating status, if any. EnterConnect Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ECNI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Effective Control Transport, Inc. because questions have arisen as to its operating status, if any. Effective Control Transport, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''EFFC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of EdgeTech International, Inc. because questions have arisen as to its operating status, if any. EdgeTech International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''EGIL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Eagle Ventures International, Inc. because questions have arisen as to its operating status, if any. Eagle Ventures International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''EGVIQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Electric & Gas Technology, Inc. because questions have arisen as to its operating status, if any. Electric & Gas Technology, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ELGT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Electric Motors Corp. because questions have arisen as to its operating status, if any. Electric Motors Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''EMCO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Encore Energy Systems, Inc. because questions have arisen as to its operating status, if any. Encore Energy Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ENCS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of E' Prime Aerospace Corp. because questions have arisen as to its operating status, if any. E' Prime Aerospace Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''EPEO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Environmental Power Corp. because questions have arisen as to its operating status, if any. Environmental Power Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''EPGRQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Eagle Resource Holdings, Inc. because questions have arisen as to its operating status, if any. Eagle Resource Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ERHI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ER Urgent Care Holdings, Inc. because questions have arisen as to its operating status, if any. ER Urgent Care Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ERUC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Estore of N.Y., Inc. because questions have arisen as to its operating status, if any. Estore of N.Y., Inc. is quoted on OTC Link

operated by OTC Markets Group, Inc. under the ticker symbol ''ESNY.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Exact Energy Resources, Inc. because questions have arisen as to its operating status, if any. Exact Energy Resources, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''EXER.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Freedom Bank (Bradenton, FL) because questions have arisen as to its operating status, if any. Freedom Bank (Bradenton, FL) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''FBBF.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of 4–D Neuroimaging because questions have arisen as to its operating status, if any. 4–D Neuroimaging is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''FDNU.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Federated Purchaser, Inc. because questions have arisen as to its operating status, if any. Federated Purchaser, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''FEDP.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Forefront Holdings, Inc. because questions have arisen as to its operating status, if any. Forefront Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''FFHN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of First Montauk Financial Corp. because questions have arisen as to its operating status, if any. First Montauk Financial Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''FMFN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of First Mortgage Corp. because questions have arisen as to its operating status, if any. First Mortgage Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''FMOR.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of First National Entertainment Corp. because questions have arisen as to its operating status, if any. First National Entertainment Corp is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''FNAT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Finch Pruyn & Co., Inc. because questions have arisen as to its operating status, if any. Finch Pruyn & Co., Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''FPCNB.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Flair Petroleum Corp. because questions have arisen as to its operating status, if any. Flair Petroleum Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''FPMC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of fSONA Systems Corp. because questions have arisen as to its operating status, if any. fSONA Systems Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''FSON.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Grand Adventures Tour & Travel Publishing Corp. because questions have arisen as to its operating status, if any. Grand Adventures Tour & Travel Publishing Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''GATT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Global Materials & Services, Inc. because questions have arisen as to its operating status, if any. Global Materials & Services, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''GBMS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Global Industrial Services, Inc. because questions have arisen as to its operating status, if any. Global Industrial Services, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''GBSV.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Geerlings & Wade, Inc. because questions have arisen as to its operating status, if any. Geerlings & Wade, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''GEER.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Geotel, Inc. because questions have arisen as to its operating status, if any. Geotel, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''GETE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Global IT Holdings, Inc. because questions have arisen as to its operating status, if any. Global IT Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''GITH.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Grand Entertainment & Music, Inc. because questions have arisen as to its operating status, if any. Grand Entertainment & Music, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''GMSC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Geeks On Call Holdings, Inc. because questions have arisen as to its operating status, if any. Geeks On Call Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''GOCH.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Grayling Wireless USA, Inc. because questions have arisen as to its operating status, if any. Grayling Wireless USA, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''GRYW.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Gold Coast Resources, Inc. because questions have arisen as to its operating status, if any. Gold Coast Resources, Inc. is quoted on OTC Link operated by OTC Markets

Group, Inc. under the ticker symbol ''GSRS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Harvest Bio-Organic International Co., Ltd. because questions have arisen as to its operating status, if any. Harvest Bio-Organic International Co., Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''HBOI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of HC Innovations, Inc. because questions have arisen as to its operating status, if any. HC Innovations, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''HCNVQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of HealthGate Data Corp. because questions have arisen as to its operating status, if any. HealthGate Data Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''HGAT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hastings Manufacturing Co. because questions have arisen as to its operating status, if any. Hastings Manufacturing Co. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''HGMG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hemi Energy Group, Inc. because questions have arisen as to its operating status, if any. Hemi Energy Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''HMGP.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hemisphere Gold, Inc. because questions have arisen as to its operating status, if any. Hemisphere Gold, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''HPGI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Harold's Stores, Inc. because questions have arisen as to its operating status, if any. Harold's Stores, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''HRLSQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of H3 Enterprises, Inc. because questions have arisen as to its operating status, if any. H3 Enterprises, Inc is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''HTRE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Henley L.P. because questions have arisen as to its operating status, if any. Henley L.P. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''HYNLZ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IBSG International, Inc. because questions have arisen as to its operating status, if any. IBSG International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IBIN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Impact E Solutions Corp. because questions have arisen as to its operating status, if any. Impact E Solutions Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IESO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Interfac Mining, Inc. because questions have arisen as to its operating status, if any. Interfac Mining, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IFAC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IFSA Strongman, Inc. because questions have arisen as to its operating status, if any. IFSA Strongman, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IFST.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ignis Petroleum Group, Inc. because questions have arisen as to its operating status, if any. Ignis Petroleum Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IGPG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Innovative Impact Design, Inc. because questions have arisen as to its operating status, if any. Innovative Impact Design, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IIDG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of International Airline Support Group, Inc. because questions have arisen as to its operating status, if any. International Airline Support Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ILAS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ImageMax, Inc. because questions have arisen as to its operating status, if any. ImageMax, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IMAG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Infinity Medical Group, Inc. because questions have arisen as to its operating status, if any. Infinity Medical Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IMGR.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Immune-Tree International, Inc. because questions have arisen as to its operating status, if any. Immune-Tree International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IMUT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Introgen Therapeutics, Inc. because questions have arisen as to its operating status, if any. Introgen Therapeutics, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''INGNQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Interep National Radio Sales, Inc. because questions have arisen as to its operating status, if any. Interep National Radio Sales, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IREP.''

It appears to the Securities and Exchange Commission that there is a

lack of current and accurate information concerning the securities of Isonics Corp. because questions have arisen as to its operating status, if any. Isonics Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ISON.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Integrated Data Corp. because questions have arisen as to its operating status, if any. Integrated Data Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ITDD.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Integrated Water Resources, Inc. because questions have arisen as to its operating status, if any. Integrated Water Resources, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IWRI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IX Energy Holdings, Inc. because questions have arisen as to its operating status, if any. IX Energy Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IXEH.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Itzyourmall, Inc. because questions have arisen as to its operating status, if any. Itzyourmall, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''IZML.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Jinhua Marine Biological (USA), Inc. because questions have arisen as to its operating status, if any. Jinhua Marine Biological (USA), Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''JNMB.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Juniper Content Corp. because questions have arisen as to its operating status, if any. Juniper Content Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''JNPC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Karat Platinum, Inc. because questions have arisen as to its operating status, if any. Karat Platinum, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''KRAT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Karver International, Inc. because questions have arisen as to its operating status, if any. Karver International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''KRVR.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of LDF Inc. because questions have arisen as to its operating status, if any. LDF Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''LDFI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Logistical Support, Inc. because questions have arisen as to its operating status, if any. Logistical Support, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''LGSL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of LifeHouse Retirement Properties, Inc. because questions have arisen as to its operating status, if any. LifeHouse Retirement Properties, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''LHRP.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Link Plus Corp. because questions have arisen as to its operating status, if any. Link Plus Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''LKPL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ShoLodge, Inc. because questions have arisen as to its operating status, if any. ShoLodge, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''LODG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Latin American Telecommunications Venture Company because questions have arisen as to its operating status, if any. Latin American Telecommunications Venture Company is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''LTTV.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Las Vegas Central Reservations Corp. because questions have arisen as to its operating status, if any. Las Vegas Central Reservations Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''LVCC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Lottery & Wagering Solutions, Inc. because questions have arisen as to its operating status, if any. Lottery & Wagering Solutions, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''LWSL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Luxon Holdings, Inc. because questions have arisen as to its operating status, if any. Luxon Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''LXHD.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Mobile Entertainment, Inc. because questions have arisen as to its operating status, if any. Mobile Entertainment, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MBEI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Master Distribution Systems, Inc. because questions have arisen as to its operating status, if any. Master Distribution Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MDBS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MDM Group, Inc. because questions have arisen as to its operating status, if any. MDM Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MDDM.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Medical Finance, Inc. because questions have arisen as to its operating status, if any. Medical Finance, Inc. is quoted on OTC

Link operated by OTC Markets Group, Inc. under the ticker symbol ''MFIN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MagStar Technologies, Inc. because questions have arisen as to its operating status, if any. MagStar Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MGSR.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Moore-Handley, Inc. because questions have arisen as to its operating status, if any. Moore-Handley, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MHCO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MicroMed Cardiovascular, Inc. because questions have arisen as to its operating status, if any. MicroMed Cardiovascular, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MMCO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Market 99 Ltd. because questions have arisen as to its operating status, if any. Market 99 Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MNTY.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Merco Sud Agro-Financial Equities Corp. because questions have arisen as to its operating status, if any. Merco Sud Agro-Financial Equities Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MSDG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MSH Entertainment Corp. because questions have arisen as to its operating status, if any. MSH Entertainment Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MSHE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Mascot Silver-Lead Mines, Inc. because questions have arisen as to its operating status, if any. Mascot Silver-Lead Mines, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MSLM.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Monarch Staffing, Inc. because questions have arisen as to its operating status, if any. Monarch Staffing, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MSTF.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MitoPharm Corp. because questions have arisen as to its operating status, if any. MitoPharm Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MTPH.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of My Healthy Access, Inc. because questions have arisen as to its operating status, if any. My Healthy Access, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''MYHA.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of New China Ventures, Ltd. because questions have arisen as to its operating status, if any. New China Ventures, Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NCVL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of New Dover Capital Corp. because questions have arisen as to its operating status, if any. New Dover Capital Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NDVR.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of New Generation Technology Holding Inc. because questions have arisen as to its operating status, if any. New Generation Technology Holding Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NGTY.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of North Country Hospitality, Inc. because questions have arisen as to its operating status, if any. North Country Hospitality, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NHSP.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of National Medical Financial Services Corporation because questions have arisen as to its operating status, if any. National Medical Financial Services Corporation is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NMFS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of National Maintenance Group, Inc. because questions have arisen as to its operating status, if any. National Maintenance Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NMGP.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of NutriOne Corp. because questions have arisen as to its operating status, if any. NutriOne Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NNCP.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nostalgia Network, Inc. (The) because questions have arisen as to its operating status, if any. Nostalgia Network, Inc. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NNET.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of NP Energy Corp. because questions have arisen as to its operating status, if any. NP Energy Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NPER.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Narrowstep, Inc. because questions have arisen as to its operating status, if any. Narrowstep, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NRWS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of NS8 Corp. because questions have arisen as to its operating status, if any. NS8 Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NSEO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Navitone Technologies, Inc. because questions have arisen as to its operating status, if any. Navitone Technologies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NVTN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of North West Oil Group, Inc. because questions have arisen as to its operating status, if any. North West Oil Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NWOL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nextera Enterprises, Inc. because questions have arisen as to its operating status, if any. Nextera Enterprises, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NXRA.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nyvatex Oil Corporation (The) because questions have arisen as to its operating status, if any. Nyvatex Oil Corporation (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''NYVA.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Obee's Franchise Systems, Inc. because questions have arisen as to its operating status, if any. Obee's Franchise Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''OBEE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ofek Capital Corp. because questions have arisen as to its operating status, if any. Ofek Capital Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''OFEK.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CEVA International, Inc. because questions have arisen as to its operating status, if any. CEVA International, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''OROB.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Online Sales Strategies, Inc. because questions have arisen as to its operating status, if any. Online Sales Strategies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''OSSI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Panacos Pharmaceuticals, Inc. because questions have arisen as to its operating status, if any. Panacos Pharmaceuticals, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''PANC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Patio Bahia Inc. because questions have arisen as to its operating status, if any. Patio Bahia Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''PBAH.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Phoenix Associates Land Syndicate because questions have arisen as to its operating status, if any. Phoenix Associates Land Syndicate is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''PBLSQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Prime Companies, Inc. because questions have arisen as to its operating status, if any. Prime Companies, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''PCIR.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Piccolo Educational Systems, Inc. because questions have arisen as to its operating status, if any. Piccolo Educational Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''PEDU.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pamet Systems, Inc. because questions have arisen as to its operating status, if any. Pamet Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''PMTT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Panglobal Brands, Inc. because questions have arisen as to its operating status, if any. Panglobal Brands, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''PNGB.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pensador Resources, Inc. because questions have arisen as to its operating status, if any. Pensador Resources, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''PNSR.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pop3 Media Corp. because questions have arisen as to its operating status, if any. Pop3 Media Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''POPT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of PreMD Inc. because questions have arisen as to its operating status, if any. PreMD Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''PREMF.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Phoenix India Acquisition Corp. because questions have arisen as to its operating status, if any. Phoenix India Acquisition Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''PXIA.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Quantex Capital Corp. because questions have arisen as to its operating status, if any. Quantex Capital Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''QCPC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of QMAC Energy, Inc. because questions have arisen as to its operating status, if any. QMAC Energy, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''QMCG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of QMed, Inc.

because questions have arisen as to its operating status, if any. QMed, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''QMED.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Raduga Inc. because questions have arisen as to its operating status, if any. Raduga Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''RADG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Intercorp Excelle, Inc. because questions have arisen as to its operating status, if any. Intercorp Excelle, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''RENE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of RFP Express, Inc. because questions have arisen as to its operating status, if any. RFP Express, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''RFPX.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Rockelle Corp. because questions have arisen as to its operating status, if any. Rockelle Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''RKLC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Remote Knowledge, Inc. because questions have arisen as to its operating status, if any. Remote Knowledge, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''RKNW.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Rosedale Decorative Products Ltd. because questions have arisen as to its operating status, if any. Rosedale Decorative Products Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ROSD.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ReSourcePhoenix.com, Inc. because questions have arisen as to its operating status, if any. ReSourcePhoenix.com, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''RPCX.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of RedRoller Holdings, Inc. because questions have arisen as to its operating status, if any. RedRoller Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''RROLQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Response USA, Inc. because questions have arisen as to its operating status, if any. Response USA, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''RSPNQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of RAM Venture Holdings Corp. because questions have arisen as to its operating status, if any. RAM Venture Holdings Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''RVHC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of RxElite, Inc. because questions have arisen as to its operating status, if any. RxElite, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''RXEI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Scrip Advantage, Inc. because questions have arisen as to its operating status, if any. Scrip Advantage, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SCPV.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SeaEscape Entertainment, Inc. because questions have arisen as to its operating status, if any. SeaEscape Entertainment, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SEPI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sherwood Brands, Inc. because questions have arisen as to its operating status, if any. Sherwood Brands, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SHDBQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Stamford Industrial Group, Inc. because questions have arisen as to its operating status, if any. Stamford Industrial Group, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SIDGQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sivoo Holdings, Inc. because questions have arisen as to its operating status, if any. Sivoo Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SIVO.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SK Realty Ventures, Inc. because questions have arisen as to its operating status, if any. SK Realty Ventures, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SKRV.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Skyline Multimedia Entertainment, Inc. because questions have arisen as to its operating status, if any. Skyline Multimedia Entertainment, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SKYL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Solica, Inc. because questions have arisen as to its operating status, if any. Solica, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SLIA.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sunnylife Global, Inc. because questions have arisen as to its operating status, if any. Sunnylife Global, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SNYL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Source Direct Holdings, Inc. because questions have arisen as to its operating status, if any. Source Direct Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SODH.''

It appears to the Securities and Exchange Commission that there is a

lack of current and accurate information concerning the securities of Solei Systems, Inc. because questions have arisen as to its operating status, if any. Solei Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SOLI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Shopsmith, Inc. because questions have arisen as to its operating status, if any. Shopsmith, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SSMH.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Startec, Inc. because questions have arisen as to its operating status, if any. Startec, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''STIN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Smart SMS Corp. because questions have arisen as to its operating status, if any. Smart SMS Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''STMC.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SunStar Healthcare, Inc. because questions have arisen as to its operating status, if any. SunStar Healthcare, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SUHI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SWMX, Inc. because questions have arisen as to its operating status, if any. SWMX, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SWMX.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SweetskinZ Holdings, Inc. because questions have arisen as to its operating status, if any. SweetskinZ Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SWZH.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SkyMarkHoldings, Inc. because questions have arisen as to its operating status, if any. SkyMarkHoldings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SYHI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Synvista Therapeutics, Inc. because questions have arisen as to its operating status, if any. Synvista Therapeutics, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SYNI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Syratech Corp. because questions have arisen as to its operating status, if any. Syratech Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SYRA.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Syzygy Entertainment, Ltd. because questions have arisen as to its operating status, if any. Syzygy Entertainment, Ltd. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''SYZG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Total Containment, Inc. because questions have arisen as to its operating status, if any. Total Containment, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TCIX.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Teknowledge Corp. because questions have arisen as to its operating status, if any. Teknowledge Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TEKCQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TEK DigiTel Corp. because questions have arisen as to its operating status, if any. TEK DigiTel Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TEKI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of The Fight Zone, Inc. because questions have arisen as to its operating status, if any. The Fight Zone, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TFZI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tidelands Oil & Gas Corp. because questions have arisen as to its operating status, if any. Tidelands Oil & Gas Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TIDE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Triad Innovations, Inc. because questions have arisen as to its operating status, if any. Triad Innovations, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TINV.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Taj Systems, Inc. because questions have arisen as to its operating status, if any. Taj Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TJSS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tank Sports, Inc. because questions have arisen as to its operating status, if any. Tank Sports, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TNSP.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TransferOrbit Corp. because questions have arisen as to its operating status, if any. TransferOrbit Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TRBI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tri-S Security Corp. because questions have arisen as to its operating status, if any. Tri-S Security Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TRIS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TrueYou.com, Inc. because questions have arisen as to its operating status, if any. TrueYou.com, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TUYU.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Westwood Group, Inc. (The) because questions have arisen as to its operating status, if any. Westwood Group, Inc. (The) is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TWDG.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Turning Wheel Holdings, Inc. because questions have arisen as to its operating status, if any. Turning Wheel Holdings, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TWHI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TeleData World Services, Inc. because questions have arisen as to its operating status, if any. TeleData World Services, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TWOS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tianxin Mining (USA), Inc. because questions have arisen as to its operating status, if any. Tianxin Mining (USA), Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''TXNM.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ultimate Franchise Systems, Inc. because questions have arisen as to its operating status, if any. Ultimate Franchise Systems, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''ULFS.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of UpSnap, Inc. because questions have arisen as to its operating status, if any. UpSnap, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''UPSN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of U.S. Aerospace, Inc. because questions have arisen as to its operating status, if any. U.S. Aerospace, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''USAE.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of uWink, Inc. because questions have arisen as to its operating status, if any. uWink, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''UWKI.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of VCampus Corp. because questions have arisen as to its operating status, if any. VCampus Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''VCMP.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vitalstate, Inc. because questions have arisen as to its operating status, if any. Vitalstate, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''VTST.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vzillion, Inc. because questions have arisen as to its operating status, if any. Vzillion, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''VZIL.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of We R You Corp. because questions have arisen as to its operating status, if any. We R You Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''WERU.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of World Health Alternatives, Inc. because questions have arisen as to its operating status, if any. World Health Alternatives, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''WHAIQ.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of WiFiMed Holdings Co., Inc. because questions have arisen as to its operating status, if any. WiFiMed Holdings Co., Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''WIFM.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wi-Fi TV, Inc. because questions have arisen as to its operating status, if any. Wi-Fi TV, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''WIFT.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of WebSky, Inc. because questions have arisen as to its operating status, if any. WebSky, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''WKYN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Walker Financial Corp. because questions have arisen as to its operating status, if any. Walker Financial Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''WLKF.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of World Logistics Services, Inc. because questions have arisen as to its operating status, if any. World Logistics Services, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''WLSV.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of World Am, Inc. because questions have arisen as to its operating status, if any. World Am, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''WOAM.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Westlin Corp. because questions have arisen as to its operating status, if any. Westlin Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''WSTN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Worldwide Auction Solutions, Inc. because questions have arisen as to its operating status, if any. Worldwide Auction Solutions, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''WWDA.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of WWEBNET, Inc. because questions have arisen as to its operating status, if any. WWEBNET, Inc. is quoted on OTC Link operated by

OTC Markets Group, Inc. under the ticker symbol ''WWEB.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of XA, Inc. because questions have arisen as to its operating status, if any. XA, Inc. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''XAIN.''

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Xensor Corp. because questions have arisen as to its operating status, if any. Xensor Corp. is quoted on OTC Link operated by OTC Markets Group, Inc. under the ticker symbol ''XNSR.''

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on February 3, 2014, through 11:59 p.m. EST on February 14, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–02526 Filed 2–3–14; 4:15 pm]

BILLING CODE 8011–01–P

SELECTIVE SERVICE SYSTEM

Forms Submitted to the Office of Management and Budget for Extension of Clearance

AGENCY: Selective Service System.

ACTION: Notice.

The following forms have been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35):

SSS FORM—402

Title: Uncompensated Registrar Appointment Form.

Purpose: Is used to verify the official status of applicants for the position of Uncompensated Registrars and to establish authority for those appointed to perform as Selective Service System Registrars.

Respondents: United States citizens over the age of 18.

Frequency: One time.

Burden: The reporting burden is three minutes or less per respondent.

Copies of the above identified form can be obtained upon written request to the Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

Written comments and recommendations for the proposed extension of clearance of the form should be sent within 60 days of the publication of this notice to the Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20503.

Dated: January 30, 2014.

Lawrence Romo,

Director.

[FR Doc. 2014–02387 Filed 2–4–14; 8:45 am]

BILLING CODE 8015–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 09/79–0452 issued to Montreux Equity Partners III, SBIC, L.P., said license is hereby declared null and void.

Dated: January 27, 2014.

Javier E. Saade,

Associate Administrator for Investment, United States Small Business Administration.

[FR Doc. 2014–02125 Filed 2–4–14; 8:45 am]

BILLING CODE 6025–01–M

DEPARTMENT OF STATE

[Public Notice 8621]

Defense Trade Advisory Group; Notice of Membership

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The U.S. Department of State's Bureau of Political-Military Affairs' Defense Trade Advisory Group (DTAG) is accepting membership applications. The Bureau of Political-Military Affairs is interested in applications from subject matter experts from the United States defense industry, relevant trade and labor associations, academic, and foundation personnel.

The DTAG was established as an advisory committee under the authority of 22 U.S.C. 2651a and 2656 and the Federal Advisory Committee Act, 5 U.S.C. App. (''FACA''). The purpose of the DTAG is to provide the Bureau of Political-Military Affairs with a formal channel for regular consultation and coordination with U.S. private sector defense exporters and defense trade specialists on issues involving U.S. laws, policies, and regulations for munitions exports. The DTAG advises the Bureau on its support for and regulation of defense trade to help ensure that impediments to legitimate exports are reduced while the foreign policy and national security interests of the United States continue to be protected and advanced in accordance with the Arms Export Control Act (AECA), as amended. Major topics addressed by the DTAG include (a) policy issues on commercial defense trade and technology transfer; (b) regulatory and licensing procedures applicable to defense articles, services, and technical data; (c) technical issues involving the U.S. Munitions List (USML); and (d) questions relating to actions designed to carry out the AECA and International Traffic in Arms Regulations (ITAR).

Members are appointed by the Assistant Secretary of State for Political-Military Affairs on the basis of individual substantive and technical expertise and qualifications, and must be representatives of United States defense industry, relevant trade and labor associations, academic, and foundation personnel. In accordance with the DTAG Charter, all DTAG members must be U.S. citizens, and DTAG members will represent the views of their organizations. All DTAG members shall be aware of the Department of State's mandate that arms transfers must further U.S. national security and foreign policy interests. DTAG members also shall be versed in the complexity of commercial defense trade and industrial competitiveness, and all members must be able to advise the Bureau on these matters. While members are expected to use their expertise and provide candid advice, national security and foreign policy interests of the United States, as well as the interests of the entities they represent, shall be the bases for all policy and technical recommendations.

DTAG members' responsibilities include:

• Service for a consecutive two-year term which may be renewed or terminated at the discretion of the Assistant Secretary of State for Political-Military Affairs (membership shall automatically terminate for members who fail to attend two consecutive DTAG plenary meetings).

• Making recommendations in accordance with the DTAG Charter and the FACA.

• Making policy and technical recommendations within the scope of the U.S. commercial export control regime as mandated in the AECA, the ITAR, and appropriate directives.

Please note that DTAG members may not be reimbursed for travel, per diem, and other expenses incurred in connection with their duties as DTAG members. A new applicant to the DTAG who is currently registered as a Federal lobbyist is not eligible to serve on the DTAG.

How to apply: Applications in response to this notice must contain the following information: (1) Name of applicant; (2) affirmation of U.S. citizenship; (3) organizational affiliation and title, as appropriate; (4) mailing address; (5) work telephone number; (6) email address; (7) resume´; (8) summary of qualifications for DTAG membership and (9) confirmation that you have not been registered as a Federal lobbyist at any time from January 1, 2010 to the present.

This information may be provided via two methods:

• Emailed to the following address: *DTAG@state.gov.* In the subject field, please write, ''DTAG Application.''

• Send in hardcopy to the following address: Lisa Aguirre, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political Military Affairs, U.S. Department of State, Washington, DC 20522–0112.

All applications must be postmarked by March 1, 2014

Kenneth B. Handelman,

Designated Federal Official, Defense Trade Advisory Group, Department of State.

[FR Doc. 2014–02414 Filed 2–4–14; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 8622; Docket ID: DOS–2014–0003]

Notice of 30 Day Public Comment Period Regarding the National Interest Determination for TransCanada Keystone Pipeline, L.P.'s Presidential Permit Application

AGENCY: Department of State.

ACTION: Notice; Solicitation of Comments.

SUMMARY: TransCanada Keystone Pipeline, L.P. applied on May 4, 2012, to the U.S. Department of State (''State Department'') for a Presidential Permit that would authorize construction, connection, operation, and maintenance of pipeline facilities on the U.S./Canadian border in Phillips County, Montana for the importation of crude oil. The border facilities would be part of a proposed 875-mile pipeline and related facilities (the Keystone XL project) that is designed to transport up to 830,000 barrels per day of crude oil from Alberta, Canada and the Bakken shale formation in North Dakota and Montana. The pipeline would cross the U.S. border near Morgan, Montana and continue through Montana, South Dakota, and Nebraska, where it would connect to existing pipeline facilities near Steele City, Nebraska for onward delivery to Cushing, Oklahoma and the U.S. Gulf Coast region.

Background information related to the application may be found at *http://www.keystonepipeline-xl.state.gov/*. On January 31, 2014, the State Department released the Final Supplemental Environmental Impact Statement (''Final SEIS'') for the proposed Keystone XL project. The application and the Final SEIS, along with other documents, are available through the State Department's web address for the project shown above.

Executive Order 13337 (69 FR 25299) calls on the Secretary of State, or his designee, to determine if issuance of a Presidential Permit would serve the national interest. This decision will take into account a wide range of factors, including energy security; environmental, cultural, and economic impacts; foreign policy; and compliance with relevant federal regulations and issues.

The State Department invites members of the public to comment on any factor they deem relevant to the national interest determination that will be made for this permit application. Along with other factors such as those listed above, these comments will be considered in the final national interest determination. The public comment period will end 30 days from the publication of this notice.

Comments are not private. They will be posted on the site *http://www.regulations.gov*. The comments will not be edited to remove identifying or contact information, and the State Department cautions against including any information that one does not want publicly disclosed. The State Department requests that any party soliciting or aggregating comments received from other persons for submission to the State Department inform those persons that the State Department will not edit their comments to remove identifying or contact information, and that they should not include any information in their comments that they do not want publicly disclosed.

DATES: Comments must be submitted by no later than March 7, 2014, at 11:59 p.m. (EST).

ADDRESSES: For reasons of efficiency, the State Department encourages the electronic submission of comments through the federal government's eRulemaking Portal. To submit comments electronically, go to the Federal eRulemaking Portal (*http://www.regulations.gov*), enter the Docket No. DOS–2014–0003, and follow the prompts to submit a comment.

The State Department also will accept comments submitted in hard copy by mail and postmarked no later than March 7, 2014. Please note that standard mail delivery to the State Department can be delayed due to security screening. To submit comments by mail, use the following address: Bureau of Energy Resources, Room 4843, Attn: Keystone XL Public Comments, U.S. Department of State, 2201 C St. NW., Washington, DC 20520.

Dated: January 31, 2014.

Robin L. Dunnigan,

Director, Office of Europe, the Western Hemisphere and Africa, Bureau of Energy Resources, U.S. Department of State.

[FR Doc. 2014–02420 Filed 2–4–14; 8:45 am]

BILLING CODE 4710–02–P

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Resource Stewardship Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of meeting.

SUMMARY: The TVA Regional Resource Stewardship Council (RRSC) will hold a meeting on Tuesday, February 25, and

Wednesday, February 26, 2014, to consider TVA's Natural Resource activities and partnerships.

The RRSC was established to advise TVA on its natural resource stewardship activities. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2.

The meeting agenda includes the following:

1. Introductions
2. Updates regarding TVA's Stewardship Strategy, TVA's Natural Resource Plan implementation, and the Trout Hatchery Sustainable Funding project
3. Discussion around TVA's Natural Resources Partnership efforts
4. Public Comments
5. Council Discussion and Advice

The RRSC will hear opinions and views of citizens by providing a public comment session starting at 9:30 a.m., EST, on Wednesday, February 26. Persons wishing to speak are requested to register at the door by 9:00 a.m. on Wednesday, February 26 and will be called on during the public comment period. Handout materials should be limited to one printed page. Written comments are also invited and may be mailed to the Regional Resource Stewardship Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT–11 B, Knoxville, Tennessee 37902.

DATES: The public meeting will be held on Tuesday, February 25, from 8:00 a.m. to noon, and Wednesday, February 26, from 8:00 a.m. to 11:45 a.m. EST.

ADDRESSES: The meeting will be held at the TVA headquarters, 400 West Summit Hill Drive, Knoxville, TN 37902 and will be open to the public. Anyone needing special access or accommodations should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Beth Keel, 400 West Summit Hill Drive, WT–11 B, Knoxville, Tennessee 37902, (865) 632–6113.

Dated: January 30, 2014.

Joseph J. Hoagland,

Vice President, Stakeholder Relations, Tennessee Valley Authority.

[FR Doc. 2014–02388 Filed 2–4–14; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Connected Vehicle Reference Implementation Architecture Workshop; Notice of Public Meeting

AGENCY: ITS Joint Program Office, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation.

ACTION: Notice.

The U.S. Department of Transportation (USDOT) Intelligent Transportation System Joint Program Office (ITS JPO) will host a free Connected Vehicle Reference Implementation Architecture (CVRIA) public workshop meeting to present and seek input on candidate Connected Vehicle (CV) interfaces for standardization. The public meeting will take place February 19, 2014, 8:30 a.m.–5:00 p.m. PST and February 20, 2014, 8:30 a.m.–4:00 p.m. PST at the Holiday Inn Golden Gateway Hotel, 1500 Van Ness Ave, San Francisco, California 94109.

To register for the CVRIA Workshop, please visit *www.itsa.org/cvriaregistration.*

The workshop is designed to solicit feedback from stakeholders who will be involved with the development, implementation, or operation of CV technologies and applications. The results of an initial analysis will be presented and feedback sought during this public workshop. A preliminary draft plan will be provided to registrants before the workshop in order to facilitate technical discussions. Participants are encouraged to sign up early to ensure that they receive the read-ahead materials in a timely fashion. The workshop will focus on discussion of the CV applications captured in the CVRIA; the interfaces identified and defined in the CVRIA; a crosswalk between candidate interfaces and standards; standards gap analysis and emerging standards needs; and USDOT policy in pursuing standardization. The project is sponsored and led by the USDOT's ITS JPO as part of ITS Architecture and Standards and Systems Engineering and Test Bed Program efforts.

About the Connected Vehicle Research Program at USDOT

Connected Vehicle research at USDOT is a multimodal program that involves using wireless communication between vehicles, infrastructure, and personal communications devices to improve safety, mobility, and environmental sustainability. The CVRIA project is sponsored and led by the ITS JPO, under the management of the ITS Architecture and Standards Programs and in cooperation with the Systems Engineering and Test Bed Programs. To learn more about the Connected Vehicle program please visit *www.its.dot.gov.*

For further information, please contact Carlos Alban, Transportation Program Specialist, Intelligent Transportation Society of America, 1100 New Jersey Ave. SE., Suite 850, Washington, DC 20003, 202–721–4223, *calban@itsa.org.*

Issued in Washington, DC, on the 30th day of January 2014.

John Augustine,

Managing Director, ITS Joint Program Office.

[FR Doc. 2014–02338 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Airport Closure; Cleveland Hardwick Field (HDI), Cleveland, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of permanent closure of Cleveland Hardwick Field Airport (HDI) and release of land request.

SUMMARY: The Federal Aviation Administration (FAA) received written notice, dated January 8, 2014, from the City of Cleveland, Tennessee requesting the release of land and the permanent closure of Cleveland Hardwick Field (HDI). The notice was in excess of 30 days before the closure in accordance with 49 U.S.C. 46319(a). The FAA hereby publishes the intent of the City of Cleveland's notice of permanent closure of Cleveland Hardwick Field Airport in accordance with U.S.C. 46319(b).

DATES: *Effective Date:* The permanent closure date of the airport is effective as of March 14, 2014.

FOR FURTHER INFORMATION CONTACT: Stephen Wilson, Community Planner, Federal Aviation Administration, Memphis Airports District Office, 2600 Thousand Oaks Boulevard, Suite 2250, Memphis, Tennessee 38118, 901–322–8185.

SUPPLEMENTARY INFORMATION: On January 8, 2014, The City of Cleveland, Tennessee, sponsor of Cleveland Hardwick Field Airport (HDI), informed the FAA of its intent to finalize the closure. The airport sponsor wishes to complete the release of airport land by March 14, 2014. Cleveland Hardwick Field (HDI) located in Cleveland, Tennessee is a single runway, general aviation airport located in eastern Tennessee. Cleveland Hardwick Field is constrained by residential properties and several commercial establishments.

The current runway length at HDI is 3,300 ft. and does not accommodate larger aircraft. The airport sponsor identified the need for a new airport facility with a 5,500 ft. runway able to accept larger category aircraft types. The City of Cleveland, Tennessee subsequently developed a replacement airport known as the Cleveland Regional Jetport (RZR) located approximately 5 miles from HDI. The closed facility, comprised of approximately 62 acres will be parceled and sold. All flight operations and tenants have been relocated to the newly opened Cleveland Regional Jetport (RZR).

Per U.S.C. 46319(a), a public agency may not permanently close an airport listed in the National Plan of Integrated Airports Systems (NPIAS) under section 47103 without providing notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of closure. The FAA recognizes the letter dated January 8, 2014 from the City of Cleveland, Tennessee as meeting the 30 day requirement.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Memphis, Tennessee on January 30, 2014.

Paul Friedman,

Assistant Manager, Memphis Airports District Office.

[FR Doc. 2014–02473 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–07]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before February 25, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2013–0965 using any of the following methods:

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

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *mark.forseth@faa.gov,* phone (425) 227–2796; or Sandra Long, ARM–201, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *sandra.long@faa.gov*, phone (202) 493–5245.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on January 30, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA–2013–0965.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 14 CFR 25.785(h)(2).

Description of Relief Sought: Petitioner request an exemption from the requirements of flight-attendant direct view of passenger seating in zones where mini-suites are installed on Boeing Model 777–200, 777–200LR, 777–300, and 777–300ER airplanes operating under part 121.

[FR Doc. 2014–02360 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–08]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before February 25, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2013–0945 using any of the following methods:

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

Privacy: We will post all comments we receive, without change, to *http://*

www.regulations.gov, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *mark.forseth@faa.gov,* phone (425) 227–2796; or Sandra Long, ARM–201, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *sandra.long@faa.gov,* phone (202) 493–5245.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on January 30, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2013–0945.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 14 CFR 25.785(h)(2).

Description of Relief Sought: Petitioner request an exemption from the requirements of flight-attendant direct view of seated occupants in mini-suite seating systems located in premium cabin zones of Boeing Model 787 airplanes.

[FR Doc. 2014–02359 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–10]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before February 25, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2013–0968 using any of the following methods:

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

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *mark.forseth@faa.gov*, phone (425) 227–2796; or Sandra Long, ARM–201, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *sandra.long@faa.gov*, phone (202) 493–5245.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on January 30, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2013–0968.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 14 CFR 25.785(h)(2).

Description of Relief Sought: Petitioner requests an exemption from the requirement of flight-attendant direct view of passenger seating in zones where mini-suites are installed on Boeing Model 747–8 airplanes operating under part 121.

[FR Doc. 2014–02361 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0194]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 40 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before March 7, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0194 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

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

• *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 40 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Dana A. Albert

Mr. Albert, 57, has had ITDM since 2005. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Albert understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Albert meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from New York.

John R. Benshoff

Mr. Benshoff, 67, has had ITDM since 2006. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Benshoff understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Benshoff meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Ohio.

Douglas R. Black, Sr.

Mr. Black, 56, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Black understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Black meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Ohio.

Kenneth Bland

Mr. Bland, 48, has had ITDM since 2010. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bland understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bland meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

George A. Blanda

Mr. Blanda, 77, has had ITDM since 2000. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blanda understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blanda meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable

nonproliferative diabetic retinopathy. He holds a Class B CDL from New York.

Terrence K. Cannon

Mr. Cannon, 56, has had ITDM since 2007. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cannon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cannon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Trisha J. Davis

Ms. Davis, 49, has had ITDM since 2001. Her endocrinologist examined her in 2013 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Davis understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Davis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2013 and certified that she has stable nonproliferative diabetic retinopathy. She holds an operator's license from Maine.

Brian J. Decker

Mr. Decker, 44, has had ITDM since 1999. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Decker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Decker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Joshua A. Enis

Mr. Enis, 31, has had ITDM since 2001. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Enis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Enis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Mississippi.

Richard R. Epstein

Mr. Epstein, 58, has had ITDM since 2010. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Epstein understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Epstein meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Paul D. Ferris

Mr. Ferris, 56, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ferris understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ferris meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

Tyrone E. Fisher

Mr. Fisher, 44, has had ITDM since 2004. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fisher understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fisher meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from New Jersey.

Larry Gaskill

Mr. Gaskill, 54, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gaskill understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gaskill meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Rhode Island.

Thomas H. Gaskins

Mr. Gaskins, 56, has had ITDM since 2007. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist

certifies that Mr. Gaskins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gaskins meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from North Carolina.

Gary A. Grant

Mr. Grant, 55, has had ITDM since 2004. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Grant understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Grant meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Brian C. Halcomb

Mr. Halcomb, 51, has had ITDM since 2006. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Halcomb understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Halcomb meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

David H. Hodges

Mr. Hodges, 55, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hodges understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hodges meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Arkansas.

Gerald Lee

Mr. Lee, 54, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lee understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lee meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Timothy R. Lewis

Mr. Lewis, 54, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lewis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lewis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Oregon.

Gregory J. Littlefield

Mr. Littlefield, 41, has had ITDM since 2001. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Littlefield understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Littlefield meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Marvin E. Marry

Mr. Marry, 54, has had ITDM since 2010. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Marry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D CDL from Kentucky.

Glen H. Miller

Mr. Miller, 71, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class C CDL from Michigan.

Ryan M. Ottis

Mr. Ottis, 26, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting

in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ottis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ottis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Dakota.

Steven M. Parsons

Mr. Parsons, 42, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Parsons understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Parsons meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from West Virginia.

Fortino Perry

Mr. Perry, 39, has had ITDM since 2010. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Perry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Perry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from Alabama.

William L. Reece

Mr. Reece, 62, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Reece understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Reece meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Dakota.

Jesus M. Rosario

Mr. Rosario, 55, has had ITDM since 2007. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rosario understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rosario meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Massachusetts.

Jay R. Rude

Mr. Rude, 33, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rude understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rude meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arizona.

Denise D. Ruffin

Ms. Ruffin, 57, has had ITDM since 2009. Her endocrinologist examined her in 2013 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Ruffin understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Ruffin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2013 and certified that she does not have diabetic retinopathy. She holds an operator's license from Mississippi.

Richard R. Sterling

Mr. Sterling, 54, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sterling understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sterling meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Ryan E. Stretch

Mr. Stretch, 23, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stretch understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stretch meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His

ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Missouri.

William F. Sullivan, IV

Mr. Sullivan, 60, has had ITDM since 2002. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sullivan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sullivan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

Paul D. Summerford

Mr. Summerford, 69, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Summerford understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Summerford meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Mississippi.

John R. Thompson

Mr. Thompson, 59, has had ITDM since 1973. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thompson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thompson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Wisconsin.

Everette L. Twyman

Mr. Twyman, 71, has had ITDM since 2010. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Twyman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Twyman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Kim L. Watson

Ms. Watson, 56, has had ITDM since 2012. Her endocrinologist examined her in 2013 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Watson understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Watson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2013 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Maryland.

Brian D. Weeks

Mr. Weeks, 43, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Weeks understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Weeks meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Ammon R. West

Mr. West, 39, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. West understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. West meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

Michael A. White

Mr. White, 54, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. White understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. White meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from Maryland.

John F. Whitesides

Mr. Whitesides, 59, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance

of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Whitesides understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Whitesides meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0194 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0194 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Dated: January 24, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–02454 Filed 2–4–14; 8:45 am]

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[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–0017; FMCSA–2008–0340; FMCSA–2011–0141; FMCSA–2011–0190; FMCSA–2011–0298; FMCSA–2011–0325]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 15 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective February 22, 2014. Comments must be received on or before March 7, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2007–0017; FMCSA–2008–0340; FMCSA–2011–0141; FMCSA–2011–0190; FMCSA–2011–0298; FMCSA–2011–0325], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 15 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 15 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Bryant M. Adams (CA)
Brian K. Cline (NC)
Richard D. Hackney (MO)
Mickey Lawson (NC)
Robbey Nelson (NC)
John E. Nichols (PA)
Thomas M. Nubert (OH)
Richard E. Purvenas, Jr. (DE)
Michael C. Reese (GA)
Mark C. Reineke (NM)
Robert T. Reynolds (OH)
Glenn T. Riley (OH)
Lawrence D. Ventimiglia (NV)
Gary S. Warren (IA)
Chadwick L. Wyatt (NC)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 15 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (72 FR 67340; 73 FR 1395; 73 FR 75803; 74 FR 6209; 74 FR 65845; 76 FR 4413; 76 FR 53710; 76 FR 64169; 76 FR 70213; 76 FR 75943; 76 FR 78728; 77 FR 10608; 77 FR 539; 77 FR 541). Each of these 15 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by March 7, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 15 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2007–0017; FMCSA–2008–0340; FMCSA–2011–0141; FMCSA–2011–0190; FMCSA–2011–0298; FMCSA–2011–0325 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2007–0017; FMCSA–2008–0340; FMCSA–2011–0141; FMCSA–2011–0190; FMCSA–2011–0298; FMCSA–2011–0325 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Dated: January 24, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–02462 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0012]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ENTROPIA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before March 7, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0012. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ENTROPIA is:

Intended Commercial Use of Vessel: ''Passenger Charter.''

Geographic Region: ''New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Puerto Rico.''

The complete application is given in DOT docket MARAD–2014–0012 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: January 31, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–02417 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0014]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel FUNGIRL; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before March 7, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0014. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FUNGIRL is:

Intended Commercial Use of Vessel: ''Short duration (1–5 days) pleasure cruise charters''

Geographic Region: Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, New York, New Jersey, Maryland, Delaware, North Carolina, Virginia, South Carolina, Georgia, Florida.

The complete application is given in DOT docket MARAD–2014–0014 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: January 31, 2014.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–02469 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0015]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel DREAMER; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before March 7, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0015. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel DREAMER is:

Intended Commercial Use Of Vessel: ''sailboat excursions''.

Geographic Region: ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, Georgia, Florida''.

The complete application is given in DOT docket MARAD–2014–0015 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: January 31, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–02416 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0013]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ON STRIKE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before March 7, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0013. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ON STRIKE is:

Intended Commercial Use of Vessel: ''Sport Fishing Charters''

Geographic Region: ''Mississippi, Louisiana, Alabama, Florida''

The complete application is given in DOT docket MARAD–2014–0013 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator

Dated: January 31, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–02466 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below will be forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on Tuesday, June 25, 2013 (FR Vol 78 No. 122, Page 38096.)

DATES: Comments must be submitted on or before March 7, 2014.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Marietta Bowen, State Data Reporting Systems Division (NVS–412), Room W53–306, 1200 New Jersey Avenue SE., Washington DC 20590. Mrs. Bowen can also be reached via email at *marietta.bowen@dot.gov* or via phone at 202–366–4257.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Fatality Analysis Reporting System (FARS).

OMB Number: 2127–0006.

Type of Request: Continuation.

Abstract: Under both the Highway Safety Act of 1966 and the National Traffic and Motor Vehicle Safety Act of 1966, as amended, the National Highway Traffic Safety Administration (NHTSA) has the responsibility to collect accident data that support the establishment and enforcement of motor vehicle regulations and highway safety programs. These regulations and programs are developed to reduce the severity of injury and the property damage associated with motor vehicle accidents. The Fatality Analysis Reporting System (FARS) is a major system that acquires national fatality information directly from existing State files and documents. The total user population includes Federal and State agencies and the private sector.

Affected Public: State, Local or Tribal Government.

Estimated Annual Burden: 98,655 hours.

Number of Respondents: 52.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; 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, 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.

Issued in Washington, DC, on January 31, 2014.

Terry T. Shelton,

Associate Administrator for National Center for Statistics and Analysis.

[FR Doc. 2014–02391 Filed 2–4–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Financial Crimes Enforcement Network; Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Financial Crimes Enforcement Network, Department of the Treasury.

ACTION: Request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, we invite comment on a proposed renewal, without change, to the generic clearance for the collection of qualitative feedback on agency service delivery. This request for comments is being made pursuant to the Paperwork Reduction Act (''PRA'') of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before April 7, 2014.

ADDRESSES: Written comments should be submitted to: Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183, ''Attention: Comments on generic clearance for the collection of qualitative feedback on agency service delivery.'' Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov,* again with a caption, in the body of the text, ''Attention: Comments on generic clearance for the collection of qualitative feedback on agency service delivery.''

Inspection of comments: Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: Financial Crimes Enforcement Network, Policy Division at (800) 949–2732, select option 6.

SUPPLEMENTARY INFORMATION:

Abstract: The Director of the Financial Crimes Enforcement Network is the delegated administrator of the Bank Secrecy Act (''Act''). The Act authorizes the Director to issue regulations to require all financial institutions defined as such in the Act to maintain certain records or file certain reports that have been determined to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism, and to implement anti-money laundering programs and compliance procedures.[1] FinCEN periodically surveys its stakeholders to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Agency's commitment to improving service delivery.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Office of Management and Budget Control Number: 1506–0062.

Abstract: The Financial Crimes Enforcement Network is renewing, without change, the bureau's capability to solicit feedback from the public with respect to timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

The collections are voluntary;

The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal government;

The collections are non-controversial and do not raise issues of concern to other Federal agencies;

Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;

Personally identifiable information (PII) is collected only to the extent necessary and is not retained;

Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency (if released, the agency must indicate the qualitative nature of the information);

Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Current Action: Renewal without change to an existing collection.

Type of Review: Extension of a currently approved information collection.

Affected Public: Business and other for-profit institutions.

Burden: Estimated Number of Respondents: 63,182.[2]

Estimated Number of Responses: 1,000. (Avg. 250 per request).[3]

Estimated Number of Hours: 10,000. (30 minutes per response).[4]

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper

[1] Public Law 91–508, as amended and codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959 and 31 U.S.C. 5311–5332. Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (''USA PATRIOT'') Act of 2001, Public Law 107–56.

[2] This number includes depository institutions (10,772), broker-dealers in securities (5,100), future commission merchants (101), introducing brokers in commodities (1,249), and open end mutual funds (1,660), and money services businesses (44,300), each as defined under the BSA.

[3] FinCEN has submitted, on average, four (4) requests per year each with 250 respondents.

[4] The FinCEN surveys average 30 minutes to complete. The Office of Management and Budget has allocated 10,000 hours for the three-year period covered by this notice.

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.

Dated: January 28, 2014.

Frederick Reynolds,

Deputy Director, Financial Crimes Enforcement Network.

[FR Doc. 2014–02348 Filed 2–4–14; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8886

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 8886, Reportable Transaction Disclosure Statement.

DATES: Written comments should be received on or before April 7, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields, LL.M., Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Reportable Transaction Disclosure Statement.

OMB Number: 1545–1800.

Form Number: 8886.

Abstract: Regulation section 1.6011–4 requires certain taxpayers to disclose reportable transactions in which they directly or indirectly participated.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals.

Estimated Number of Respondents: 400.

Estimated Time per Respondent: 22 hours, 16 minutes.

Estimated Total Annual Burden Hours: 8,904.

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 28, 2014.

Christie A. Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–02409 Filed 2–4–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–Q

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 1099–Q, Payments From Qualified Education Programs (Under Sections 529 and 530).

DATES: Written comments should be received on or before April 7, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gerald J. Shields, LL.M., Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Payments From Qualified Education Programs (Under Sections 529 and 530)

OMB Number: 1545–1760.

Form Number: 1099–Q.

Abstract: Form 1099–Q is used to report distributions from private and state qualified tuition programs as required under Internal Revenue Code sections 529 and 530.

Current Actions: There are material changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 150,000.

Estimated Time per Respondent: 13 minutes.

Estimated Total Annual Burden Hours: 33,000.

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 28, 2014.

Christie A. Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–02411 Filed 2–4–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for HCTC Program Forms

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 13929, Health Coverage Tax Credit (HCTC)-Paper Check Request, Form 13562, Health Coverage Tax Credit (HCTC)-General Registration Information Form, and Health Coverage Tax Credit (HCTC)—Administrative Change Form.

DATES: Written comments should be received on or before April 7, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields, LL.M., at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Health Coverage Tax Credit (HCTC)-Paper Check Request, Health Coverage Tax Credit (HCTC)-General Registration Information Form, and Health Coverage Tax Credit (HCTC)-Administrative Change Form.

OMB Number: 1545–2118.

Form Number: Form 13929, Form 13562, HCTC Admin. Change Form.

Abstract: These forms are used to help manage the HCTC program. Health plan administrators will use these forms to submit requests of; changes to their account information, waivers from the Federal requirement that mandates all payments to be made via Electronic Funds Transfer (EFT), and to provide the required registration information into the HCTC program.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Farms.

Estimated Number of Respondents: 700.

Estimated Time per Respondent: 1 hour 15 minutes.

Estimated Total Annual Burden Hours: 875.

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 29, 2014.

Christie A. Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–02410 Filed 2–4–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, February 26, 2014.

FOR FURTHER INFORMATION CONTACT: Patricia Robb or Ellen Smiley at 1–888–912–1227 or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Wednesday, February 26, 2014, at 1:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must

be made with Patricia Robb or Ellen Smiley. For more information please contact Patricia Robb or Ellen Smiley at 1–888–912–1227 or (414) 231–2360 or write: TAP Office, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221 or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: January 29, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–02412 Filed 2–4–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee February 11, 2014, Public Meeting

ACTION: Notification of Citizens Coinage Advisory Committee February 11, 2014, Public Meeting.

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for February 11, 2014.

Date: February 11, 2014

Time: 10:00 a.m. to 2:30 p.m.

Location: Conference Room A, United States Mint, 801 9th Street NW., Washington, DC 20220

Subject: Review and discussion of candidate designs for the 2015 America the Beautiful Quarters® Program. In addition, the CCAC will review and discuss its Fiscal Years 2013 and 2014 Annual Reports.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: William Norton, United States Mint Liaison to the CCAC; 801 9th Street NW., Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6525.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: January 31, 2014.

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2014–02436 Filed 2–4–14; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0068]

Agency Information Collection (Application for Service–Disabled Veterans Insurance) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 7, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0068'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0068.''

SUPPLEMENTARY INFORMATION:

Title: Application for Service-Disabled Veterans Insurance, VA Forms 29–4364, 29–4364c and 29–0151.

OMB Control Number: 2900–0068.

Type of Review: Extension of a currently approved collection.

Abstract: Veterans complete VA Forms 29–4364 and 29–0151 to apply for service-disabled veterans insurance, designate a beneficiary and select an optional settlement. VA uses the data collected on VA Forms 29–4364 and 29–0151 to determine the claimant's eligibility for insurance.

VA Form 29–4364c is used by Veterans who were rated unemployable or with certain severely disabling conditions. Veterans completing VA Form 29–4364c do not need to provide medical information to qualify for this insurance.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 20, 2013, at pages 69747–69748.

Affected Public: Individuals or households.

Estimated Annual Burden: 8,333 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 25,000.

Dated: January 30, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–02351 Filed 2–4–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0047]

Agency Information Collection (Financial Statement) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the

collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 7, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0047'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0047.''

SUPPLEMENTARY INFORMATION:

Title: Financial Statement, VA Form 26–6807.

OMB Control Number: 2900–0047.

Type of Review: Revision of a currently approved collection.

Abstract: The data collected on VA Form 26–6807 VA Form 26–6807 is primarily completed by purchasers assuming a veteran's home loan in release of liability cases authorized by 38 U.S.C. 3714, and by veteran-purchasers seeking substitution of entitlement by 38 U.S.C. 3702(b)(2). Data obtained permits credit underwriting determinations for action in such cases.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 18, 2013, at page 69175.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,250 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 3,000.

Dated: January 30, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–02345 Filed 2–4–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0179]

Agency Information Collection (Application for Change of Permanent Plan—Medical Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 7, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0179'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0179.''

SUPPLEMENTARY INFORMATION:

Title: Application for Change of Permanent Plan (Medical), VA Form 29–1549.

OMB Control Number: 2900–0179.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by the insured to establish his/her eligibility to change insurance plans from a higher reserve to a lower reserve value.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 31, 2013, at pages 46417–46418.

Affected Public: Individuals or households.

Estimated Annual Burden: 14 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 28.

Dated: January 30, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–02346 Filed 2–4–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0708]

Agency Information Collection (Evidence for Transfer of Entitlement of Education Benefits (CFR 21.7080)) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 7, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0708'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records

Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0708.''

SUPPLEMENTARY INFORMATION:

Title: Evidence for Transfer of Entitlement of Education Benefits (CFR 21.7080).

OMB Control Number: 2900–0708.

Type of Review: Revision of a currently approved collection.

Abstract: Servicemembers on active duty may request to designate up to a maximum of 18 months of their educational assistance entitlement to their spouse, one or more of their children, or a combination of the spouse and children. VA will accept DOD Form 2366–1 as evidence that the servicemember was approved by the military to transfer entitlement. The servicemember must submit in writing to VA, the name of each dependent, the number of months of entitlement transferred to each dependent, and the period (beginning date or ending date) for which the transfer will be effective for each designated dependent. VA will use the information shown on DOD Form 2366–1 to determine whether the dependent qualifies to receive education benefits under the transfer of entitlement provision of law.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 27, 2013, at pages 59722.

Affected Public: Individuals or households.

Estimated Annual Burden: 14,476.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 173,709.

Dated: January 30, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–02352 Filed 2–4–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 79 Wednesday,
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Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 1

Sanitary Transportation of Human and Animal Food; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1

[Docket No. FDA–2013–N–0013]

RIN 0910–AG98

Sanitary Transportation of Human and Animal Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA or we) is proposing to establish requirements for shippers, carriers by motor vehicle and rail vehicle, and receivers engaged in the transportation of food, including food for animals, to use sanitary transportation practices to ensure the safety of the food they transport. This action is part of our larger effort to focus on prevention of food safety problems throughout the food chain and is part of our implementation of the Sanitary Food Transportation Act of 2005 (2005 SFTA) and the FDA Food Safety Modernization Act of 2011 (FSMA).

DATES: Submit either electronic or written comments on the proposed rule by May 31, 2014.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2013–N–0013 and/or Regulatory Information Number (RIN) 0910–AG98, by any of the following methods except that comments on information collection issues under the Paperwork Reduction Act of 1995 must be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) (see the ''Paperwork Reduction Act of 1995'' section of this document):

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:

- *FAX:* 301–827–6870.
- *Mail/Hand delivery/Courier (for paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name, Docket No. FDA–2013–N–0013, and RIN 0910–AG98 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 the docket number found in brackets in the heading of this document into the ''Search'' box and follow the prompts, and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

With regard to this proposed rule: Michael E. Kashtock, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2022.

With regard to the information collection: Domini Bean, Office of Operations, Food and Drug Administration, 1350 Picard Dr., PI50–400T, Rockville, MD 20850, *domini.bean@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Proposed Rule

The Food Safety Modernization Act requires FDA to issue regulations requiring shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use sanitary transportation practices to ensure that food is not transported under conditions that may render the food adulterated. Isolated incidents of insanitary transportation practices for human and animal food and outbreaks and illnesses caused by contamination of these foods during transport there have resulted in concerns over the past decades about the potential that food can become contaminated during transportation. The goal of the proposed rule is to ensure that transportation practices do not create food safety risks. Practices that create such risk include failure to properly refrigerate food, inadequate cleaning of vehicles between loads, and failure to properly protect food during transportation. The proposed rule builds on current safe food transport practices and is focused on ensuring that persons engaged in the transportation of food that is at the greatest risk for contamination during transportation follow appropriate sanitary transportation practices. It otherwise would allow the transportation industry to continue to use best practices concerning cleaning, inspection, maintenance, loading and unloading of, and operation of vehicles and transportation equipment, that it has developed to ensure that food is transported under the conditions and controls necessary to prevent contamination and other safety hazards. The proposed rule would not cover shippers, receivers, or carriers engaged in food transportation operations that have less than $500,000 in total annual sales. In addition, the requirements in the proposed rule would not apply to the transportation of fully packaged shelf-stable foods, live food animals and raw agricultural commodities (RACs) when RACs are transported by farms. In addition, persons subject to the rule could request waivers from its requirements if they can show that the waiver will not result in the transportation of food under conditions that would be unsafe for human and animal health and will not be contrary to the public interest.

Summary of the Major Provisions of the Proposed Rule

As required by FSMA, the proposed rule would address the sanitary transportation of food (human and animal food) by establishing criteria and definitions that would apply in determining whether food is adulterated because it has been transported or offered for transport by a shipper, carrier by motor vehicle or rail vehicle, or receiver engaged in the transportation of food under conditions that are not in compliance with the sanitary food transportation regulations.

The proposed rule would define transportation as any movement of food in commerce by motor vehicle or rail vehicle. The proposed rule would also establish requirements for sanitary transportation practices applicable to shippers, carriers by motor vehicle and rail vehicle, and receivers engaged in food transportation operations.

Specifically, the proposed rule would establish requirements for:

- Vehicles and transportation equipment;
- Transportation operations;
- Training;
- Records; and
- Waivers.

The proposed rule would allow the transportation industry to continue to use best practices concerning cleaning, inspection, maintenance, loading and unloading of, and operation of vehicles and transportation equipment, that it has developed to ensure that food is transported under the conditions and

controls necessary to prevent contamination and other safety hazards.

The proposed rule is intended to ensure that persons engaged in the transportation of food that is at the greatest risk for contamination during transportation follow appropriate sanitary transportation practices. For example, the proposed rule would require that shippers inspect a vehicle for cleanliness prior to loading food that is not completely enclosed by its container, e.g., fresh produce in vented boxes, onto the vehicle. The proposed rule would also require that persons engaged in transportation operations for foods that require time/temperature control to ensure their safety (TCS food), e.g., meat, poultry, seafood, raw seed sprouts, or unpasteurized shell eggs, or to prevent microbial spoilage, e.g., pasteurized juice, take actions to ensure the maintenance of the transportation cold chain such as the pre-cooling of the vehicle by the carrier with subsequent verification by the shipper before the food is loaded onto the vehicle.

The proposed rule would require that shippers specify to carriers in writing the sanitary requirements for a vehicle or transportation equipment to be provided for all food subject to this proposal and the temperature requirements for foods subject to temperature control requirements. The proposed rule would require that shippers maintain records that demonstrate that they provide this information to carriers.

Additionally, for food subject to temperature control requirements, the proposed rule would require that carriers demonstrate to shippers and, upon request, to receivers that they have maintained appropriate temperature control for the food during the transportation operation. The proposed rule would also require carriers to provide information to shippers about previous cargoes hauled in bulk vehicles offered for the transportation of food and the intervening cleaning of those vehicles. The proposed rule would require that carriers develop and implement written procedures subject to recordkeeping that describe how they will provide these items of information to shippers and receivers.

The proposed rule would establish requirements for carriers to develop and implement written procedures subject to recordkeeping that specify its practices for cleaning, sanitizing, and inspecting vehicles and transportation equipment as required by this rule.

The proposed rule would establish requirements for the training of carrier personnel engaged in transportation operations, including a requirement for records that document the training.

Further, the proposed rule would establish procedures by which FDA will waive any of these requirements if FDA determines that the waiver will not result in the transportation of food under conditions that would be unsafe for human or animal health and will not be contrary to the public interest, and procedures that FDA will follow when revoking such waivers.

The proposed rule would not cover shippers, receivers, or carriers engaged in food transportation operations that have less than $500,000 in total annual sales.

We have developed this proposed rule implementing the 2005 SFTA and FSMA to operate in conjunction with other rules we will be issuing under FSMA to ensure that the safety of food during transportation is effectively addressed as part of FDA's comprehensive effort to strengthen the food safety system. Under FSMA, FDA has proposed rules on Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food (78 FR 3646, January 16, 2013) and animal (78 FR 64736, October 29, 2013) food facilities (the proposed preventive controls rules for human and animal food, respectively) and on Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption (78 FR 3504, January 16, 2013).

Costs and Benefits

This proposed rule is estimated to cover 83,609 firms. This number includes carriers engaged in food transportation and food facilities including the U.S. Department of Agriculture (USDA) establishments that ship food subject to this proposed rule. Total first year cost is estimated to be $149.1 million (with an average of $1,784 per firm), and total annual cost is estimated to be $30.08 million (with an average of $360 per firm).

We lack sufficient data to quantify the potential benefits of the proposed rule. The causal chain from inadequate food transportation to human and animal health and welfare can be specified but not quantified. Because no complete data exist to precisely quantify the likelihood of food becoming adulterated during its transport, we are unable to estimate the effectiveness of the requirements of the proposed rule to reduce potential adverse health effects in humans or animals. Furthermore, while we expect small changes in behavior (in the form of safer practices), we do not anticipate large scale changes in practices as a result of the requirements of this proposed rule. Nevertheless, improving food transportation systems could reduce the number of recalls, reduce the risk of adverse health effects related to such contaminated human and animal food and feed, and reduce the losses of contaminated human and animal food and feed ingredients and products.

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I. Background

Due to illness outbreaks involving human food and animal food that became contaminated during transportation (Ref. 1) (Ref. 2) and incidents and reports of insanitary transportation practices (Ref. 3) (Ref. 4) (Ref. 5) (Ref. 6) (Ref. 7) (Ref. 8), there have been concerns over the past few decades about the need to ensure that food is transported in the United States in a sanitary manner (Ref. 9). Press accounts in the late 1980s of trucks carrying food from the Midwest to both the East and West Coasts and returning with garbage for Midwest landfills led to concern that food products could become contaminated and unfit for human consumption if irresponsible vehicle operators failed to prevent contamination of food products in vehicles that had been previously used to haul waste or other non-food materials. Congress responded to these concerns by passing the Sanitary Food Transportation Act of 1990 (1990 SFTA) which directed the Department of Transportation (DOT) to establish regulations to prevent food or food additives transported in certain types of bulk vehicles from being contaminated by nonfood products that were simultaneously or previously transported in those vehicles. Following

the passage of the 1990 SFTA it became clear that potential sources of food contamination during transport were not just limited to nonfood products. Most notably, a 1994 outbreak of salmonellosis occurred in which ice cream mix became contaminated during transport in tanker trucks that had previously hauled raw liquid eggs. That outbreak affected an estimated 224,000 persons nationwide (Ref. 1).

In 2005 Congress withdrew the 1990 SFTA and passed the 2005 SFTA, a broader food transportation safety law than the 1990 SFTA in that its focus was not limited only to preventing food contamination from nonfood sources during transportation. The 2005 SFTA directed FDA to establish regulations prescribing sanitary transportation practices to be followed by shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food.

In April of 2010 FDA issued guidance to provide the industry with broadly applicable recommendations for controls to prevent food safety problems during transport while it was in the process of implementing 2005 SFTA (Ref. 10).

As part of our implementation of the 2005 SFTA, we also issued an advance notice of proposed rulemaking in 2010 (the 2010 ANPRM; 75 FR 22713) to request data and information on the food transportation industry and its practices and on the contamination of transported foods and any associated outbreaks.

In the 2010 ANPRM we discussed the concerns about safe food transportation dating from the 1980s as well as current practices in the food transportation industry and areas where food is at risk for contamination. We discussed DOTs actions in response to the 1990 SFTA. We also noted findings released in 2007, of an Interstate Food Transportation Project carried out by a number of Midwestern states (Refs. 3) (Ref. 4). The purpose of the project was to determine the current state of food safety and food defense in the context of in-transit food in interstate commerce. The project identified several areas of concern in food transport relevant to this rulemaking that increase the likelihood of food contamination, such as improper refrigeration, transport of raw meat and poultry in a manner that could result in cross-contamination of fresh fruits and vegetables transported in the same vehicle (cross-contamination is the transfer of harmful bacteria to food from other foods when food is improperly handled), improper packaging, infestation with insects, insanitary storage (e.g., roof leaks and moldy walls, animal blood and food on bed floors), low driver awareness of safe food temperatures, and inadequate food safety training of drivers. Most of the specific instances where food transportation problems were found involved smaller box trucks; there were ''little or no areas of concern'' identified with larger (semi-tractor trailer) trucks inspected during the project's survey.

We also discussed the findings, issued in a 2009 report, of a study conducted for FDA by the Eastern Research Group (the ERG report) to characterize current baseline practices in the sectors involved in food transportation and to identify current areas where food is at risk for adulteration (Ref. 9).

The ERG report identified a number of areas where food may be at risk for physical, chemical, or biological contamination during transport and storage:

- Improper refrigeration or temperature control of food products (temperature abuse).
- Improper management of transportation units or storage facilities to preclude cross-contamination, including improper sanitation, backhauling hazardous materials, not maintaining tanker wash records, improper disposal of wastewater, and aluminum phosphide fumigation methods in railcar transit;
- Improper packing of transportation units or storage facilities, including incorrect use of packing materials and poor pallet quality;
- Improper loading practices, conditions, or equipment, including improper sanitation of loading equipment, not using dedicated units where appropriate, inappropriate loading patterns, and transporting mixed loads that increase the risk for cross-contamination;
- Improper unloading practices, conditions, or equipment, including improper sanitation of equipment and leaving raw materials on loading docks after hours;
- Poor pest control in transportation units or storage facilities;
- Lack of driver/employee training and/or supervisor/manager/owner knowledge of food safety and/or security;
- Poor transportation unit design and construction;
- Inadequate preventive maintenance for transportation units or storage facilities, resulting in roof leaks, gaps in doors, and dripping condensation or ice accumulations;
- Poor employee hygiene;
- Inadequate policies for the safe and/or secure transport or storage of foods;
- Improper handling and tracking of rejected loads and salvaged, reworked, and returned products or products destined for disposal; and
- Improper holding practices for food products awaiting shipment or inspection, including unattended product, delayed holding of product, shipping of product while in quarantine, and poor rotation and throughput.

To obtain data that would be current and relevant and to augment the information in the ERG report, we requested public comments containing data and information on questions associated with several specific issues (see the 2010 ANPRM for the issues and questions). We received about 45 comments from a variety of submitters including human and animal food processors and their trade organizations, food distributors and their trade organizations, food retailers and their trade organizations, transportation equipment manufacturers and suppliers, motor and rail carriers and their trade organizations, an organization representing independent truck owner-operators, a State government agency, a consumer advocacy organization, and individual consumers. Where comments informed specific provisions of this proposed rule, we discuss those comments in the relevant part of section III of this document.

A few comments addressed section 416(c)(2)(A) and (c)(2)(B) of the 2005 SFTA, which direct FDA to include in the sanitary food transportation regulations: (1) A list of nonfood products that the Secretary of Health and Human Services (the Secretary) determines may, if shipped in a bulk vehicle, render adulterated food that is subsequently transported in the same vehicle; and (2) a list of nonfood products that the Secretary determines may, if shipped in a motor vehicle or rail vehicle (other than a tank vehicle or bulk vehicle), render adulterated food that is simultaneously or subsequently transported in the same vehicle. Some of the comments addressing this subject offered that lists that prohibit the transport of food and non-food items together would be illogical because they would create requirements for commercial food transportation that do not reflect how consumers privately transport food, wherein they transport food and non-food items together to their homes. One comment asserted that the simultaneous transportation of food and hazardous materials should be prohibited.

While certain combinations of non-food cargos and food cargos (either as a co-cargo or subsequent cargo) may

present the potential for adulteration of the food cargo under certain conditions of transportation, the likelihood of such adulteration is very situation specific. This is because the ability of a non-food product to adulterate a food product in either case is dependent upon, among other things: The construction of the vehicle; the nature and concentration of the non-food product and any contaminants therein contained; the manner and extent of cleaning and sanitizing operations between the cargos; the nature, subsequent processing, and intended use of the food cargo; the manner in which the food and non-food cargos are stored in the vehicle (for non-bulk vehicles); and the manner in which food and non-food cargos are packaged (for non-bulk vehicles). For this reason, we have tentatively concluded that we cannot identify any specific non-food product that may, under all circumstances, adulterate food subsequently hauled in a bulk vehicle, such that we could propose a list of such products in this proposed rule. We have also tentatively concluded that we cannot identify any specific non-food products that may, under all circumstances, adulterate food subsequently or simultaneously hauled in a non-bulk vehicle, such that we could propose a list of such products in this proposed rule. However, we have also tentatively concluded that guidance on how the specifics of the transportation operation affect the potential for non-food products to adulterate food products would be helpful to the transportation industry and intend to develop such guidance upon publication of this final rule. We request comment on these tentative conclusions.

Further, we recognize that within the bulk and non-bulk segments of the food transportation industry, carriers routinely transport non-food items in vehicles that subsequently or simultaneously (for non-bulk vehicles) haul food. Based upon the comments we received in response to the 2010 ANPRM, we believe that in many instances, shippers and carriers working together, e.g., through information sharing, establish procedures for transportation operations that adequately address any concerns that may exist about non-food prior and co-cargos. In other instances, transportation operations are carried out in accordance with various industry best practices guidelines that address non-food prior and co-cargos. This proposed rule, and the proposed preventive controls rules for human and animal food, will establish new requirements that will, respectively, provide for information disclosure between shippers and carriers and consideration of transportation practices within a facility's hazard analysis, that we tentatively conclude will be sufficient to enable shippers covered by this proposed rule and facilities covered by the proposed preventive controls rules to establish safe transportation practices for their bulk and non-bulk shipments where non-food prior or co-cargos are a consideration.

II. Legal Authority

We are issuing this proposed rule under the 2005 SFTA and as directed by section 111(a) of FSMA.

The 2005 SFTA amended the Federal Food, Drug, and Cosmetic Act (FD&C Act), in part, by creating a new section 416 of the FD&C Act (21 U.S.C. 350e). Section 416(b) of the FD&C Act directed us to issue regulations to require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use prescribed sanitary transportation practices to ensure that food is not transported under conditions that may render the food adulterated. Section 416(c) of the FD&C Act specifies that we shall prescribe those practices that we determine are appropriate relating to: (1) Sanitation; (2) packaging, isolation, and other protective measures; (3) limitations on the use of vehicles; (4) information to be disclosed to carriers and to manufacturers; and (5) recordkeeping. Section 416(c) of the FD&C Act also states that the regulations are to include a list of nonfood products that may, if shipped in a bulk vehicle, render adulterated food that is subsequently transported in the same vehicle and a list of nonfood products that may, if shipped in a motor vehicle or rail vehicle (other than a tank vehicle or bulk vehicle), render adulterated food that is simultaneously or subsequently transported in the same vehicle. Section 111(a) of FSMA, directed us to issue these sanitary transportation regulations.

In addition, the 2005 SFTA created new section 402(i) in the FD&C Act (21 U.S.C. 342(i)) which provides that food that is transported or offered for transport by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food under conditions that are not in compliance with the regulations issued under section 416 is adulterated, and new section 301(hh) in the FD&C Act (21 U.S.C. 331(hh)) to prohibit the failure by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food to comply with the regulations issued under section 416. The 2005 SFTA also amended section 703 of the FD&C Act (21 U.S.C. 373) by adding section 703(b), which provides that a shipper, carrier by motor vehicle or rail vehicle, receiver, or other person subject to section 416 shall, on request of an officer or employee designated by FDA, permit the officer or employee, at reasonable times, to have access to and to copy all records that are required to be kept under the regulations issued under section 416.

FDA's authority for this proposed rule also derives from sections 402(a)(1), (a)(3), (a)(4), and 701(a) of the FD&C Act (21 U.S.C. 371(a)). Section 402(a)(1) of the FD&C Act provides, in part, that a food is adulterated if it bears or contains any added poisonous or deleterious substance which may render it injurious to health. Section 402(a)(3) of the FD&C Act provides that a food is adulterated if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food. Section 402(a)(4) of the FD&C Act provides that a food is adulterated if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. Under section 701(a) of the FD&C Act, FDA is authorized to issue regulations for the efficient enforcement of the FD&C Act. The proposed rule includes requirements that are necessary to prevent food from being adulterated (either by becoming filthy, putrid, decomposed or otherwise unfit for food, or being rendered injurious to health from any source) during transportation operations. These requirements allow for the efficient enforcement of the FD&C Act.

III. Description of the Proposed Rule

We are proposing to establish new 21 CFR part 1, subpart O, entitled ''Sanitary Transportation of Human and Animal Food.'' The proposed rule would specify sanitary transportation practices to be used by shippers, carriers by motor vehicle and rail vehicle, and receivers engaged in the transportation of food to ensure that food is not transported under conditions that may render the food adulterated.

A. Scope (Proposed § 1.900)

Proposed § 1.900 addresses who is subject to the requirements of subpart O. Proposed § 1.900(a) would provide that except for non-covered businesses as defined in proposed § 1.904 (who would not be subject to this rule as discussed

in section III.C of this document), the requirements of subpart O would apply to shippers, receivers, and carriers engaged in transportation operations for food whether or not the food is offered for or enters interstate commerce. Proposed § 1.900(b) would provide that the requirements of subpart O do not apply to shippers, receivers, or carriers when they are engaged in transportation operations of: (1) Food that is transshipped through the United States to another country; or (2) food that is imported for future export and that is neither consumed or distributed in the United States.

1. Other Persons Engaged in the Transportation of Food

Section 416(b) of the FD&C Act explicitly states that these regulations should address ''other persons'' engaged in the transportation of food. We considered what other entities could constitute ''other persons'' engaged in the transportation of food who are not shippers, receivers, or carriers and whether proposing requirements for ''other persons'' engaged in the transportation of food was necessary to ensure that food is not transported under conditions that may render the food adulterated. As part of that consideration we reviewed the comments to the 2010 ANPRM for any information that might suggest that applying the provisions of this proposed rule to such persons might substantially further the use of sanitary food transportation practices. After reviewing these comments and other information available to us about the transportation industry, and considering the definitions we are proposing for shippers, carriers, and receivers, we have tentatively concluded that there are not ''other persons'' engaged in the transportation of food whose function in food transportation would be expected to affect the sanitary condition of food, and as such, should be subject to the requirements of this rule. Therefore we are not proposing to subject persons other than shippers, receivers, and carriers to the requirements of this proposed rule. We request comment on whether any other persons should be subject to this proposed rule under the authority provided by section 416(b) of the FD&C Act. The comments should identify the specific function of the person in food transportation, explain how that person does not meet the definition of shipper, carrier, or receiver, describe how that person's actions may affect the sanitary condition of food, and describe the kinds of regulatory provisions that should be applied to that person.

2. Intrastate Activities

FDA tentatively concludes that the provisions in the proposed rule should be applicable to activities that are intrastate in character. The plain language of section 416(a)(2) of the FD&C Act defines the term ''transportation'' as any movement in commerce by motor vehicle or rail vehicle. Section 416(b) of the FD&C Act directs FDA to create regulations to require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the ''transportation'' of food to use sanitary transportation practices prescribed by the Secretary to ensure that food is not transported under conditions that may render the food adulterated. Section 416 does not include a limitation to interstate commerce. FDA seeks comment on whether the provisions should be applicable to activities that are intrastate in character.

3. Activities Outside the United States

This proposed rule sets forth sanitary transportation practices for shippers, carriers, and receivers who transport food that will be consumed or distributed in the United States. However, some food may enter the United States and be transported within the United States but not be consumed or distributed into the U.S. market. For example, some food is transshipped from a foreign country through the United States to a different country (e.g., food that is driven from Mexico through the United States into Canada). In addition, food may be imported into the United States, transported to a facility for further processing, and exported to another country without being consumed or distributed in U.S. commerce.

We have tentatively concluded that section 416 of the FD&C Act is not intended to apply to the transportation of food that is neither consumed nor distributed in the United States. Therefore, proposed § 1.900(b) would provide that the requirements of subpart O do not apply to shippers, receivers, or carriers when they are engaged in transportation operations of: (1) Food that is transshipped through the United States to another country; or (2) food that is imported for future export and that is neither consumed nor distributed in the United States.

However, the proposal would apply to the transportation operations of food that will be directly transported into the United States by motor or rail vehicle. By contrast, the requirements of this proposal would not apply to the transportation operations of food that may ultimately be intended for U.S. commerce, but will not be directly transported into the United States by motor or rail vehicle. For example, the requirements of this proposed rule would apply to a shipper and carrier who conduct a transportation operation abroad that includes direct shipment of the food into the United States by motor vehicle or rail vehicle (e.g., food that is shipped from Mexico by truck and that will enter the United States on that truck and be transported further within the United States). However, the requirements of this proposed rule would not apply to a shipper and carrier who conduct a transportation operation abroad for food that is ultimately intended for the United States, other than the direct shipment of the food to the United States by motor or rail vehicle (e.g., food that is shipped, carried, and received within China but that will ultimately be transported to the United States by air). As a further example, the requirements of this proposed rule would also apply to a person outside of the United States, such as an exporter, who ships food to the United States in an international freight container by oceangoing vessel or in an air freight container, and arranges for the transfer of the intact container in the United States onto a motor vehicle or rail vehicle for transportation in U.S. commerce, if that food will be consumed or distributed in the United States. We would consider this person to be a shipper under this proposed rule because he would be initiating a shipment of food by motor vehicle or rail vehicle, even if doing so from abroad, that would be entering U.S. commerce. If that shipper fails to comply with the requirements of this proposed rule and FDA determines that food shipped to the United States by that shipper may as a result be adulterated, such shipments of food would be subject to refusal of admission when offered for entry into the United States.

4. Other Requirements Applicable to Food Transportation

Proposed § 1.900 would also provide that the requirements of subpart O apply in addition to any other requirements of FDA that are applicable to food transportation. For example, FDA has established regulations setting forth current good manufacturing practices (CGMP) for medicated animal feeds in part 225 (21 CFR part 225), which include a provision in section 225.65 ''Equipment and cleanout procedures,'' that addresses requirements for the cleaning of equipment used in the distribution of medicated feeds to avoid

unsafe contamination of feeds with drugs. Similarly, FDA has established regulations addressing substances prohibited from use in animal food or feed in part 589 (21 CFR part 589), which include provisions in §§ 589.2000 ''Animal proteins prohibited in ruminant feed'' and 589.2001 ''Cattle materials prohibited in animal food or feed to prevent the transmission of bovine spongiform encephalopathy'' addressing cleanout requirements and dedicated equipment requirements for equipment used in the distribution of specified feed ingredients to prevent the contamination of ruminant feed and animal food or feed respectively.

B. Applicability (Proposed § 1.902)

Under section 402(i) of the FD&C Act (21 U.S.C. 342(i)), a food shall be deemed to be adulterated if it is transported or offered for transport by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food under conditions that are not in compliance with regulations issued under section 416 of the 2005 SFTA.

Proposed § 1.902(a) would provide that the criteria and definitions of subpart O apply in determining whether food is adulterated within the meaning of section 402(i) of the FD&C Act in that the food has been transported or offered for transport by a shipper, carrier by motor vehicle or rail vehicle, or receiver engaged in the transportation of food under conditions that are not in compliance with subpart O.

Under section 301(hh) of the FD&C Act, the following act, and the causing thereof, is prohibited: the failure by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food to comply with the sanitary transportation practices prescribed by the Secretary under section 416. To clearly communicate that failure to comply with regulations established under section 416 of the FD&C Act is a prohibited act, proposed § 1.902(b) would provide that the failure by a shipper, carrier by motor vehicle or rail vehicle, or receiver engaged in food transportation operations to comply with the requirements of subpart O is a prohibited act under section 301(hh) of the FD&C Act.

C. Definitions (Proposed § 1.904)

Proposed § 1.904 would define ''adequate'' as that which is needed to accomplish the intended purpose in keeping with good public health practice. This proposed definition is identical to the definition for this term in the existing CGMP regulations (see 21 CFR 110.3(b)). We have retained this definition in the proposed updates to the CGMP provisions of the proposed preventive controls rule for human food and have also included the same definition in the CGMP provisions of the proposed preventive controls rule for animal food. Given the broad applicability of this term in describing essential principles and practices for the sanitary handling of food, we have tentatively concluded that using this term to express relevant requirements in this proposed rule, e.g., transportation equipment must be designed to be ''adequately'' cleanable, will be understood by industry and will be effective in ensuring that food is not transported under conditions that may render it adulterated. Several provisions of this proposed rule are comparable (see Table 1) to provisions of our CGMP regulations and reflect established principles of sanitary operations involving food, whether those operations are carried out in a food facility or in a food transportation operation. As a result, many firms are likely to already be in compliance with the proposed provisions of this rule.

TABLE 1—PROVISIONS OF THIS PROPOSED RULE THAT ARE COMPARABLE TO PROVISIONS OF FDA'S CGMP REGULATIONS

Provision	As proposed in this rule	Comparable to CGMP
§ 1.904	Defines ''adequate'' as that which is needed to accomplish the intended purpose in keeping with good public health practice.	21 CFR 110.3(b)—''Adequate means that which is needed to accomplish the intended purpose in keeping with good public health practice.''
§ 1.906(b)	Requires that vehicles and transportation equipment be maintained in such a sanitary condition as to prevent the food that they transport from becoming filthy, putrid, decomposed, or otherwise unfit for food, or being rendered injurious to health from any source during transportation operations.	21 CFR 110.40(a)—''All plant equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained.''
§ 1.906(c)	Requires that vehicles and transportation equipment that are used in transportation operations for food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation be designed, maintained, and equipped, to maintain the food under temperature conditions that will prevent the rapid growth of undesirable microorganisms.	21 CFR 110.80(b)(6)—''Food that can support the rapid growth of undesirable microorganisms, particularly those of public health significance, shall be held in a manner that prevents the food from becoming adulterated within the meaning of the act.''
§ 1.906(d)	Requires that each freezer and mechanically refrigerated cold storage compartment in vehicles or transportation equipment used in transportation operations for food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation be equipped with an indicating thermometer, temperature-measuring device, or temperature-recording device so installed as to show the temperature accurately within the compartment.	21 CFR 110.40(e)—''Each freezer and cold storage compartment used to store and hold food capable of supporting growth of microorganisms shall be fitted with an indicating thermometer, temperature-measuring device, or temperature-recording device installed to show the temperature accurately within the compartment . . . ''

TABLE 1—PROVISIONS OF THIS PROPOSED RULE THAT ARE COMPARABLE TO PROVISIONS OF FDA'S CGMP REGULATIONS—Continued

Provision	As proposed in this rule	Comparable to CGMP
§ 1.906(e)	Requires that vehicles and transportation equipment be stored in such a manner as to prevent the vehicles or transportation equipment from harboring pests or becoming contaminated in any other manner that could result in food for which they will be used becoming filthy, putrid, decomposed, or otherwise unfit for food, or being rendered injurious to health from any source during transportation operations.	21 CFR 110.35(e)—''Cleaned and sanitized portable equipment with food-contact surfaces and utensils should be stored in a location and manner that protects food-contact surfaces from contamination.''
§ 1.908(a)(2)	Requires that responsibility for ensuring that transportation operations are carried out in compliance with all requirements of subpart O be assigned to competent supervisory personnel.	21 CFR 110.10(d)—''Responsibility for assuring compliance by all personnel with all requirements of this part shall be clearly assigned to competent supervisory personnel.''
§ 1.908(c)(1)	Requires that shippers and receivers provide vehicle operators who are expected to handle food not completely enclosed by a container during loading and unloading operations with access to a hand-washing facility that is convenient and that provides running water.	21 CFR 110.10(b)—''All persons working in direct contact with food, food-contact surfaces, and food-packaging materials shall conform to hygienic practices while on duty to the extent necessary to protect against contamination of food.'' 21 CFR 110.10(b)(3)—''Washing hands thoroughly (and sanitizing if necessary to protect against contamination with undesirable microorganisms) in an adequate hand-washing facility . . .'' 21 CFR 110.37(e)—''Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature.''

Proposed § 1.904 would define ''animal food'' as food for animals other than man, and includes pet food, feed, and raw materials and ingredients. This definition is identical to the definition of ''animal food'' in the proposed preventive controls rule for animal food.

Proposed § 1.904 would define a ''bulk vehicle'' as a tank truck, hopper truck, rail tank car, hopper car, cargo tank, portable tank, freight container, or hopper bin, or any other vehicle in which food is shipped in bulk, with the food coming into direct contact with the vehicle. This proposed definition is taken directly from section 416(a)(1) of the FD&C Act (21 U.S.C. 350e(a)(1)). This definition differentiates a subset of motor vehicles and rail vehicles subject to this proposed rule, i.e., ''bulk vehicles,'' from other types of vehicles subject to this proposed rule, i.e., non-bulk vehicles such as trailers. As discussed in section III.E, we have proposed to establish several specific requirements applicable to transportation operations involving bulk vehicles to ensure that food is adequately protected from adulteration during such operations.

This proposed definition would include equipment used in food transportation because they are attached to and carried on a motor or rail vehicle, e.g., a cargo tank. We tentatively conclude that defining bulk vehicles as we have proposed would ensure that the provisions of this rule relating to bulk vehicles apply to all possible transportation operations in which food is hauled in bulk conveyances, ranging from tank trucks to cargo tanks.

Proposed § 1.904 would define a ''carrier'' as a person who owns, leases, or is otherwise ultimately responsible for the use of a motor vehicle or rail vehicle to transport food. This definition would further provide that the carrier is responsible for all functions assigned to a carrier in subpart O even if they are performed by other persons, such as a driver that is either employed or contracted by a trucking firm to operate the vehicle. Furthermore, a carrier may also be a receiver or a shipper if the person also performs the functions of those respective persons as defined in subpart O.

The transportation of food may be carried out in different ways that involve different entities. For example, a manufacturing facility that does not have its own private truck fleet, drivers, or contracted drivers may enter into a contract of carriage with a trucking company for the trucking company to physically transport a food shipment using the trucking company's vehicle to another facility designated in the contract. In another instance, a distributor who has possession of the food in a holding facility may operate leased vehicles to deliver food to his customers. In both of these examples, the entity ultimately responsible for the use of the vehicle that transports the food, i.e., the trucking company in the first case and the distributor in the second case, would be subject to the requirements applicable to the carrier under this proposed rule. In the second case, the distributor may also be subject to additional requirements applicable to shippers under this proposed rule due to his operation of the holding facility.

This proposed definition would provide that the carrier is responsible for all functions assigned to that person in subpart O, even if they are performed by other persons such as a driver that is employed or contracted by the carrier. Thus the carrier, being the entity ultimately responsible for the use of the vehicle to physically transport food, would be responsible for ensuring that a driver, who operates the vehicle, functions in a manner that enables the carrier to comply with all of his responsibilities under this proposed rule. For example, after a transportation operation, the carrier may under proposed § 1.908(d)(2), discussed in section III.E, provide a log of temperature measurements to the shipper to demonstrate that it has maintained temperature conditions during the transportation operation consistent with those specified by the shipper in accordance with proposed § 1.908(b)(3). In practice, the driver of the vehicle would likely be the person who compiles or retrieves this log from the temperature recording device; however it would be the responsibility of the carrier to ensure that the driver actually compiles or retrieves the log as

part of his duties during the transportation operation and makes it available to be provided to the shipper.

The definition of the term ''carrier'' acknowledges the potential distinction between the carrier, who is the entity responsible for the use of the vehicle, from the operator of the vehicle. The Federal Motor Carrier Safety Administration, part of DOT, makes a similar distinction in its federal motor carrier safety regulations (49 CFR part 390) which define a ''driver'' as any person who operates a commercial motor vehicle and specify that a driver could be employed by a motor carrier (49 CFR 390.5). These regulations also hold motor carriers responsible for, among other things, the oversight of drivers. We have acknowledged the potential for a distinction between the carrier and the driver for the purpose of placing the responsibilities assigned to the carrier under this proposed rule upon a single person. Further, we have tentatively concluded that placing these responsibilities on a single person will help to avoid any confusion regarding who is responsible for the requirements for carriers set forth in this proposed rule.

Proposed § 1.904 would define ''cross-contact'' to mean the unintentional incorporation of a food allergen as defined in section 201(qq) of the FD&C Act (21 U.S.C. 321(qq)) into food, except animal food. We are proposing to establish essentially the same definition for the term ''cross-contact'' that we included in the proposed preventive controls rule for human food (see discussion in 78 FR 3646 at 3693), except that we are adding the term ''except animal food'' to our proposed definition because, as discussed in the preamble of the proposed preventive controls rule for animal food (78 FR 64736 at 64771, October 29, 2013), we are not aware of evidence indicating that foodborne allergens pose a significant health risk to animals, or to humans through handling animal food.

Proposed § 1.904 would define ''farm'' to mean a facility in one general physical location devoted to the growing and harvesting of crops, the raising of animals (including seafood), or both. Further, we are proposing that the term ''farm'' includes facilities that pack or hold food, regardless of whether all food used in such activities is grown, raised, or consumed on that farm or another farm under the same ownership. Our proposed definition of the term ''farm'' differs from the definition of a farm in § 1.227(b)(3) of this chapter, which is used to delineate which entities are required to register under section 415 of the FD&C Act. The reason why we are proposing to define a farm differently for the purposes of this proposed rule is discussed in our proposed definition for ''transportation operations'' later in this section.

Proposed § 1.904 would define ''food'' to mean food as defined in section 201(f) of the FD&C Act, which includes raw materials and ingredients. This definition is identical to the definition of ''food'' in the proposed preventive controls rules for human and animal food. To ensure that the reader understands the scope of food covered by this proposed rule, this definition provision would also state consistent with the definition of ''food'' in the FD&C Act, food includes animal food and food subject to the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act [1] administered by the Food Safety and Inspection Service (FSIS) of the USDA.

FSIS carries out in-commerce surveillance activities to verify that entities whose business activities involve FSIS-regulated products prepare, store, transport, sell, offer for sale or transportation, import, and export such products in compliance with FSIS statutory and regulatory requirements. FSIS has issued guidance for the safe transportation and distribution of meat, poultry and egg products (Ref. 11), however, they do not have requirements that directly address transportation operations for these foods. This rulemaking will complement FSIS's efforts to promote the application of sanitary food transportation practices for FSIS-regulated meat, poultry, and egg products. We intend to work together with FSIS to facilitate this shared objective while carrying out our respective regulatory programs.

Proposed § 1.904 would define ''food not completely enclosed by a container'' to mean any food that is placed into a container in such a manner that it is partially open to the surrounding environment. This proposed definition is used to designate a category of food that is subject to specific provisions of this proposed rule intended to ensure that such food is not potentially rendered adulterated during transportation because it is at increased risk of contamination due to being exposed to the environment. This definition provision includes examples of such containers such as an open wooden basket or crate, an open cardboard box, a vented cardboard box with a top, or a vented plastic bag. The definition also provides that this term does not include food transported in a bulk vehicle as defined in this proposed rule.

This approach is consistent with how we addressed unexposed refrigerated packaged foods in the proposed preventive controls rules for human and animal food. For instance in the proposed preventive controls rule for human food we stated that some of the requirements of that rule would not apply to facilities solely engaged in the storage of packaged foods not exposed to the environment (78 FR 3646 at 3713), and instead proposed to establish modified requirements for such foods that are TCS foods (78 FR 3646 at 3773). In that proposed rule we stated that we considered ''unexposed packaged food,'' to mean packaged food not exposed to the environment (78 FR 3646 at 3712).

In considering how unexposed packaged food should be addressed in the human preventive controls rule we recognized that in general, there are limited routes of contamination for unexposed packaged food due to the protective nature of the food's packaging (78 FR 3646 at 3713). The same was stated in the proposed preventive controls rule for animal food (provide FR cite when published). In this proposed rule, we recognize that the converse is true, i.e., we are recognizing that food not completely enclosed by a container is at greater risk of contamination during transportation, and as such, we tentatively conclude that it is appropriate to propose certain requirements that apply exclusively to such food.

Proposed § 1.904 would define ''microorganisms'' to mean yeasts, molds, bacteria, viruses, protozoa, and microscopic parasites and includes species having public health significance. Proposed § 1.904 would also specify that the term ''undesirable microorganisms'' includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated. This proposed definition is identical to the definition for this term in the proposed preventive controls rules for human and animal food. Because they can adulterate food, we consider the types of microorganisms identified in this proposed definition to be of importance to sanitary transportation of foods as well as to the safe and sanitary production of human and animal food.

[1] FDA notes that, to prevent duplication of effort, its compliance policy is to inform FSIS when an apparent violation is encountered involving a meat or poultry product that has left a USDA inspected establishment (Ref. 12).

Proposed § 1.904 would define ''non-covered business'' as a shipper, receiver, or carrier engaged in transportation operations that has less than $500,000 in total annual sales.

Our proposed definition for a non-covered business is similar to one of the proposed definitions for a very small business in the proposed preventive controls rule for human food for which we requested comment (78 FR 3646 at 3701). Under that proposed rule a very small business would be subject to modified requirements that include provisions for an exemption from the requirements for hazard analysis and preventive controls. We are proposing to exclude these businesses from coverage under this rule to provide for comparable treatment of these firms between this proposed rule and the proposed preventive controls rules. Additionally, for firms that only function as carriers and thus would not be subject to the proposed preventive controls rules, excluding carriers with less than $500,000 in total annual sales from coverage by this proposed rule would treat carriers in a manner consistent with the treatment of shippers and receivers subject to this proposed rule. We estimate that not covering carriers with less than $500,000 in total annual sales would still result in an average of 97 percent of all food shipments by motor vehicle or rail being subject to this proposed rule. We note that a non-covered business is and will continue to be covered under the adulteration provisions and other applicable provisions of the FD&C Act and applicable implementing regulations, irrespective of whether that business is included within the scope of this proposed rule. We are requesting comment on whether the foods that comprise the $500,000 in total annual sales should be limited in some way, such as to those subject to this rule or to any of the FSMA rules when finalized.

Proposed § 1.904 would define ''pest'' to mean any objectionable animals or insects including birds, rodents, flies, and larvae. This proposed definition is identical to the definition for this term in the proposed preventive controls rule for human food. That proposed rule also includes a discussion, which is relevant to this proposal, of some circumstances under which animals would not be considered ''objectionable'' (78 FR 3646 at 3721). We consider the types of pests identified in this proposed definition to be of importance to sanitary transportation of foods as well as to the safe and sanitary production of human and animal food.

Proposed § 1.904 would define ''receiver'' to mean any person who receives food after transportation, whether or not that person represents the final point of receipt for the food. This definition also states that a receiver may also be a carrier or a shipper if the person also performs the functions of those respective persons as defined in this proposed rule. Proposed § 1.904 would also provide that a receiver does not include an individual consumer or a person who receives or holds food on behalf of an individual consumer and who is not also a party to the transaction and who is not in the business of distributing food, e.g., such as a hotel concierge or the reception desk in an apartment building who is not holding the food for commercial purposes.

Within the transportation industry, shippers may direct goods to receivers in a single segment trip wherein the shipment proceeds directly to the ultimate consignee, or in multi-segment trips that proceed through intermediate destinations, such as a temporary storage point. Therefore, this proposed definition will provide that all persons who receive food after transportation, not just the ultimate consignee, are subject to the requirements applicable to receivers in this proposed rule.

Proposed § 1.904 would define ''shelf-stable food'' to mean a food that can be stored under ambient temperature and humidity conditions and, if the package integrity is maintained, will not spoil or become unsafe throughout its storage life. We based this proposed definition on several inherently similar definitions of this term in the literature (Ref. 13) (Ref. 14) (Ref. 15) (Ref. 16). This definition provision would also provide some examples of shelf stable food, including canned juice, canned vegetables, canned meat, bottled water, and dry food items.

Proposed § 1.904 would define ''shipper'' to mean a person who initiates a shipment of food by motor vehicle or rail vehicle. This definition further provides that the shipper is responsible for all functions assigned to a shipper in subpart O even if they are performed by other persons such as a person who only holds food and physically transfers it onto a vehicle arranged for by the shipper. For example, a produce distributor (the shipper) may initiate a shipment of food by arranging for a carrier to pick up a shipment of fresh produce at a holding facility for transport by truck to a produce distribution facility hundreds of miles away. Employees of the holding facility who are not employed by the distributor may load the produce onto the truck. Under this proposed rule, the distributor would be responsible, e.g., through contractual arrangements, for ensuring that the employees of the holding facility visually inspect the vehicle for cleanliness and determine that it appears to be in appropriate sanitary condition for the transport of the food, as required by proposed § 1.908(b)(2), discussed in section III.E, and that all other requirements of this proposed rule are met. We believe that periodically reviewing and updating contractual relationships is a common and regular industry practice.

This definition also states that a shipper may also be a carrier or a receiver if the shipper also performs the functions of those respective persons as defined in subpart O, e.g., a supermarket chain may arrange for the shipment of fresh produce to be received at its distribution center.

We have defined the term ''shipper'' in this manner to place the responsibilities assigned to shippers, discussed in section III.E, upon a single person, the initiator of a transportation operation, as we expect this person to be knowledgeable about all factors concerning the food, e.g., its packaging and holding temperature requirements, relevant to its sanitary transport. We have tentatively concluded that defining shipper in this manner will ensure that food is not transported under conditions that may render it adulterated and also that placing these responsibilities on a single person will help to avoid any confusion regarding who is responsible for the requirements of a shipper set forth in this proposed rule.

Proposed § 1.904 would define ''small business'' to mean ''a business, subject to proposed § 1.900(a) (discussed in section III.A) employing fewer than 500 persons except that for carriers by motor vehicle that are not also shippers and/or receivers, this term would mean a business, subject to proposed § 1.900(a) having less than $25,500,000 in annual receipts, consistent with the size based standard that has been established by the U.S. Small Business Administration for truck transportation firms.'' The proposed limit of 500 employees would include all employees of the business rather than be limited to the employees at a particular facility. For all persons subject to this rule except carriers by motor vehicle, we are proposing to establish the same definition for a small business as the size based standard (expressed in terms of numbers of employees) that has been established by the U.S. Small Business Administration under 13 CFR part 121 for most food manufacturers. For carriers by motor vehicle, we are proposing to establish essentially the same definition for a

small business as the size based standard (expressed in terms of millions of dollars) that has been established by the U.S. Small Business Administration under 13 CFR part 121 for truck transportation firms. The definition of a small business affects what the compliance date is for such entities.

Proposed § 1.904 would define ''Time/Temperature Control for Safety Food (TCS Food)'' as a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation. This proposed definition is identical to that for the term ''Potentially Hazardous Food (Time/Temperature Control for Safety Food)'' in the 2009 Edition of FDA's *Food Code* (Ref. 17) and this term, having the same meaning, is also used within the proposed preventive controls rules for human and animal food (78 FR 3646 at 3712 and 78 FR 64736 at 64768).

Proposed § 1.904 would define ''transportation'' as any movement of food in commerce by motor vehicle or rail vehicle. This proposed definition is identical to the definition of this term in section 416(a)(2) of the FD&C Act except that we added the words ''of food'' for clarity.

Proposed § 1.904 would define ''transportation equipment'' to mean equipment used in transportation operations, other than vehicles, e.g., bulk and non-bulk containers, bins, totes, pallets, pumps, fittings, hoses, gaskets, and loading and unloading systems and also state that transportation equipment would also include a railcar not attached to a locomotive or a trailer not attached to a tractor. We tentatively conclude that this definition, which encompasses all of the basic types of equipment that may be used in food transportation, is necessary to help ensure the safe transportation of food. The examples of transportation equipment in this definition are not all inclusive, but are broadly representative of the types of equipment used in food transportation as identified in the ERG report and in comments to the 2010 ANPRM.

Proposed § 1.904 would define ''transportation operations'' to mean all activities associated with food transportation that may affect the sanitary condition of food including the cleaning, inspection, maintenance, loading and unloading of, and operation of vehicles and transportation equipment. This proposed definition would further provide that transportation operations do not include any activities associated with the transportation solely of shelf stable food that is completely enclosed by a container, compressed food gases, or live food animals.

As noted previously in this section, section 416(a)(2) of the FD&C Act defines ''transportation'' to mean any movement in commerce by motor vehicle or rail vehicle. In establishing this definition of ''transportation operations,'' we intend to more precisely define the scope of certain requirements of this proposed rule by distinguishing between activities that occur in association with food transportation that may render the food adulterated and other activities that do not pose this potential. The requirements of this proposed rule would only apply to those activities that may render the food adulterated if carried out in an insanitary manner. An example of such an activity would be the transfer of juice from a bulk tank truck into a receiver's stationary storage tanks. An example of an activity that would not be considered to be a transportation operation under this proposed rule would be the filling of a vehicle's fuel tank while it is transporting food.

In addition, the proposed definition of transportation operations would exclude activities associated with the transportation of shelf stable food that is completely enclosed by a container, compressed food gases, and live food animals. We have tentatively concluded that shelf stable foods completely enclosed by a container are at little risk of adulteration during transportation. They do not require temperature control and as such, are not at risk of microbial spoilage or the growth of microorganisms of public health significance, and they are not directly exposed to the transportation environment due to their being fully enclosed by their container, e.g., a metal can, a glass or plastic bottle, or a sealed bag or box. Therefore, we have tentatively concluded that requirements for sanitary transportation practices do not need to apply to such foods.

Comments to the 2010 ANPRM (Ref. 18) (Ref. 19) stated that compressed food gases such as carbon dioxide used for carbonating beverages, are transported in cylinders or bulk containers or in bulk vehicles such as trailers or railcars that are dedicated to the transport of a single product. These comments also stated that compressed food gases do not support microbial growth and are transported under pressure in containers and vehicles that protect against chemical and physical contamination because they have no man-holes and only provide for exit and entry through valving. As such, we have tentatively concluded that compressed food gases are at little risk for adulteration during transport due to the manner in which they are transported and are proposing to exclude such foods from the scope of these requirements.

We are not aware of food safety concerns related to the transportation of live food animals intended for slaughter that could be addressed through the sanitary transportation practices set forth in this proposed rule. No comments to the 2010 ANPRM raised any such concerns. Furthermore, slaughter operations at facilities subject to FSIS jurisdiction are subject to requirements intended to minimize the risk of adulteration posed by the presence of contaminants on the external surfaces of live food animals. Therefore, we have tentatively concluded that sanitary transportation practices are not necessary to prevent live food animals from becoming adulterated during transportation, and are proposing to exclude such foods from the scope of these requirements.

We are specifically requesting comment on our tentative conclusion that shelf stable food that is completely enclosed by a container, compressed food gases, and live food animals should be excluded from the scope of this proposed rule.

Further, the proposed definition of transportation operations would exclude transportation activities for RACs that are performed by a farm. We use the term raw agricultural commodities as it is defined in section 201(r) of the FD&C Act. We discuss the meaning of the term in the proposed rule for preventive controls for human food (78 FR 3646 at 3678). Previously in this section, we proposed that, for the purposes of this proposed rule, the term ''farm'' means ''a facility in one general physical location devoted to the growing and harvesting of crops, the raising of animals (including seafood), or both'' and that the term ''includes facilities that pack or hold food, regardless of whether all food used in such activities is grown, raised, or consumed on that farm or another farm under the same ownership.'' For purposes of this proposed regulation, a farm could be a facility that also performs activities other than the growing and harvesting of crops and the raising of animals; however, only transportation activities for raw agricultural commodities would be excluded from the proposed definition of transportation operations.

We note previously in this section that the definition of the term ''farm'' in this proposed rule differs from the definition of a farm in § 1.227(b)(3) of this chapter. The definition of a farm in

§ 1.227(b)(3) applies only to facilities that pack or hold food if the food used in such activities was grown, raised, or consumed on that farm or a farm under the same ownership. The definition in § 1.227(b)(3) was developed for the purposes of implementing the registration requirements of section 415 of the FD&C Act. However, as discussed further in the paragraphs that follow, we have tentatively concluded that that the sanitary transportation practices that would be required by this proposed rule are not necessary to prevent RACs from becoming adulterated during transportation by farms regardless of whether the farms are conducting transportation operations for RACs that were grown, raised, or consumed on the same farm or on another farm under different ownership, and therefore have concluded that a different definition of the term ''farm'' for the purposes of this proposed rule is necessary.

We are not aware of food safety concerns related to the transportation of RACs by farms that could be addressed through the sanitary transportation practices set forth in this proposed rule. No comments to the 2010 ANPRM raised any such concerns. Specifically, we are not aware of instances in which insanitary conditions or practices (e.g., improper temperature control, improper equipment construction, inadequate equipment cleaning) with regard to transportation operations conducted by farms involving the transportation of RACs have contributed to foodborne illness. We note that this is the case regardless of whether the farms are conducting transportation operations for RACs that were grown, raised, or consumed on the same farm or on another farm under different ownership. We recognize the diversity of farms and their transportation operations, including the size of the operation, the nature of the crop(s) being transported (e.g., large trailer loads of dry grain or livestock, small loads of fresh produce or shell eggs), the nature of existing transportation equipment (e.g., large tractor-trailers, small farm trucks and wagons), and the destination of the shipment (e.g., a local cooling facility, farmers market or restaurant, a more distant market), and the challenge that this diversity presents in developing a set of mandatory requirements that would be broadly suitable for this sector. Therefore, we have tentatively concluded that the sanitary transportation practices that would be required by this proposed rule are not necessary to prevent RACs from becoming adulterated during transportation by farms, and are proposing to exclude such foods from the scope of these requirements.

The proposed exclusion is intended to apply to the activities of farms, regardless of whether the farm is serving in the role of shipper, carrier, or receiver. We acknowledge that transportation from farm to market is often performed by independent carriers as arranged by shippers or receivers that are not farms. Similarly, farms may arrange for transportation (i.e., serve as a shipper) by a common carrier. Transportation by independent carriers, as compared to farms, is likely to be over long distances and to involve the use of much larger vehicles and transportation equipment that is generally more consistent with equipment used outside the farm sector. Furthermore, long distance transportation operations may involve several stops for dropping and picking up additional loads. Communication and coordination between carriers, shippers and receivers is a critical element in properly carrying out such transport. To advance best practices for the transport of produce, the industry has developed guidance that addresses among other things, recommended practices for independent carriers (Ref. 20). Building on industry experience we have tentatively concluded that the requirements of this proposed regulation should apply to such carriers with regard to the transportation of RACs from farms.

We are specifically requesting comment on our tentative conclusion that the sanitary transportation practices that would be required by this proposed rule are not necessary to prevent RACs from becoming adulterated during transportation by farms. Further, we are requesting comment on whether the definition of ''transportation operations'' should include TCS raw agricultural commodities (e.g., sprouts, raw molluscan shellfish) because the temperature control requirements of these commodities warrant coverage under this proposed rule, and if so, what requirements would be appropriate.

Proposed § 1.904 would define ''vehicle'' to mean a land conveyance that is motorized, e.g., a motor vehicle, or that moves on rails, e.g., a railcar, which is used in transportation operations. We are proposing a broad definition of vehicle in order to encompass all of the types of motorized and rail conveyances that may be used in food transportation to ensure that all such conveyances are subject to the provisions of this proposed rule. Although a trailer is not motorized, we would consider a trailer to be a vehicle when attached to a tractor and used for food transportation because the trailer functions as part of the conveyance. Similarly, railcars would be considered to be vehicles when attached to a locomotive. The examples of vehicles in this definition are not all inclusive, but are broadly representative of the types of land conveyances used in food transportation as identified in the comments to the 2010 ANPRM.

D. Vehicles and Transportation Equipment (Proposed § 1.906)

Proposed § 1.906(a) would require that the design of vehicles and transportation equipment used in transportation operations, the materials used in their manufacture, and their workmanship be suitable and that they be adequately cleanable for their intended use to prevent the food that they transport from becoming filthy, putrid, decomposed or otherwise unfit for food, or being rendered injurious to health from any source during transportation operations.

Comments we received in response to the 2010 ANPRM stated that vehicles and transportation equipment are generally made to meet industry and third party standards for sanitary fabrication, design, and construction. For example, a comment stated that standards for coatings may require that they maintain corrosion resistance, and be free of surface delamination, pitting, flaking, chipping, blistering, and distortion under conditions of intended use. However, vehicles and transportation equipment that are poorly designed can be a source of contamination of food during transport. For example, food contact surface coatings on vehicles or transportation equipment that are not corrosion resistant or are flaking or chipping, for example, could contaminate food transported in bulk, due to chemical contamination or by causing the food to become unfit, and would render the vehicles or equipment as not suitable for their intended use.

Similarly, vehicles and transportation equipment that are not adequately cleanable can be a source of contamination of food during transport. For example, wood containers used to hold raw meat or poultry during transportation typically cannot be brought to a sanitary condition to hold ready to consume produce during transportation due to the potential for the wood to retain contaminants such as harmful microorganisms in its porous structure (Ref. 21). Thus, wood containers used to hold ready to consume produce after their use to hold raw meat or poultry could be a source

of contamination of the produce and FDA would not consider such containers to be adequately cleanable for the transportation of produce following the transportation of raw meat or poultry.

We have tentatively concluded that proposed § 1.906(a) is consistent with best practices that have been established within the food transportation industry relative to vehicle and equipment design based upon the preceding discussion and the comments to the 2010 ANPRM.

Proposed § 1.906(b) would require that vehicles and transportation equipment be maintained in such a sanitary condition as to prevent the food that they transport from becoming filthy, putrid, decomposed, or otherwise unfit for food, or being rendered injurious to health from any source during transportation operations. Vehicles and transportation equipment that are not maintained in a sanitary condition can become a source of contamination of food or of allergens being incorporated into food through cross-contact during transport (Ref. 1). For example, FDA would not consider equipment used in bulk food transfer operations, such as pumps and hoses, to be maintained in an appropriate sanitary condition if the equipment was not cleaned after its use in handling milk, because this failure could lead to the incorporation of milk (a major food allergen) through cross-contact into food that was subsequently handled on the equipment. We note that proposed § 1.906(b) would be consistent with measures routinely practiced within the juice industry to avoid the incorporation of allergens into juice by cross contact (Ref. 22).

Similarly, FDA would not consider pallets to be maintained in an appropriate sanitary condition if they are in such poor repair, e.g., jagged wood edges, that they could damage food packaging causing a loss of container integrity and increasing the potential that the food is directly contaminated. We note that proposed § 1.906(b) would also be consistent with pallet control measures practiced within the food transportation industry as described in a comment to the 2010 ANPRM which stated that pallets used within food distribution centers are cleaned and rotated or disposed of on a regular basis.

Furthermore, proposed § 1.906(b) is consistent with FDA's CGMP regulations in part 110 (21 CFR part 110) (see § 110.40(a) and Table 1) and the CGMP provisions of the proposed preventive controls rules for human and animal food that require that equipment and utensils in food plants be properly maintained. As such, proposed § 1.906(b) would similarly apply sanitary maintenance requirements to food transportation vehicles and equipment as such requirements have been and will continue to be applied to equipment and utensils that are used to produce food in facilities.

Proposed § 1.906(c) would require that vehicles and transportation equipment used in transportation operations for food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation (any food that requires time/temperature control either to ensure its safety or to prevent microbial spoilage, e.g., meat, poultry, seafood, raw seed sprouts, unpasteurized shell eggs, or pasteurized juice) be so designed, maintained, and equipped to be able to maintain the food under temperature conditions that will prevent it from supporting such microbial growth. As discussed previously, FDA is proposing in § 1.904 that the term ''undesirable microorganisms'' includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated.

The use of vehicles and transportation equipment not designed, maintained, or otherwise equipped to maintain food under appropriate temperature conditions can, if used to transport TCS foods result in increased levels of microorganisms capable of causing human illness, and cause such foods to be adulterated. For instance, temperature control is used to minimize the growth of pathogens in TCS foods such as *Salmonella enteritidis* (SE) in unpasteurized shell eggs and *Listeria monocytogenes, Salmonella* spp., and other pathogens in other TCS foods (Ref. 17) (Ref. 23) (Ref. 24) (Ref. 25) (Ref. 26). Given this, we tentatively conclude that certain temperature controls are necessary to prevent TCS food from becoming adulterated during transportation.

In addition, the use of vehicles and transportation equipment not designed, maintained, or otherwise equipped to maintain food under appropriate temperature conditions can, if used to transport foods subject to microbial spoilage, result in food spoilage and cause such foods to be adulterated. For example, some foods that are pasteurized to ensure their safety are not processed to be shelf-stable. These pasteurized foods would still require refrigeration during transportation to prevent the spoilage of the food due to the growth of non-pathogenic spoilage microorganisms. For instance, pasteurized citrus juice (this term as used in this proposal excludes shelf-stable juice) requires refrigeration during distribution to control the growth of non-pathogenic spoilage microorganisms that are not killed by the pasteurization process, e.g., yeasts and lactobacilli (Ref. 27) (Ref. 28). Given this, we tentatively conclude that certain temperature controls are necessary to prevent food subject to microbial spoilage from becoming adulterated during transportation.

We continue to receive reports or otherwise learn of foods, such as meat and some seafood products, that require time/temperature control to ensure their safety, as well as foods subject to microbial spoilage if temperature abused, being transported in unrefrigerated vehicles not otherwise equipped, e.g., with insulated coolers and ice packs, to maintain the food under appropriate temperature conditions (Ref. 5) (Ref. 6) (Ref. 7) (Ref. 8). We would consider unrefrigerated vehicles or equipment used to transport foods requiring temperature control to prevent the growth or undesirable microorganisms to comply with proposed § 1.906(c) only if they incorporate design features such as thermal insulation for maintaining food in a chilled state or are otherwise equipped to maintain the food under appropriate temperature conditions, e.g., with insulated coolers and ice packs.

The intent of proposed § 1.906(c) is consistent with our CGMP regulations in part 110 (see § 110.80(b)(6) and Table 1) and the proposed preventive controls rules for human and animal food that require that food subject to these respective regulations that can support the rapid growth of undesirable microorganisms be held at temperatures that will prevent the food from becoming adulterated during prescribed operations. Proposed § 1.906(c) would apply appropriate holding temperature requirements to food transportation vehicles and equipment as such requirements have been and will continue to be applied to facilities in which food is produced.

Proposed § 1.906(d) would require that each freezer and mechanically refrigerated cold storage compartment in vehicles or transportation equipment used in transportation operations for food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation be equipped with an indicating thermometer, temperature-

measuring device, or temperature-recording device so installed as to show the temperature accurately within the compartment. This proposed requirement would provide a means by which the shipper, receiver or carrier, through checking the compartment temperature during the operation, can ensure as required by proposed § 1.908(a)(3)(iii) (discussed in section III.E), that the temperature conditions during the transportation operation are such that the operation meets the requirements of proposed § 1.908(a)(3) and are adequate to ensure that the food is not rendered adulterated during transportation. Furthermore, this proposed requirement would provide a means by which a shipper could verify before loading food that each freezer and mechanically refrigerated cold storage compartment or container offered by a carrier has been pre-cooled in accordance with information submitted by the shipper, as required by proposed § 1.908(b)(4) (discussed in section III.E). This proposed requirement would also provide a means by which officials carrying out transportation safety inspections can, along with other inspectional observations, assess whether the transportation operation is being carried out in accord with proposed § 1.908(a)(3) (discussed in section III.E).

The intent of proposed § 1.906(d) is consistent with FDA's CGMP regulations in part 110 (see § 110.40(e) and Table 1) and the proposed preventive controls rules for human and animal food that require that each freezer and cold storage compartment used to store and hold food capable of supporting growth of microorganisms be fitted with an indicating thermometer, temperature-measuring device, or temperature-recording device installed to show the temperature accurately within the compartment. As such, proposed § 1.906(d) would establish requirements for food temperature displaying devices for food transportation vehicles and equipment as such requirements have been and will continue to be applied to facilities in which food is produced.

Proposed § 1.906(e) would require that vehicles and transportation equipment be stored in such a manner as to prevent the vehicles or transportation equipment from harboring pests or becoming contaminated in any other manner that could result in food for which they will be used becoming filthy, putrid, decomposed, or otherwise unfit for food, or being rendered injurious to health from any source during transportation operations. Vehicles and transportation equipment that harbor pests or are otherwise contaminated while they are stored can contaminate food during transport if the vehicles and equipment cannot be adequately cleaned before being used for the transport of food. For example, FDA would not consider trucks, railcars, or containers stored in such a manner that they could develop persistent rodent populations in food holding areas to meet the requirements of proposed § 1.906(e).

The requirements of proposed § 1.906(e) clearly represent a sanitary transportation practice and we have tentatively concluded that these requirements are necessary to ensure that food is not transported under conditions that may render it adulterated. Furthermore, the intent of this provision is consistent with our CGMP regulations in part 110 (see § 110.35(e) and Table 1) that recommend that cleaned and sanitized portable equipment with food-contact surfaces and utensils be stored in a location and manner that protects food-contact surfaces from contamination.

E. Transportation Operations (Proposed § 1.908)

1. General Requirements

Proposed § 1.908(a) would set forth general provisions and requirements applicable to transportation operations.

Proposed § 1.908(a)(1) would provide that the requirements of proposed § 1.908 apply to all shippers, carriers, and receivers engaged in transportation operations unless specifically stated otherwise. We have included this provision to make it clear that unless a requirement of proposed § 1.908 specifically only applies to shippers, receivers or carriers, the requirement applies to all of these persons.

Proposed § 1.908(a)(2) would require that responsibility for ensuring that transportation operations are carried out in compliance with all requirements of subpart O be assigned to competent supervisory personnel. Proposed § 1.908(a)(2) is intended to ensure that shippers, receivers, and carriers engaged in food transportation operations will identify the requirements they must meet under this proposed rule and establish accountability at the individual level for ensuring that transportation operations are carried out in compliance with those requirements and in a way that prevents food from becoming adulterated during transportation. This provision mirrors a longstanding provision in the current CGMP regulation regarding the manufacturing, processing, packing, or holding of human food (see § 110.10(d) and Table 1) and essentially equivalent provisions in the proposed preventive controls for both human and animal food, which require that competent supervisory personnel be assigned responsibility for ''assuring'' (or ''ensuring,'' in the case of the two proposed rules) compliance with the requirements of the regulations.

Proposed § 1.908(a)(3) would require that all transportation operations be conducted under such conditions and controls as are necessary to prevent the food that they are transporting from becoming filthy, putrid, decomposed, or otherwise unfit for food, or being rendered injurious to health from any source during transportation operations.

This proposed provision sets forth circumstances under which we envision that food could be rendered adulterated as a result of contamination or insanitary conditions that could occur during a transportation operation. For example, if animal feed became contaminated by glass fragments during transport in an inadequately cleaned bulk vehicle, FDA would consider that the transportation operation was not conducted under conditions and controls necessary to prevent the food from being rendered injurious to animal health. Similarly, if a product such as shell eggs, which requires refrigeration during transportation to ensure its safety, was left unattended for several hours on a loading dock on a warm day, FDA would consider that the receiving stage of the transportation operation was not conducted under conditions and controls necessary to prevent the food from being rendered injurious to human health. Further, if pasteurized citrus juice became spoiled during transport due to inadequate refrigeration of the product, FDA would consider that the transportation operation was not conducted under conditions and controls necessary to prevent the food from becoming unfit for food.

Proposed § 1.908(a)(3)(i), (a)(3)(ii), and (a)(3)(iii) would identify specific actions that persons engaged in transportation operations must take to ensure that the operation complies with the requirements of proposed § 1.908(a)(3).

Proposed § 1.908(a)(3)(i) would require that persons take effective measures such as segregation or isolation to protect food from contamination during transportation operations by raw foods and non-food items in the same load. The failure to take effective measures, e.g., the proper loading of raw and ready to consume foods, to protect food from contamination during transportation

operations by raw foods and non-food items in the same load can lead to conditions, such as the dripping of raw poultry onto open containers of fresh produce, that could result in the adulteration of unprotected food by filth, chemical, or microbial contaminants (Ref. 3) (Ref. 5).

We received a number of comments to the 2010 ANPRM that asserted that food transporters routinely safely transport food and non-food items in the same load. We agree with these comments that this can be safely accomplished as long as appropriate practices, such as those that the industry has developed to ensure that food is adequately protected from contamination by non-food items on the same load, are consistently followed. These practices vary within the industry as discussed in the comments to the 2010 ANPRM. For example, in some operations, non-food items transported in the same load with food are placed in sealed containers with seamless bottoms. These non-food items are then placed on pallets that hold only non-food items. In other operations, non-food items may be directly stacked in their shipping boxes on pallets that hold only non-food items. In other operations, food and non-food items may be stacked on the same pallet, with the non-food items being positioned below the food items on the pallet so that if any containers of the non-food items were damaged or improperly sealed, their contents would not leak onto food. FDA would consider these practices to be effective in protecting food from contamination, as required by proposed § 1.908(a)(3)(i), if the non-food items are isolated by their packaging and the load is properly secured in the vehicle or shipping container. However, we would consider the transportation of food with non-food items that are not protectively packaged or that are loaded into a vehicle or a shipping container in a non-secured manner whereby the non-food item could contaminate food as a failure to take effective measures to protect food from contamination as proposed § 1.908(a)(3)(i) would require.

Further, as stated in the discussion of proposed § 1.906(c) in section III.D, we continue to receive or otherwise learn of reports of the improper loading of trucks carrying raw animal foods and ready to eat foods resulting in observable cross-contamination of ready to eat food items during transportation, e.g., the dripping of raw meat juices onto fresh produce (Ref. 4) (Ref. 5) (Ref. 7). For example, we would regard the loading of vehicles or portable containers in a manner that could allow for the contamination of ready to eat food by raw animal foods as a failure to take effective measures to protect food from contamination by raw foods as required by proposed § 1.908(a)(3)(i).

Proposed § 1.908(a)(3)(ii) would require that persons engaged in transportation operations take effective measures such as segregation, isolation, or other protective measures such as hand washing, to protect food transported in bulk vehicles or food not completely enclosed by a container from contamination and cross-contact during transportation operations.

The failure to take effective measures to protect foods that are exposed to the environment, that may be contacted by handlers of the shipment, or that directly contact a vehicle from contamination or cross-contact during transportation operations could result in the adulteration of the unprotected food by filth, chemical, or microbial contaminants or by allergens. We recognize that food transporters routinely safely transport foods in bulk vehicles and foods not completely enclosed by a container. We believe that this fact is substantially attributable to the practices the industry has developed as described in comments to the 2010 ANPRM to ensure that vehicles and containers used in the transport of such foods are cleaned and are in appropriate sanitary condition when offered for food transport and to ensure that sanitary procedures are employed during loading and unloading operations. However, we have tentatively concluded that persons engaged in transportation operations must also consider other factors related to their transportation operations to completely ensure that exposed or bulk-shipped foods are not adulterated during transport.

For example, a shipper of ready to consume fresh produce items that will not be completely enclosed by a container when shipped may, to protect the shipment, require by contractual arrangement that a carrier who intends to make additional pickups during the transportation operation only load other fresh produce items or items packaged in sealed containers onto the vehicle containing his shipment. To comply with proposed § 1.908(a)(3)(ii), the shipper and the carrier must ensure that such protective measures are taken in order to avoid contamination of the raw produce during transportation.

Furthermore, a driver of a vehicle transporting fresh produce items not completely enclosed by a container may be expected to handle containers during unloading. If during transport, the driver had to address a vehicle problem such as changing a flat tire, the driver's hands may have become soiled or contaminated with grease; in such a situation, this provision would require the driver to wash his or her hands before handling the containers of produce to reduce the potential for the food to become contaminated during handling.

Moreover, a firm that ships corn syrup by bulk tanker may use different carriers for their shipments, some of which may also haul milk and some of which only haul corn syrup. To ensure that milk, a food allergen, is not introduced into the corn syrup during transport through cross-contact, that shipper might establish different operational procedures for shipments to be transported by these respective carriers. For transportation operations using the carrier who also transports milk, the shipper could have the operator of each incoming tanker provide a wash ticket and also have the wash station operator apply a seal on access points to the tanker after cleaning. For the carrier that only hauls corn syrup, the shipper may choose to rely on the carrier's contractual assurance that only tankers dedicated to hauling corn syrup and cleaned at a mutually agreed frequency will be offered. The shipper would comply with proposed § 1.908(a)(3)(ii) if the shipper took measures, such as those discussed previously, to ensure that the corn syrup is not adulterated by contamination or cross-contact during transport. We note that, to facilitate the conduct of bulk transportation operations in a sanitary manner, proposed § 1.908(d)(4) and (d)(5), discussed in more detail in section III.E.4., would establish provisions regarding the disclosure to shippers of information about prior cargoes and subsequent vehicle cleaning by carriers that transport food in bulk vehicles.

Proposed § 1.908(a)(3)(iii) would require persons to ensure that food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation (see examples in the discussion of proposed § 1.906(c)) is transported in a manner, including the temperature conditions, to prevent the food from becoming filthy, putrid, decomposed or otherwise unfit for food, or being rendered injurious to health from any source.

The provisions of this proposed rule and the proposed preventive controls rules for human and animal food are intended to function in a complementary manner to address the transportation of foods that require time/temperature control to control the growth of microorganisms that may cause illness.

The importance of maintaining temperature control during the transportation of TCS foods and foods subject to microbial spoilage if held under inadequate temperature control was addressed in the discussion of proposed § 1.906(c) in section III.D. For a TCS food that would be subject to either of the proposed preventive controls rules, if failure to provide adequate temperature control during transportation could result in a food safety hazard, in most cases, the owner, operator, or agent in charge of the facility that manufactures, processes, packs or holds the food would be responsible for establishing preventive controls for the food to prevent the occurrence of that hazard (78 FR 3646 at 3737, 3744, and 3773; 78 FR 64736 at 64784). Therefore, we have tentatively concluded that a person subject to either of the proposed preventive controls regulations would (when those regulations become final) be required to identify and take the steps necessary for that person to comply with proposed § 1.908(a)(3)(iii).

As previously noted, pasteurized citrus juice is an example of a non-TCS food that requires temperature control during distribution to control the growth of non-pathogenic spoilage microorganisms, which, in the case of juice, may not be killed by the pasteurization process. If such a food is not maintained under temperature conditions to prevent the food from undergoing microbial spoilage and becoming unfit for food, such food may become adulterated during transport. However, the specific temperature conditions necessary to prevent the food from undergoing microbial spoilage would depend upon the interaction of numerous factors concerning the food and its holding conditions that is sufficiently complex such that it is not possible to establish broadly applicable temperature conditions under which such foods must be held during transportation to prevent the microbial spoilage of the food. Therefore, we are not proposing to establish specific temperature requirements for non-TCS foods subject to proposed § 1.908(a)(3)(iii).

However, under proposed § 1.908(a)(3)(iii), persons subject to this proposed rule must provide adequate temperature control during transportation operations as necessary to control the growth of undesirable microorganisms. Persons engaged in transportation operations that result in the transportation of non-TCS food subject to microbial spoilage e.g., pasteurized juice, under conditions of inadequate temperature control, would not meet the requirements of proposed § 1.908(a)(3)(iii), and we may deem the food to be adulterated under section 402(i) of the FD&C Act in that the food has been transported under conditions that are not in compliance with the sanitary food transportation regulations.

With respect to frozen foods, in the preamble of the proposed preventive controls rule for human food (78 FR 3646 at 3774), FDA stated that the temperature and time required for a frozen food to become unsafe if not maintained in the frozen state would result in significant quality issues for the food. We noted that although there have been occasional problems with frozen food being subject to temperatures that allow some thawing in storage and distribution, we are not aware of situations in which frozen foods have been associated with the food becoming unsafe. Thus, we stated that we believe that it would be rare for a frozen food product to be a TCS food.

However, the same considerations discussed previously regarding the transportation of pasteurized juice apply to the transportation of frozen food. The transportation of frozen food under conditions of inadequate temperature control or temperature abuse whereby the food could undergo microbial spoilage would not comply with proposed § 1.908(a)(3)(iii), and we may deem the food to be adulterated under section 402(i) of the FD&C Act in that the food has been transported under conditions that are not in compliance with the sanitary food transportation regulations.

Finally, some foods that are typically transported under temperature control are not at risk of becoming adulterated if temperature control is not provided. An example of such a food would be fruit, such as bananas, that is transported under temperature control to delay ripening for marketability purposes. FDA would not consider bananas and other foods that are similar in this regard and typically transported under temperature control solely for marketability purposes to be food that can support the rapid growth of undesirable microorganisms in the absence of temperature control and these foods therefore would not be subject to proposed § 1.908(a)(3)(iii).

2. Requirements Applicable to Shippers

Proposed § 1.908(b) would set forth requirements applicable to shippers engaged in transportation operations.

Proposed § 1.908(b)(1) would require that the shipper specify to the carrier, in writing, all necessary sanitary requirements for the carrier's vehicle and transportation equipment, including any specific design requirements and cleaning procedures deemed necessary by the shipper, to ensure that the vehicle and equipment are in appropriate sanitary condition for the transportation of the food, e.g., that will prevent the food from becoming filthy, putrid, decomposed or otherwise unfit for food, or being rendered injurious to health from any source during the transportation operation. Proposed § 1.908(b)(1) would also provide that the information submitted by the shipper to the carrier is subject to the records requirements in proposed § 1.912(a).

Proposed § 1.908(b)(1) and similar requirements in this proposed rule (i.e., proposed § 1.908(b)(3), (d)(2), (d)(4), and (d)(5)) would address the provision of information by one party engaged in transportation operations to another party. Section 416(c)(1)(D) of the FD&C Act (21 U.S.C. 350e(c)(1)(D)) provides that, in issuing these regulations, the Secretary (and by delegation, FDA) must prescribe such practices as the Secretary determines appropriate relating to, among other things, information to be disclosed to a carrier by a person arranging for the transport of food and to a manufacturer or other person that arranges for the transportation of food by a carrier or furnishes a tank vehicle or bulk vehicle for the transportation of food. Proposed § 1.908(b)(1) establishes requirements for the information to be disclosed by a shipper to carrier that FDA has determined is necessary to ensure that food is not transported under conditions that would render the food adulterated. We discuss additional information sharing requirements for shippers and carriers in sections that follow.

Carriers in the food transportation industry commonly use standard procedures to deploy and prepare vehicles and transportation equipment to transport food. For example, comments to the 2010 ANPRM noted that thermally insulated tankers are used to haul foods that require temperature control. These tankers are typically designed and built to comply with industry standards that control the degree to which the temperature of the food will increase in a given amount of time. In addition, comments to the 2010 ANPRM stated that dry trailers used to haul non-refrigerated, fully packaged food items are swept or vacuum cleaned before being offered for loading. There are, however, circumstances in which a shipper may determine that specific procedures are necessary to prepare the vehicle or transportation equipment to ensure that they are in appropriate sanitary condition for the transport of a

particular food product. For example, shippers of fresh produce in non-enclosed containers may determine that a standard power washing procedure for a refrigerated trailer with a sanitization procedure is necessary to remove and treat any residues from a previous load that could contaminate the shipment. Shippers of animal feed may determine that special flushing procedures are necessary for bulk vehicles that have previously hauled medicated feed before being used for a feed shipment.

We have tentatively concluded that the identification by a shipper of the necessary sanitary requirements for vehicles and transportation equipment is essential for ensuring that the vehicle or transportation equipment to be provided by the carrier is appropriate for the intended transportation operation, particularly considering that certain types of foods, e.g., foods shipped in bulk or not completely enclosed by a container, may necessitate specific preparation procedures for the vehicle or transportation equipment. Proposed § 1.908(b)(1) would assign this responsibility to the shipper because we have tentatively concluded that the shipper is in the best position to know the characteristics of the food to be shipped that may necessitate the provision of specific features for the vehicle or transportation equipment, e.g., thermally insulated construction of a tank, or that may necessitate specific preparation steps by the carrier, e.g., a specific wash procedure, to ensure that the vehicle or transportation equipment is in appropriate sanitary condition for the transportation operation. We have also tentatively concluded that requiring the shipper to communicate this information to the carrier in writing is necessary to ensure that the shipper identifies the necessary sanitary requirements for the vehicle and equipment and to enable the carrier to take any necessary steps in deploying and preparing vehicles or transportation equipment for the operation.

Based upon comments we received in response to the 2010 ANPRM, we understand that in accordance with best industry practices, shippers and carriers frequently exchange information about requirements for vehicles, transportation equipment, and cleaning procedures. Accordingly, we do not believe that proposed § 1.908(b)(1) would require substantial efforts beyond those which are already common within the food transportation industry.

Given the importance of ensuring that vehicles and transportation equipment are in appropriate sanitary condition when offered for the transportation of food, proposed § 1.908(b)(1) would also provide that the shipper's written specification to the carrier of sanitary requirements for vehicles and transportation equipment is subject to the records requirements of proposed § 1.912(a) (discussed in section III.G).

Proposed § 1.908(b)(2) would require that, before loading food not completely enclosed by a container onto a vehicle or into transportation equipment, e.g., a shipping container, provided by a carrier, the shipper must visually inspect the vehicle or the transportation equipment provided by the carrier for cleanliness and determine that the vehicle or transportation equipment is in appropriate sanitary condition for the transport of the food. The proposal would provide the following example of what constitutes ''appropriate sanitary condition for the transport of food'': the vehicle or transportation equipment is free of visible evidence of pest infestation and of debris, previous cargo, or dirt that could cause the food to become adulterated.

In the previous discussion of proposed § 1.908(a)(3)(ii) in this section we discussed the necessity to take effective measures during transportation operations to protect from adulteration foods that are not completely enclosed by a container and thus are exposed to potential contamination from the environment. Providing such protection depends in part upon ensuring that vehicles and transportation equipment in which such food will be transported are in adequate sanitary condition so that they will not become a source of contamination for the exposed food. We tentatively conclude that a pre-loading visual inspection by the shipper of the vehicle or transportation equipment provided by the carrier for cleanliness to determine that it is in appropriate sanitary condition for the transport of the food as would be required by proposed § 1.908(b)(2) is necessary to ensure that the transportation operation will be conducted in accord with sanitary transportation practices.

Several comments received in response to the 2010 ANPRM stated that pre-loading inspections are commonly carried out in transportation operations. One comment from a food retailers association stated that in such an inspection, for example, a trailer that exhibited any signs of mold, mildew, animal droppings, excess water, ice buildup, pest contamination or any holes, cracks or other breaches of the trailer itself that constituted conditions under which food may become contaminated would not generally be considered to be in an appropriate sanitary condition for the transport of food.

Proposed § 1.908(b)(3) would require that a shipper of food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation, whether a TCS food or a non-TCS food, specify in writing to the carrier, except a carrier who transports the food in a thermally insulated tank, the temperature conditions necessary during the transportation operation, including the pre-cooling phase, to ensure that the operation will maintain the temperature conditions and meet the requirements of proposed § 1.908(a)(3).

As previously noted in our discussion of proposed § 1.908(a)(3)(iii), various types of food require temperature control during transport either to prevent the food from becoming unsafe due to the growth of harmful microorganisms or to prevent the growth of non-harmful spoilage microorganisms. The shippers of such foods are generally expected to know the temperature control needs for these foods during transport. For example, our regulations for the prevention of SE in shell eggs during production, storage, and transportation in § 118.4(e) and for the refrigeration of shell eggs held for retail distribution in § 115.50(b)(2)) require eggs to be held and transported at a temperature not to exceed 45 °F (7 °C).

We tentatively conclude that specification by the shipper to the carrier of the temperature conditions necessary during the transportation operation, including the pre-cooling phase, is necessary to ensure that the operation will meet the requirements of proposed § 1.908(a)(3) with respect to the maintenance of appropriate temperature conditions for the food, and that the shipper is in the best position to identify the necessary temperature conditions because the shipper has the most knowledge and information about the food being offered for transport. We have also tentatively concluded, however, that such specification by the shipper would not be necessary for shipments of food in a thermally insulated tank because thermally insulated tanks are designed and built to limit the degree of temperature increase of a food in a given amount of time, and the shipper would specify the need for such a vehicle under the requirements of proposed § 1.908(b)(1). We have also tentatively concluded that requiring that the shipper make this communication to the carrier in writing would ensure that the shipper considers these temperature requirements for the food and explicitly communicates them to the carrier who can then implement the specified

temperature conditions during the transportation operation.

We expect that the information provided by shippers to carriers would identify appropriate holding temperatures for food to be shipped consistent with considerations about the food we have discussed in section III.D and in this section with respect to proposed §§ 1.906(c) and 1.908((a)(3)(iii). Shippers who would be subject to the proposed preventive controls rules for human food or animal food would know the appropriate holding temperatures for any food for which failure to adequately control temperature during transportation could make the food unsafe.

For non-TCS foods subject to microbial spoilage if not properly temperature controlled, as we noted previously in this section in the discussion of proposed § 1.908(a)(3)(iii), because of the complex interaction of factors that influence microbial spoilage in foods, we are not proposing to establish specific temperature requirements for non-TCS foods subject to proposed § 1.908(a)(3)(iii) and (b)(3). Under proposed § 1.908(b)(3), shippers of such foods would inform the carrier of the temperature control requirements for the food based upon their determination of the temperature conditions necessary to ensure that the product does not become adulterated due to the growth of spoilage microorganisms.

Based upon comments we received in response to the 2010 ANPRM, we understand that in accordance with best industry practices, shippers frequently inform carriers about temperature conditions necessary during transportation operations. Accordingly, proposed § 1.908(b)(3) should be consistent with efforts already commonly used within the food transportation industry.

Given the importance of ensuring that food is maintained under adequate temperature control during transportation, we tentatively conclude that the shipper should be able to demonstrate, through records, that it has specified, in writing to the carrier e.g., in a contract of carriage, the necessary temperature conditions for the food. The records will demonstrate that, within the shipper/carrier relationship, appropriate attention is given to maintaining the necessary temperature control during transportation operations to ensure that food does not become adulterated. Proposed § 1.908(b)(3) would also provide that the shipper's written specification to the carrier of the necessary temperature conditions for the food during the transportation operation is subject to the records requirements of proposed § 1.912(a) (discussed in section III.G).

Proposed § 1.908(b)(4) would require that, before loading food, a shipper of food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation must verify that each freezer and mechanically refrigerated cold storage compartment or container has been pre-cooled in accordance with information submitted by the shipper as required by proposed § 1.908(b)(3).

In the previous discussions of proposed §§ 1.906(c) and 1.908(a)(3)(iii) in section III.D, we discussed the importance of providing temperature control during transportation operations for TCS foods and other foods subject to microbial spoilage, to ensure that these types of food do not become unsafe or otherwise adulterated. Providing adequate temperature control may depend in part upon the adequate pre-cooling of vehicles and containers into which the food will be loaded. If a refrigerated trailer has not been adequately pre-cooled at the time it is loaded with food, the temperature of the food may increase above levels necessary to ensure the safe and sanitary transport of the food until such time that the refrigeration unit brings the food to an acceptable temperature. Therefore, proposed § 1.908(b)(4) would require the shipper to conduct a pre-loading verification of a vehicle's or shipping container's pre-cooling to ensure that food is not transported under conditions that may render the food adulterated.

Based upon comments we received in response to the 2010 ANPRM, we understand that in accordance with best industry practices, pre-loading verification by shippers of the pre-cooling of refrigerated vehicles and containers is commonly carried out in transportation operations (although we understand that during such a verification check, the refrigeration system may be turned off when its doors are open, e.g., in humid conditions, to prevent water condensation on surfaces such as fiberboard packages that could be damaged by the water). Accordingly, we do not believe that the requirement placed on the shipper by proposed § 1.908(b)(4) would require substantial efforts beyond those which are already common within the food transportation industry.

Proposed § 1.908(b)(5) would provide that the shipper assumes the requirements applicable to the carrier in proposed § 1.908(d)(2)(i) (discussed later in this section) with respect to providing a demonstration to the receiver, if the shipper and carrier have agreed in writing pursuant to proposed § 1.908(d)(2)(ii) (also discussed later in this section) that the shipper is responsible for ensuring that the food was held under acceptable temperature conditions during transportation operations. Proposed § 1.908(b)(5) would also provide that the shipper assumes the corresponding records requirements applicable to the carrier under proposed § 1.908(d)(6)(ii) and proposed § 1.912(c) (also discussed later in this section).

We refer the reader to the discussion in this section of the requirement in proposed § 1.908(d)(2)(i) that the carrier demonstrate to the shipper and, if requested, to the receiver, that it has maintained temperature conditions during the transportation operation consistent with those specified by the shipper. Proposed § 1.908(d)(2)(ii) would discharge the carrier from this requirement if the carrier and shipper agree, in writing and before transportation operations, that the shipper is responsible for monitoring the temperature conditions or otherwise assuring that the food was held under acceptable temperature conditions during the transportation operation.

In the circumstance addressed by proposed § 1.908(d)(2)(ii), e.g., a shipment by refrigerated rail car wherein the shipper controls the operation of the refrigeration equipment in a leased rail car, inasmuch as the shipper would be assuming responsibilities otherwise assigned to the carrier under this proposed rule, proposed § 1.908(b)(5) would make it clear that the shipper is also required to provide to the receiver, if requested, the specified demonstration that would have otherwise been provided by the carrier. Proposed § 1.908(b)(5) also makes it clear that the shipper assumes the corresponding records requirements that would otherwise be applicable to the carrier under proposed §§ 1.908(d)(6)(ii) and proposed § 1.912(b). Proposed § 1.908(b)(5) thus would ensure that the shipper is subject to the same requirements to provide information to the receiver, and the same corresponding records requirements as the carrier would otherwise be, in circumstances where the shipper has assumed a responsibility that would otherwise be borne by the carrier.

3. Requirements Applicable to Shippers and Receivers

Proposed § 1.908(c) would set forth requirements applicable to both shippers and receivers engaged in transportation operations.

Proposed § 1.908(c)(1) would require that shippers and receivers provide vehicle operators who are expected to handle food not completely enclosed by a container during loading and unloading operations with access to a hand-washing facility that is convenient and that provides running water. This would ensure that the operator's hands are not a source of contamination of food by providing facilities that are convenient and furnish running water. As noted in the discussion of proposed § 1.908(a)(3)(ii) previously in this section, a driver of a vehicle transporting food items not completely enclosed by a container may be expected to handle containers during unloading. If, for example, during transport, the driver had to change a tire, the driver's hands could become soiled or contaminated with grease such that it would be necessary for that driver to wash his hands before handling the containers of produce to reduce the potential for the food to become contaminated during handling. Proposed § 1.908(c)(1) would require the shipper or receiver to provide access to an adequate hand-washing facility if the driver is expected to handle the food being transported to ensure that the operator's hands are not a source of contamination of food.

Proposed § 1.908(c)(1) is consistent with our existing CGMP regulations which include a provision on cleanliness whereby persons working in direct contact with food must conform to hygienic practices (see § 110.10(b), (b)(3) and 110.37(e) and Table 1). These hygienic practices include washing hands thoroughly and sanitizing if necessary to protect against contamination with undesirable microorganisms (§ 110.10(b)(3)). This regulation also includes provisions that address the hand-washing facilities that must be available to personnel (see, e.g., § 110.37(e)). Furthermore, the proposed preventive controls rules for both human and animal food contain similar hygiene provisions for hand-washing facilities. For example, the CGMP provisions of both proposed preventive controls rules would establish a performance standard that would require that each plant provide hand-washing facilities designed to ensure that an employee's hands are not a source of contamination of food (human or animal), food-contact surfaces, or food packaging materials by providing facilities that are adequate, convenient, and furnish running water at a suitable temperature (78 FR 3646 at 3723; 78 FR 64736 at 64774).

Proposed § 1.908(c)(2) would require that shippers and receivers of food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation carry out loading and unloading operations under conditions that will prevent the food from supporting such microbial growth. During any period of temperature abuse foods that can support the rapid growth of undesirable microorganisms may experience conditions whereby they may develop increased levels of microorganisms capable of causing spoilage of the food, or if present, microorganisms that may cause human or animal illness. While some comments to the 2010 ANPRM stated that the docking areas of some shipping and receiving facilities are temperature monitored, a comment stated such temperature monitoring is not always practiced during loading and unloading operations for refrigerated and frozen foods. Nevertheless, FDA has tentatively concluded that the movement of these foods through non-temperature controlled loading and unloading areas would not put the food at risk of adulteration if the food is not held under conditions that may adversely affect the food's temperature for extended time periods. However, FDA would not consider staging and holding of any food capable of supporting the rapid growth of undesirable microorganisms in the absence of temperature control on a non-temperature controlled loading dock hours before a pickup is scheduled to be an acceptable handling practice for such food under proposed § 1.908(c)(2) because these conditions could cause the food to be rendered unsafe or otherwise adulterated.

4. Requirements Applicable to Carriers

Proposed § 1.908(d) would set forth requirements applicable to carriers engaged in transportation operations.

Proposed § 1.908(d)(1) would require that a carrier supply a vehicle and transportation equipment that meets any requirements specified by the shipper in accordance with proposed § 1.908(b)(1) and is otherwise appropriate to prevent the food from becoming filthy, putrid, decomposed, or otherwise unfit for food, or being rendered injurious to health from any source during the transportation operation.

In the discussion of proposed § 1.908(b)(1) previously in this section, we discussed the importance of the shipper specifying to the carrier the necessary sanitary requirements for vehicles and transportation equipment to ensure that the vehicle or equipment to be provided by the carrier is appropriate for the intended transportation operation. We discussed that we have tentatively concluded that the shipper is in the most appropriate person to specify these requirements because he would best know the characteristics of the food to be shipped and any specific steps that should be taken by the carrier to ensure that the vehicle or transportation equipment is in appropriate sanitary condition for the transportation operation and to ensure that the food does not become adulterated during transportation.

Because a vehicle that is not in appropriate sanitary condition when offered for the transportation of food can be a source of contamination of food during transport, we tentatively conclude that it is of equal importance to help ensure that food does not become adulterated during transportation that carriers provide vehicles and transportation equipment that meet the sanitary requirements specified by the shipper and are otherwise appropriate for the sanitary transportation of food. Therefore, proposed § 1.908(d)(1) would make the carrier responsible for providing a vehicle that is in appropriate condition for the transportation of food, including meeting any requirements specified by the shipper in accordance with proposed § 1.908(b)(1), to ensure that the food being transported will not become filthy, putrid, decomposed, or otherwise unfit for food, or be rendered injurious to health from any source during the transportation operation.

For example, a carrier would not be considered to be in compliance with this proposed provision if it offers a bulk vehicle intended for the transport of animal feed for loading if it had previously been used to transport medicated feed and the carrier had not performed a cleanout procedure established by the shipper to remove residues of the medicated feed from the vehicle.

Proposed § 1.908(d)(2) would establish requirements for carriers relevant to the maintenance of temperature control for foods subject to proposed § 1.908(b)(3) discussed previously in this section.

Proposed § 1.908(d)(2)(i) would require a carrier, once the transportation operation is complete, to demonstrate to the shipper and if requested, to the receiver, that the carrier maintained temperature conditions during the transportation operation consistent with those specified by the shipper in accordance with proposed § 1.908(b)(3). Proposed § 1.908(d)(2)(i) would further provide that this demonstration may be accomplished by any appropriate means agreeable to the carrier and shipper. For

example, the carrier could present printouts of a time/temperature recording device or a log of temperature measurements taken at various times during the shipment.

As we noted in the discussion of proposed § 1.908(b)(3), the specification by the shipper to the carrier of the temperature conditions necessary during the transportation operation, including the pre-cooling phase, is important for ensuring the maintenance of appropriate temperature conditions for the food during the operation. Proposed § 1.908(b)(3) thus would require the shipper to make this specification to the carrier. Based upon comments we received in response to the 2010 ANPRM, we understand that shippers and carriers routinely exchange the type of information required by proposed § 1.908(b)(3) and furthermore, industry best practices have been developed for the maintenance of the cold chain.

Nonetheless, the lack of appropriate temperature control is a potential problem in food transportation as evidenced by concerns about improper temperature control of food products cited in the ERG report and the continuing reports we have received of food transported without proper temperature control (Ref. 3) (Ref. 4) (Ref. 5) (Ref. 6) (Ref. 7) (Ref. 8) (Ref. 9). In light of these concerns, we propose to include a mechanism by which the carrier must demonstrate to the shipper that food which may become adulterated if its temperature is not properly controlled during transportation operations was transported under acceptable temperature conditions. Proposed § 1.908(d)(2)(i) would require that a carrier demonstrate to the shipper, once the transportation operation is complete, that the carrier maintained temperature conditions during the transportation operation consistent with the shipper's specifications.

Proposed § 1.908(d)(2)(i) would further provide that the demonstration to be made by the carrier may be accomplished by any appropriate means agreeable to the carrier and shipper. This provision would allow the carrier to make this demonstration in different ways consistent with existing industry practices. For example, by agreement with a shipper of a TCS food, the carrier may use an onboard recording device to monitor compartment temperature in the vehicle during the transportation operation and provide the monitoring information to the shipper. Alternatively, by agreement with the shipper, the carrier may manually record the compartment temperatures in a log and provide the log to the shipper.

The proper temperature control of food subject to the rapid growth of undesirable microorganisms in the absence of temperature control during transportation is also of importance to receivers because the carrier's failure to provide the necessary temperature control for the food may result in receivers receiving and then offering adulterated food to consumers or other customers. Therefore, proposed § 1.908(d)(2)(i) would state that the carrier, upon request by the receiver, must demonstrate to the receiver that the carrier maintained temperature conditions during the transportation operation consistent with the shipper's specifications.

We recognize that in certain circumstances, a shipper may assume the responsibility for ensuring that food is held under acceptable temperature conditions during a transportation operation (Ref. 20). In such cases, proposed § 1.908(d)(2)(ii) would provide that a carrier is not subject to the requirements of proposed § 1.908(d)(2)(i) if the carrier and shipper agree in writing prior to the transportation operation that the shipper is responsible for monitoring the temperature conditions during the transportation operation or otherwise ensuring that the food was held under acceptable temperature conditions during the transportation operation. For example, in some cases the shipper may by agreement with the carrier arrange to have his own temperature monitoring device placed aboard the vehicle and recover the device upon delivery of the food.

In another example, a shipper of pasteurized juice to be transported a short distance may rely on: (1) His pre-loading inspection to establish that the vehicle was properly pre-cooled; and (2) the receiver's inspection of the food upon delivery. This arrangement would be an alternative to the carrier providing a demonstration to the shipper if the shipper has determined that this procedure would ensure that the food was transported under acceptable temperature conditions.

Thus, proposed § 1.908(d)(2) would establish a flexible mechanism compatible with existing industry practices whereby the carrier is responsible for demonstrating to the shipper that the carrier has met the shipper's specified temperature conditions unless the carrier and shipper agree, in writing, that the shipper will be responsible for monitoring the temperature conditions or otherwise assuring that the food was held under acceptable temperature conditions during the operation.

Proposed § 1.908(d)(2)(ii) further would require the carrier to provide the written agreement to the receiver, if requested. This provision provides a practicable means for a carrier to notify a receiver that the shipper has assumed responsibility for ensuring that the food was held under acceptable temperature conditions during the transportation operation, should the receiver request that a carrier provide the demonstration required by proposed § 1.908(d)(2)(i). As discussed previously in this section with respect to proposed § 1.908(b)(5), in such a situation, the shipper would assume the requirements otherwise applicable to the carrier in proposed § 1.908(d)(2)(i).

We tentatively conclude, and have thus specified in proposed § 1.908(d)(2)(ii) that the agreement between the carrier and shipper should be written because the agreement transfers responsibilities otherwise assigned to the carrier under this proposed rule to the shipper, and requiring the agreement to be written would appropriately document that transfer of responsibility. Proposed § 1.908(d)(2)(ii) further specifies that the written agreement is subject to the records requirements of § 1.912(b) of this subpart.

Proposed § 1.908(d)(3) would require that before offering a vehicle or transportation equipment with an auxiliary refrigeration unit for the transportation of food that can support the rapid growth of undesirable microorganisms in the absence of temperature control, a carrier must pre-cool each mechanically refrigerated freezer and cold storage compartment as specified by the shipper in accordance with proposed § 1.908(b)(3).

In the discussion of proposed § 1.908(b)(3) previously in this section, we discussed our tentative conclusion that requiring the shipper to specify to the carrier the temperature conditions necessary during the transportation operation, including the pre-cooling phase, was necessary for ensuring that the operation will meet proposed § 1.908(a)(3) with respect to the maintenance of appropriate temperature conditions for the food. The shipper is able to specify these requirements because it is in the best position to know the temperature control requirements of the food to be shipped to ensure that the food does not become adulterated due to the undesirable microorganism growth. Proposed § 1.908(b)(3) would thus make the shipper responsible for specifying these

temperature conditions to carrier in writing.

A vehicle or transportation equipment that is not adequately pre-cooled can, after loading, cause the food to exceed temperatures that are necessary to control microorganism growth. Therefore, proposed § 1.908(d)(3) would require the carrier to pre-cool each mechanically refrigerated freezer and cold storage compartment as specified by the shipper in accordance with proposed § 1.908(b)(3) before offering a vehicle or transportation equipment with an auxiliary refrigeration unit for the transportation of food that can support the rapid growth of undesirable microorganisms in the absence of temperature control. This proposed provision would only be applicable to vehicles or transportation equipment that maintain temperature control of food through the use of mechanically refrigerated freezers or cold storage compartments because for vehicles or transportation equipment that maintain temperature control by means other than mechanical refrigeration, e.g., thermally insulated bulk tankers, pre-cooling is not necessary to ensure temperature control of the food after loading.

Based upon comments we received in response to the 2010 ANPRM, we understand that in accordance with best industry practices, carriers in the industry generally pre-cool vehicles they intend to offer for the shipment of temperature controlled foods. Accordingly, we do not believe that the requirement placed on the carrier by proposed § 1.908(d)(3) will necessitate efforts beyond those which are already common within the food transportation industry.

Proposed § 1.908(d)(4) would require a carrier that offers a bulk vehicle for food transportation to provide information to the shipper that identifies the three previous cargoes transported in the vehicle, which is consistent with our understanding of current industry practice except that the shipper and carrier may agree in writing prior to transportation operations that the carrier will provide information that identifies fewer than three previous cargoes or that the carrier need not provide any such information if procedures have been established that would ensure that the bulk vehicle offered will be adequate for the intended transportation operation, e.g., if the carrier by contract will only offer bulk vehicles dedicated to hauling a single type of product. This provision is discussed after the description of proposed § 1.908(d)(5). Proposed § 1.908(d)(4) would also specify that the written agreement is subject to the records requirements of proposed § 1.912(b).

Proposed § 1.908(d)(5) would require a carrier that offers a bulk vehicle for food transportation to provide information to the shipper that describes the most recent cleaning of the bulk vehicle, except that a shipper and carrier may agree in writing prior to transportation operations that the carrier need not provide any such information, if procedures have been established that would ensure that the bulk vehicle offered will be adequate for the intended transportation operation, e.g., if the carrier has contractually agreed to use a specified cleaning procedure at specified intervals or if the shipper cleans the vehicle at his own facility prior to loading food into the bulk vehicle. Proposed § 1.908(d)(5) would also specify that the written agreement is subject to the records requirements of proposed § 1.912(b).

Comments to the 2010 ANPRM stated that in transportation operations involving the bulk transport of human and animal food, shippers and carriers typically exchange information to ensure that the bulk vehicles will, when offered, be suitable for the operation. Shippers in some cases may need to know the identity of prior cargoes that were hauled in a bulk vehicle to determine whether they were of such a nature that they could affect their shipment in any manner that would either cause it to become adulterated or that would adversely affect its commercial value. Shippers may also need to know how the bulk vehicle was cleaned in order to determine that the cleaning procedure used was adequate to prepare the bulk vehicle for the transport of their product. As noted previously in this section in the discussion of proposed § 1.908(b)(1), in the bulk transport of animal feed, it may be necessary for the shipper to obtain assurance that specified cleanout procedures have been carried out for bulk vehicles that have previously hauled medicated feed.

A circumstance necessitating communication between shippers and carriers that might arise in the bulk transport of liquid non-dairy foods involves the need to ensure that vehicles that have previously hauled milk will not introduce allergens into non-dairy foods through cross contact. As noted in the discussion in this section of proposed § 1.908(a)(3)(ii), depending upon whether or not a bulk carrier uses its vehicles to transport milk, shippers might employ different procedures to establish the suitability of a bulk vehicle for the transport of their product. For example, if a carrier only provides vehicles dedicated to the hauling of a single product, e.g., juice, a shipper of juice would not need to know what the previous cargoes of a bulk vehicle were before loading its product into the vehicle. If, however, the carrier recently hauled milk in a bulk vehicle offered to the same shipper, milk residues that might remain in the bulk vehicle could contaminate subsequent shipments in the bulk vehicle. The shipper may need to know from the carrier that milk was hauled and may also need information about the most recent cleaning procedure for the tanker.

In practice, bulk carriers and shippers commonly establish mutually acceptable procedures concerning prior cargoes and cleanings, usually through contractual arrangements, to ensure that a bulk vehicle will be suitable for a transportation operation for which it will be offered. Such agreements may be based upon industry guidelines for bulk transport that set forth best practices for the hauling of particular commodities (Ref. 22) (Ref. 29). These guidelines may call for the use of dedicated vehicles for the transport of a particular commodity or may identify acceptable prior cargoes when the use of a dedicated vehicle is not necessary. These guidelines may also address acceptable cleaning procedures for the bulk vehicles.

While shippers and carriers commonly establish mutually acceptable procedures for bulk shipments prior to an actual transportation operation, there may be instances where such procedures have not been established and a shipper must obtain information from the carrier about prior cargoes and cleaning for a bulk vehicle at the time a vehicle is offered for his shipment to ensure that the condition of the bulk vehicle is adequate to ensure that the food is not adulterated during transportation.

To account for such situations, we tentatively conclude that the sanitary food transportation regulations should require that the carrier provide information to the shipper that identifies the prior cargoes and describes cleaning procedures for a bulk vehicle offered to the shipper. We also tentatively conclude that to provide flexibility consistent with existing practices, this proposed rule should allow for the shipper and carrier to mutually agree in writing to forgo the exchange of some or all of this information when it is not necessary to ensure that the bulk vehicle is adequate for the intended transportation operation.

For example, a shipper of juice and a carrier may mutually agree in writing that no information need be provided to the shipper about prior cargoes in the bulk vehicles if the carrier agrees to only offer bulk vehicles that exclusively haul juice. Similarly, if a carrier contractually agrees to use a cleaning procedure for bulk vehicles deemed suitable by the shipper, these parties could, under proposed § 1.908(d)(5), agree in writing that no information need be provided to the shipper about the cleaning of the vehicles.

Under proposed § 1.908(d)(4), the information to be provided by a carrier would identify the three previous cargoes hauled in a bulk vehicle. We have tentatively concluded that information about the three previous cargoes is sufficient to demonstrate to the shipper that the condition of the bulk vehicle is adequate to ensure that the food is not adulterated during transportation. We have based this tentative conclusion, in part, on two industry guidance documents, from a juice industry association and a broad food industry association, that contain recommendations that shippers obtain information from carriers identifying the three previous cargoes of a bulk vehicle (Ref. 22) (Ref. 29). We also note that we stated in a 1996 ANPRM published jointly with FSIS (61 FR 59372 at 59379) that we were considering requiring carriers of potentially hazardous foods (the designation used at that time for TCS foods) that are shipped in bulk to provide shippers with records that identify the last three cargoes for any conveyance being offered to the food shipper for use in transporting the food. However, comments to the 2010 ANPRM stated that other sectors of the food transportation industry, e.g., the animal feed transport sector, typically only exchange information about the immediate previous cargo of a bulk vehicle offered. We request comment on whether proposed § 1.908(d)(4) and (d)(5) are written with the flexibility to enable application across multiple sectors of the bulk human and animal food transportation industry and still accomplish its intended purpose of providing for information disclosure between carriers and shippers as necessary to establish that the condition of the bulk vehicle is adequate to ensure that the food is not adulterated during transportation. We also request comment on whether there are circumstances under which bulk carriers would also need to provide this information upon request to receivers about the condition of bulk vehicles to ensure that food is not adulterated during transportation.

We also note that additional requirements relevant to the bulk transport of human and animal food may apply to the owner, operator, or agent in charge of facilities that manufacture, process, pack, or hold food and are subject to the proposed preventive controls rules for human and animal food. For example, under the proposed preventive controls rule for human food, the owner, operator, or agent in charge of such a facility must evaluate known or reasonably foreseeable hazards in food, including any that may occur due to transportation practices.

We are requiring in proposed § 1.908(d)(4) and (d)(5) that the agreement required by those sections be written to appropriately document that a carrier and shipper have agreed to employ an alternative procedure available under these provisions.

Proposed § 1.908(d)(6) would require carriers to develop and implement specified written procedures subject to the records requirements of proposed § 1.912(b).

Proposed § 1.908(d)(6)(i) would require that the written procedures specify practices for cleaning, sanitizing if necessary, and inspecting vehicles and transportation equipment that the carrier provides for use in the transportation of food to maintain the vehicles and the transportation equipment in appropriate sanitary condition as required by proposed § 1.906(b).

The cleaning and inspection of a vehicle or transportation equipment is a fundamental element of sanitary food transportation and is necessary to ensure that food is not transported under conditions that may render it adulterated. As we have noted previously in this section in the discussion of proposed § 1.908(b)(1), carriers in the food transportation industry commonly use standard procedures to appropriately prepare vehicles and transportation equipment for the transportation of food. We also noted in that discussion that shippers may in some circumstances specify particular procedures to be used by carriers in the preparation of vehicles and transportation equipment. These types of cleaning procedures could be used in certain circumstances by a carrier to meet the proposed requirement for a written procedure. The proposed requirement that the procedures be written would help ensure that they are consistently applied, facilitate training on these procedures, and enable verification by FDA and other authorities.

Proposed § 1.908(d)(6)(ii) would require that the written procedures describe how the carrier will comply with the provisions for temperature control in proposed § 1.908(d)(2), discussed previously in this section. For example, the carrier's written procedures might state that the carrier will either provide data from a time/temperature recording device to a shipper or (upon request) receiver, or that it will provide the shipper with a receipt signed by the receiver noting the time of delivery, which in conjunction with the shipment's time of the departure (known by the shipper) and the shipper's verification of the vehicle's pre-cooling, would be sufficient for the shipper to know that the food was transported in accord with the shipment's specified temperature conditions. In practice, the carrier might use the first procedure for trips of several hours because data from a temperature recording device would demonstrate to the shipper or receiver that food's temperature was maintained in accord with the shipper's specification to the carrier. The carrier might use the second procedure for relatively short distance trips where the shipper or receiver can be assured that temperature control for the food according to his specifications was provided by knowing that the shipment was in transit only for a short period of time after departing his facility. The determination of the appropriate method would be made by the shipper.

A discussion of the importance of temperature control was previously provided in this section in the discussion of proposed § 1.908(d)(2). The proposed requirement that the procedures be written would help ensure that they are consistently applied, facilitate training on these procedures, and enable verification by FDA and other authorities.

Proposed § 1.908(d)(6)(iii) would require that the written procedures describe how the carrier will comply with the provisions for the use of bulk vehicles in proposed § 1.908(d)(4) and (d)(5), discussed previously in this section. A discussion of the importance of prior cargo information and bulk vehicle cleaning was previously provided in this section in the discussion of proposed § 1.908(d)(4) and (d)(5). The proposed requirement that the procedures be written would help ensure that they are consistently applied, facilitate training on these procedures, and enable verification by FDA and other authorities.

F. Training (Proposed § 1.910)

Proposed § 1.910 would establish training requirements for carriers. Proposed § 1.910(a) would require that carriers provide training to personnel engaged in transportation operations that provides an awareness of potential food safety problems that may occur during food transportation, basic sanitary transportation practices to address those potential problems, and the responsibilities of the carrier under this proposed rule. Proposed § 1.910 would also require that this training be provided upon hiring and as needed thereafter.

We previously noted that the ERG report identified the lack of driver/employee training and/or supervisor/manager/owner knowledge of food safety and/or security as a problem area where food may be at risk for physical, chemical, or biological contamination during transport and storage (Ref. 9). Findings released in 2007 by the Michigan Department of Agriculture (Ref. 3) identified low driver awareness of safe food temperatures and inadequate food safety training of drivers as areas of concern in food transport. Also, as stated in the discussions of proposed §§ 1.906(c) and 1.908(a)(3)(i) in sections III.D and III.E, we continue to receive or otherwise learn of reports of foods such as meat and seafood products being transported under temperature abuse conditions (Ref. 5) (Ref. 6) (Ref. 7) (Ref. 8), and we have received reports in the 3 years since we established the Reportable Food Registry of animal feed becoming contaminated during transportation due to the insanitary condition of a vehicle (Ref. 2).

We recognize, based upon comments to the 2010 ANPRM, that food transporters commonly implement training programs for their personnel that address sanitary food handling. However, we also note that these identified areas of concern and recent problems involve practices that would be the carrier's responsibility under this proposed rule. This would indicate that there is a lack of consistent implementation of training in sanitary food handling practices among carriers in the food transportation industry. For this reason we are proposing training requirements for carriers in this proposed rule. We would envision that this training could be provided in half-day online format similar to training referred to as DOT HM 181 basic hazmat employee training, readily available in the private sector. The proposed training provision would require that the training be provided upon hiring and as needed thereafter. This would ensure that carrier personnel are knowledgeable about food safety issues and their responsibilities before they engage in transportation operations. It would also ensure that additional training is provided when needed; e.g., when a carrier's operations change substantially, or when the employee's performance indicates a need for additional training.

We have tentatively concluded that training needs for shippers and receivers would be most appropriately addressed through other regulations such as our CGMP regulations and our proposed preventive controls rules for human and animal food because these regulations and proposed rules contain provisions related to employee training for entities that would operate as shippers and carriers.

Section 110.10(c) of our CGMP regulations for human food provides guidance that personnel responsible for identifying sanitation failures or food contamination should have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Section 110.10(c) further recommends that food handlers and supervisors receive appropriate training in proper food handling techniques and food-protection principles and should be informed of the danger of poor personal hygiene and insanitary practices.

Our proposed preventive controls rules for human and animal food include training requirements for individuals who perform or oversee specified functions, e.g., preparation of the food safety plan (78 FR 3646 at 3761 and 78 FR 64736 at 64750).

Proposed § 1.910(b) would require that carriers establish and maintain records that document required training of personnel. Such records would be required to include the date of the training, the type of training, and the person(s) trained. These records would be subject to the records requirements of proposed § 1.912 (discussed in section III.G). Given the importance of adequate training to the conduct of sanitary transportation operations by carriers, we tentatively conclude that this proposed rule should also require that carriers maintain records documenting that they have provided the required training to their personnel to enable the agency to verify compliance with the training requirement through inspection and records examination.

G. Records (Proposed § 1.912)

Proposed § 1.912 would establish requirements for the retention and availability of records applicable to shippers and carriers engaged in transportation operations. A discussion of the records we are requiring shippers and carriers to maintain and the necessity for the maintenance of such records is found in the respective discussions of proposed § 1.908(b)(1), (b)(3) and (d)(6) in section III.E.

Proposed § 1.912(a) would require that shippers retain records that demonstrate that they provide information as required by proposed § 1.908(b)(1) and (b)(3) as a regular part of their transportation operations for a period of 12 months beyond when the shipper is subject to any requirement to provide such information.

Proposed § 1.912(b) would require that carriers retain records of any written agreements required by proposed § 1.908(d)(2)(ii) and of the written procedures required by proposed § 1.908(d)(6) that describe cleaning, sanitizing and inspection procedures for vehicles and transportation equipment for a period of 12 months beyond when such agreements and procedures are in use in their transportation operations. Proposed § 1.912(c) would require that carriers retain training records required by proposed § 1.910(b) for a period of 12 months beyond when the person identified in any such records continues to perform the duties for which the training was provided.

The requirements of proposed § 1.912(a) through (c) would enable us to review records of the transportation operations of shippers and carriers during inspections for enforcement purposes and to assess compliance with the requirements of this proposed rule. In the case of records required by proposed § 1.912(a) and (b), we are proposing to require a retention period of 12 months to enable us to assess the recent operations of a shipper or carrier where it may be necessary to do so, e.g., in an investigation of a recent outbreak of foodborne illness.

Proposed § 1.912(d) would require that shippers and carriers make all records required by this proposed rule available to a duly authorized individual promptly upon oral or written request.

Proposed § 1.912(e) would require that all records required by this proposed rule be kept as original records, true copies (such as photocopies, pictures, scanned copies, microfilm, microfiche, or other accurate reproductions of the original records), or electronic records, which must be kept in accordance with 21 CFR part 11.

Proposed § 1.912(f) would provide that except for the written procedures

required by proposed § 1.908(d)(6), offsite storage of records is permitted after 6 months following the date that the record was made if such records can be retrieved and provided onsite within 24 hours of request for official review. Proposed § 1.912(f) would also specify that the written procedures required by proposed § 1.908(d)(6) must remain onsite as long as the procedures are in use in transportation operations.

Providing for offsite storage of some records after 6 months would enable a facility with flexibility to comply with the proposed requirements for record retention while reducing the amount of space needed for onsite storage of the records without interfering with the purpose of record retention, because the records will be readily available.

Proposed § 1.912(f) also would provide that electronic records are considered to be onsite if they are accessible from an onsite location. Computerized systems within corporations can be networked, allowing for the sending and receiving of information in a secure fashion to all of the different facilities of that corporation worldwide. This type of system can be used to provide access at multiple locations to records from multiple plants or facilities.

Proposed § 1.912(f) is consistent with our Hazard Analysis and Critical Control Points (HACCP) regulations for seafood and juice. Our HACCP regulation for seafood provides for transfer of records if record storage capacity is limited on a processing vessel or at a remote processing site, if the records could be immediately returned for official review upon request (21 CFR 123.9(b)(3)). Our HACCP regulation for juice permits offsite storage of processing records after 6 months following the date that the monitoring occurred, if such records can be retrieved and provided onsite within 24 hours of request for official review and considers electronic records to be onsite if they are accessible from an onsite location (21 CFR 120.12(d)(2)).

Proposed § 1.912(g) would provide that all records required this proposed rule are subject to the disclosure requirements under part 20 (21 CFR part 20). FDA's regulations in part 20, the Freedom of Information Act (FOIA) (5 U.S.C. 552), the Trade Secrets Act (18 U.S.C. 1905), and the FD&C Act, govern FDA's disclosures of information, including treatment of commercial confidential information (CCI) and trade secret information.

H. Waivers (Proposed §§ 1.914–1.934)

1. Statutory Authority

Section 416(d) of the FD&C Act provides the Secretary with the authority to waive any requirement under section 416 of the FD&C Act, which would include the requirements of this proposed rule, with respect to any class of persons, vehicles, food, or nonfood products, if the Secretary determines that the waiver will not result in the transportation of food under conditions that would be unsafe for human and animal health and will not be contrary to the public interest. Section 416(d)(2) of the FD&C Act further provides that the Secretary shall publish in the **Federal Register** any waiver and the reasons for the waiver. Aside from section 416(d)(2), section 416 does not expressly prescribe the procedures for granting a waiver under section 416(d) or for revoking or amending a waiver that has already been granted under section 416(d).

2. Proposed Requirements

Consistent with the statutory provisions mentioned previously, we are proposing a process by which FDA will grant waivers from one or more requirements of subpart O on its own initiative or in response to a petition from an interested person, including information that must accompany such petitions, and the procedures and circumstances under which FDA may grant or deny such petitions, and modify or revoke any waivers that have already been granted. Waivers granted by FDA would be limited to the requirements of subpart O specified by FDA in the **Federal Register** notice announcing the waiver, and would have no effect on the application of other provisions of the FD&C Act or FDA regulations.

Proposed § 1.914 would provide that FDA may waive a requirement of subpart O with respect to any class of persons, vehicles, food, or nonfood products, if FDA determines that the waiver will not result in the transportation of food under conditions that would be unsafe for human or animal health and the waiver will not be contrary to the public interest. This proposed provision is identical to the standard set forth in section 416(d)(1) of the FD&C Act. Under this standard, a waiver could be granted with regard to a specific requirement or subset of requirements of subpart O or with regard to all requirements set forth in subpart O. Similarly, under this standard, a waiver could be granted with regard to any class of persons, vehicles, food, and/or nonfood products and the transportation operations in which they engage.

Proposed § 1.916 would provide that FDA will consider whether to waive a requirement of subpart O on FDA's own initiative or on the petition submitted under § 10.30 (21 CFR 10.30) by any person who is subject to the requirements of subpart O with respect to any class of persons, vehicles, food, or nonfood products. FDA would welcome requests for pre-petition consultations, including meetings, with interested persons to facilitate the development of petitions seeking a waiver of some or all of the requirements of subpart O, including data and information necessary to demonstrate that the waiver will not result in the transportation of food under conditions that would be unsafe for human or animal health and that the waiver will not be contrary to the public interest.

Proposed § 1.918 would provide that, in addition to the requirements set forth in § 10.30, the Statement of Grounds (which is addressed under § 10.30(b)) of a petition requesting a waiver must describe with particularity the waiver requested, including the persons, vehicles, food, or nonfood product(s) to which the waiver would apply and the requirement(s) of subpart O to which the waiver would apply (proposed § 1.918(a)). In addition, the Statement of Grounds would also be required to present information demonstrating that the waiver will not result in the transportation of food under conditions that would be unsafe for human or animal health and will not be contrary to the public interest (proposed § 1.918(b)). Under these provisions, an interested person would be required to submit relevant and scientifically-valid information or materials specific to the requested waiver to demonstrate that the waiver will not result in the transportation of food under conditions that would be unsafe for human or animal health and will not be contrary to the public interest. This could include information about the nature of the food, the manner in which it is transported, the controls in place to mitigate any food safety issues, and government and/or non-government oversight of the transportation of the food.

Proposed § 1.920 establishes our presumption that information submitted in a petition requesting a waiver and comments submitted on such a petition does not contain information exempt from public disclosure under part 20 of this chapter and would be made public as part of the docket associated with this request. We do not believe that

information exempt from disclosure under part 20 of this chapter is the type of information that FDA is requiring to be submitted in such a petition or that would be relevant in any comments submitted on such a petition. We also believe that providing full public access to this information is important to ensuring transparency and for the opportunity for other interested parties to offer comment on the petition. Therefore, we expect to make these submissions publicly available.

Proposed § 1.922 would establish the Director or Deputy Directors of the Center for Food Safety and Applied Nutrition (CFSAN) or the Center for Veterinary Medicine (CVM), or the Director of the Office of Compliance, CFSAN, or the Director of the Office of Surveillance and Compliance, CVM, as the responsible official for responding to a request for a waiver from one or more requirements in subpart O.

Proposed § 1.924 would establish the general procedures applying to a petition requesting a waiver from one or more requirements in subpart O. Proposed § 1.924(a) would provide that the procedures sets forth in § 10.30 govern the process by which FDA responds to a petition requesting a waiver. Section 10.30 specifies the requirements for any citizen petition submitted by a person (including a petitioner who is not a citizen of the United States) to FDA. Proposed § 1.924(b) would establish that, under § 10.30(h)(3), we will publish a notice in the **Federal Register**, requesting information and views on the filed petition, including information and views from persons who could be affected by the waiver if the petition were to be granted (e.g., because the waiver would also apply to certain or all transportation operations performed by a person). Such persons could include those whose transportation operations are conducted under similar circumstances with similar procedures, processes, or practices as those addressed in the petition, or could include shippers, carriers, or receivers who are engaged in transportation operations of food that is similar or identical to a specific food addressed in the petition.

Proposed § 1.924(c) would establish that, under § 10.30(e)(3), FDA will respond to the petitioner in writing. Proposed § 1.924(c)(1) would establish that, if we grant the petition, either in whole or in part, we will publish a notice in the **Federal Register** setting forth any waiver and the reasons for such waiver. This action is required by section 416(d)(2) of the FD&C Act. Proposed § 1.924(c)(2) would establish that, if FDA denies the petition (including partial denials), FDA will explain the reason(s) for the denial in its written response to the petitioner. Under proposed § 1.924(d), we propose to make readily accessible to the public, and periodically update, a list of filed petitions requesting waivers, including the status of each petition (for example, pending, granted, or denied). The provisions in proposed § 1.924 would ensure transparency in FDA's activities and decision-making, which allows the public to better understand the agency's decisions, increasing credibility and promoting accountability.

Proposed § 1.926 would provide that we may deny a petition requesting a waiver if it does not provide the information required under proposed § 1.918 (including the requirements of § 10.30), or if we determine that the waiver could result in the transportation of food under conditions that would be unsafe for human or animal health or that the waiver could be contrary to the public interest. For example, we would expect to deny a petition if the petitioner failed to submit data, information, or other materials to demonstrate that the requested waiver would not result in the transportation of food under conditions that would be unsafe for human or animal health.

Proposed § 1.928 would provide that if FDA, on its own initiative, determines that a waiver is appropriate, FDA will publish a notice in the **Federal Register** setting forth the waiver and the reasons for such waiver. Under certain circumstances, FDA may solicit public comment on a proposed waiver before making a final determination regarding whether to grant a waiver (as we have in this proposed rule, as discussed later in this section). However, under other circumstances, when FDA has determined that a waiver is appropriate in accordance with the standard set forth in section 416(d)(1) of the FD&C Act and proposed § 1.914, FDA may grant a waiver without first soliciting public comment. We have tentatively concluded that this process is sufficient for FDA granting a waiver on its own initiative because it is the process set forth in section 416(d)(2) of the FD&C Act.

Proposed § 1.930 would specify that a waiver granted by FDA becomes effective on the date that notice of the waiver is published in the **Federal Register**.

Under proposed § 1.932, we would be able to modify or revoke a waiver if we determine that the waiver could result in the transportation of food under conditions that would be unsafe for human or animal health or that the waiver could be contrary to the public interest. For example, we may deem it necessary to modify terms and conditions of a waiver based on a review of updated scientific data or factual information related to the procedures, processes, or practices utilized by the transportation operations that are covered by the waiver.

Proposed § 1.934 would establish the procedures that apply if FDA determines that a waiver should be modified or revoked. Under proposed § 1.934(a), we would provide notice of such a determination as follows: (1) We will notify the entity that initially requested the waiver, in writing at the address identified in its petition, if we determine that a waiver granted in response to a petition should be modified or revoked; and (2) we will publish in the **Federal Register** a notice of our determination that a waiver should be modified or revoked. This notice will establish a public docket so that interested parties may submit written submissions on our determination. FDA requests comments on whether it should establish requirements for the timely submissions to the public docket, and if so, whether it should do so in the final rule or whether it would be more appropriate to address this issue in a guidance document.

Under proposed § 1.934(b), we would consider written submissions submitted to the public docket from interested parties.

Under proposed § 1.934(c), we would publish a notice of our final decision in the **Federal Register**. The effective date of the decision will be the date of publication of the notice.

We tentatively conclude that these provisions are necessary and appropriate not only to ensure transparency and accountability in FDA's activities and decisionmaking, but also to provide relevant parties with an opportunity for due process.

3. Potential Waivers

Under the standard set forth in section 416(d)(1) and proposed § 1.914, and as discussed further in the paragraphs that follow, we have tentatively determined that it would be appropriate to waive the applicable requirements of subpart O, if finalized as proposed, with respect to the following classes of persons:

- Shippers, carriers, and receivers who hold valid permits and are inspected under the National Conference on Interstate Milk Shipments (NCIMS) Grade ''A'' Milk Safety Program, only when engaged in

transportation operations involving Grade A milk and milk products.

• Food establishments holding valid permits, only when engaged in transportation operations as receivers, or as shippers and carriers in operations in which food is relinquished to consumers after transportation from the establishment.

We intend to separately publish in the **Federal Register**, at the time of publication of this final rule, waivers and the reasons for the waivers for these classes of persons from the applicable requirements of subpart O. We request comment regarding whether these waivers could result in the transportation of food under conditions that would be unsafe for human or animal health or could be contrary to the public interest.

a. Shippers, carriers, and receivers holding valid permits under the NCIMS Grade ''A'' Milk Safety Program, only when engaged in transportation operations involving Grade A milk and milk products. The NCIMS Grade ''A'' Milk Safety Program, participated in by all 50 States, the District of Columbia, and Puerto Rico, uses as its basic standard a model milk regulation, the Grade ''A'' Pasteurized Milk Ordinance (Grade ''A'' PMO) (Ref. 30) which incorporates provisions governing the production, storage, handling, processing, packaging, transportation, and sale of Grade ''A'' milk and milk products, including buttermilk and buttermilk products, whey and whey products, and condensed and dry milk products. Provisions of the Grade ''A'' PMO and the Grade ''A'' Milk Safety Program address milk tank trucks and operations involving them, including farm bulk milk pick-up tankers and milk transportation tanks used to transport Grade ''A'' milk and milk products in interstate commerce.

The Grade ''A'' PMO, and the state regulations modeled after the PMO, specifies that every milk producer, milk distributor, bulk milk hauler/sampler, milk tank truck, milk transportation company, and each milk plant, receiving station, transfer station, and milk tank truck cleaning facility operator shall hold a valid permit issued by an authorized regulatory agency, i.e., a State government agency. Furthermore, when any requirement of the Grade ''A'' milk safety program is violated, the permit holder is subject to the suspension of their permit. The Grade ''A'' PMO also specifies that each dairy farm, milk plant, receiving station, transfer station, and milk tank truck cleaning facility whose milk or milk products are intended for consumption within a state's jurisdiction, and each bulk milk hauler/sampler who collects samples of raw milk for pasteurization, for bacterial, chemical or temperature standards and hauls milk from a dairy farm to a milk plant, receiving station or transfer station and each milk tank truck and its appurtenances, shall be inspected/audited by the regulatory agency prior to the issuance of a permit and at specified intervals following the issuance of a permit.

We have tentatively determined that waiving the requirements of subpart O, if finalized as proposed, with respect to shippers, carriers, and receivers who hold valid permits and are inspected under the NCIMS Grade ''A'' Milk Safety Program, only when engaged in transportation operations involving Grade A milk and milk products, would not result in the transportation of food under conditions that would be unsafe for human or animal health and would not be contrary to the public interest. Specifically, we have determined that shippers, carriers, and receivers who hold permits and are inspected under the NCIMS Grade ''A'' Milk Safety Program, by complying with requirements that are identical to those set forth in the Grade ''A'' PMO, are using sanitary transportation practices to ensure that Grade A milk and milk products are not transported under conditions that may render such products adulterated. For example, under such requirements, trucks that transport milk from one milk plant to another must be sealed and temperatures of all milk and milk products must be verified for every tank truck load of milk or milk product received at these facilities. Further, all tank truck loads of milk or milk product that are shipped from Grade A facilities must include a shipping statement that includes, among other things, the seal numbers from the seals that were applied at the shipping plant and the temperature of the product upon loading. Based on our of analysis these, and other similar requirements, and the inspection and permitting processes that currently exist within the NCIMS Grade ''A'' Milk Safety Program, we have tentatively determined that the requirements of proposed subpart O, if finalized as proposed, would not be necessary to ensure that Grade A milk and milk products are not transported under conditions that may render such products adulterated. Accordingly, we are proposing to waive the requirements of subpart O, if finalized as proposed, with respect to shippers, carriers, and receivers who hold valid permits and are inspected under the NCIMS Grade ''A'' Milk Safety Program, only when engaged in transportation operations involving Grade A milk and milk products.

b. Food Establishments holding valid permits, only when engaged in transportation operations as receivers, or as shippers or carriers in operations in which food is relinquished to consumers after transportation from the establishment. For the purpose of establishing the scope of this potential waiver, we intend to define ''Food Establishment,'' using the definition set forth in the current edition of the Food Code (Ref. 17):

Food establishment means an operation that:

• Stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and

• Relinquishes possession of food to a consumer directly or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

The *Food Code* specifies that a person who operates a food establishment should hold a valid permit issued by the regulatory authority, i.e., a State government agency (Ref. 31). Only a food establishment operator who holds such a permit would fall within the scope of this potential waiver.

Food establishments, with the exception of establishments subject to the requirements of 21 CFR parts 1240 and 1250 that provide food to conveyances used to transport people, are generally subject to regulatory oversight, including permitting, by the more than 3,000 State, local, and tribal agencies that have primary responsibility to regulate the retail food and foodservice industries in the United States. These agencies are primarily responsible for the inspection and oversight of over 1 million food establishments that provide food directly to consumers. FDA assists these agencies and the industries they regulate by promoting the application of science-based food safety principles in retail and foodservice settings to minimize the incidence of foodborne illness. FDA publishes the *Food Code* to assist food control jurisdictions at all levels of government by providing them with a scientifically sound technical and legal model for regulating the retail and food service segment of the industry

(restaurants and grocery stores and institutions such as nursing homes). Local, State, tribal, and Federal regulators use the *Food Code* as a model to develop or update their own food safety rules and to be consistent with national food regulatory policy. State codes patterned after the current or previous versions of the *Food Code* have been adopted in all 50 States. FDA also assists these regulators by providing scientifically-based guidance, training, program evaluation, and technical assistance.

FDA principally addresses aspects of sanitary food transportation relevant to retail food and food service operations through the provisions of the *Food Code* that address inspection and handling of food upon receipt to ensure that it does not appear to have been subject to contamination or temperature abuse. For example, since 1993 the *Food Code* has contained provisions addressing the temperature of TCS foods at the time they are received by a food establishment that would ensure that these foods are not received after transportation at temperatures at which the food could become unsafe (Ref. 32). In addition, provisions of the *Food Code* that address preventing food contamination and food holding temperatures for TCS foods or the use of time as a public health control, in the absence of temperature control, would apply to the transportation of foods from a food establishment to a site where the food would be relinquished to a consumer (Ref. 32).

We regard the regulatory programs of State and local agencies patterned upon the *Food Code* to be substantive, comprehensive, and effective in addressing food safety issues associated with retail food and food service operations and we intend to continue to operate through the Federal/State cooperative mechanism.

We have tentatively determined that waiving the requirements of subpart O, if finalized as proposed, with respect to food establishments holding valid permits, only when engaged in transportation operations as receivers, or as shippers and carriers for operations in which food is relinquished to consumers after transportation from the establishment, would not result in the transportation of food under conditions that would be unsafe for human or animal health and would not be contrary to the public interest. Specifically, we have determined that such food establishments, by complying with state requirements that are modeled after the Food Code, are using sanitary transportation practices to ensure that food is not transported under conditions that may render such products adulterated. We note that we are proposing this waiver only with respect to such food establishments when engaged in transportation operations as receivers and as shippers or carriers for operations in which food is relinquished to consumers after transportation from the establishment. If food establishments perform other functions that cause them to meet the definition of shipper and/or carrier under proposed § 1.904, e.g., transport food from a distribution facility to their establishment, any requirements under proposed subpart O that would apply to such entities as shippers and/or carriers would still be applicable and would not be waived.

As previously discussed in this section, we are proposing in § 1.934 to establish a procedure whereby FDA may revoke waivers with appropriate notice and comment.

IV. Preliminary Regulatory Impact Analysis

A. Overview

FDA has examined the impacts of this proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). We have developed a Preliminary Regulatory Impact Analysis (PRIA) that presents the benefits and costs of this proposed rule (Ref. 33). We believe that the proposed rule will be a significant regulatory action as defined by Executive Order 12866. We request comments on the PRIA.

The summary analysis of benefits and costs included in this document is drawn from the detailed PRIA (Ref. 33) which is available at *http://www.regulations.gov* (Docket No. FDA–2013–N–0013) and is also available on FDA's Web site at *http://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm*.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This proposed rule does not cover any shipper, receiver or carrier with annual revenues of less than $500,000. Nevertheless, the Agency tentatively concludes that the final rule could have a significant economic impact on a substantial number of small entities covered by this proposed rule which would meet our proposed definition of a ''small business.''

C. Unfunded Mandates Reform Act of 1995

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $141 million, using the most current (2012) Implicit Price Deflator for the Gross Domestic Product. FDA expects that this proposed rule will result in a 1-year expenditure that would meet or exceed this amount.

The analyses that we have performed to examine the impacts of this proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act, and the Unfunded Mandates Reform Act of 1995 are available to the public in the docket for this proposed rule (Ref. 33).

V. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that 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 have been submitted to OMB for review under section 3507(d) of the Paperwork Reduction Act of 1995. FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

To ensure that comments on information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov*. All comments should be identified with the title ''Sanitary Transportation of Human and Animal Food.''

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3407(d)), the Agency has submitted the information collection provisions of this proposed rule to OMB for review. These requirements will not be effective until FDA obtains OMB approval. FDA will publish a notice concerning OMB approval of these requirements in the **Federal Register**.

The analysis that FDA has performed in order to examine the impact of this proposed rule under the Paperwork Reduction Act of 1995, with estimates of the annual reporting, recordkeeping, and third-party disclosure burden, is available to the public in the docket for this proposed rule (Ref. 33).

VI. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(j) 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.

VII. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in *Executive Order 13132*. Section 4(a) of the Executive Order requires agencies to ''construe . . . a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.'' Federal law includes an express preemption provision at section 416(e) of the FD&C Act, which provides that a requirement of a State or political subdivision of a State that concerns the transportation of food is preempted if: (1) Complying with the requirement of the State or political subdivision and with a requirement of section 416 of the FD&C Act, or with a regulation issued under section 416 of the FD&C Act, is not possible; or (2) the requirement of the State or political subdivision as applied or enforced is an obstacle to accomplishing and carrying out section 416 of the FD&C Act or a regulation issued under section 416 of the FD&C Act. Section 416(e) further provides that the express preemption provision applies to transportation that occurs on or after the effective date of regulations issued under section 416 of the FD&C Act. This express preemption provision would apply to the requirements of this proposed rule, when finalized.

VIII. Proposed Effective and Compliance Dates

While the current practices of many businesses are sufficient to satisfy some of the proposed requirements, some businesses will need to make at least some changes if the proposed rule is finalized. FDA tentatively concludes that it is appropriate to provide a sufficient time period following publication of the final regulation for entities to come into compliance. We proposed that any final rule under the 2005 SFTA become effective 60 days after publication in the **Federal Register**, with staggered compliance dates. FDA believes that it is reasonable to allow for 1 year after the date of publication of the final rule for businesses other than small businesses to come into compliance with the new requirements. FDA also believes that it is reasonable to allow for 2 years after the date of publication of the final rule for small businesses to come into compliance with the new requirements. FDA intends to work closely with the food transportation industry, extension and education organizations, and State partners to facilitate implementation of this rule. We request comment on our proposed approach to compliance dates.

IX. Request for Comments

We invite public comment on the matters specified in this document as well as any other matters concerning the proposed sanitary transportation of human and animal food regulations that are of interest. 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.

X. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov*. (We have verified the Web site addresses, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

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List of Subjects in 21 CFR Part 1

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

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 1 be amended as follows:

PART 1—GENERAL ENFORCEMENT REGULATIONS

■ 1. The authority citation for 21 CFR part 1 is revised to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 19 U.S.C. 1490, 1491; 21 U.S.C. 321, 331, 333, 334, 335a, 343, 350c, 350d, 350e, 352, 355, 360b, 362, 371, 374, 381, 382, 387, 387a, 393; 42 U.S.C. 216, 241, 243, 262, 264.

■ 2. Add subpart O, consisting of §§ 1.900 through 1.934, to part 1 to read as follows:

Subpart O—Sanitary Transportation of Human and Animal Food

General Provisions

Sec.

1.900 Who is subject to this subpart?
1.902 How do the criteria and definitions in this subpart apply under the Federal Food, Drug, and Cosmetic Act?
1.904 What definitions apply to this subpart?

Vehicles and Transportation Equipment

1.906 What requirements apply to vehicles and transportation equipment?

Transportation Operations

1.908 What requirements apply to transportation operations?

Training

1.910 What training requirements apply to carriers engaged in transportation operations?

Records

1.912 What record retention and other records requirements apply to shippers and carriers engaged in transportation operations?

Waivers

1.914 Under what circumstances will FDA waive a requirement of this subpart?
1.916 When will FDA consider whether to waive a requirement of this subpart?
1.918 What must be included in the Statement of Grounds in a petition requesting a waiver?
1.920 What information submitted in a petition requesting a waiver or submitted in comments on such a petition are publicly available?
1.922 Who will respond to a petition requesting a waiver?
1.924 What process applies to a petition requesting a waiver?
1.926 Under what circumstances may FDA deny a petition requesting a waiver?
1.928 What process will FDA follow when waiving a requirement of this subpart on FDA's own initiative?
1.930 When will a waiver granted by FDA become effective?
1.932 Under what circumstances may FDA modify or revoke a waiver?
1.934 What procedures apply if FDA determines that a waiver should be modified or revoked?

Subpart O—Sanitary Transportation of Human and Animal Food

General Provisions

§ 1.900 Who is subject to this subpart?

(a) Except for non-covered businesses as defined in § 1.904, the requirements of this subpart apply to shippers, receivers, and carriers engaged in transportation operations whether or not the food is being offered for or enters interstate commerce. The requirements of this subpart apply in addition to any other requirements of this chapter that are applicable to the transportation of food, e.g., in 21 CFR parts 1, 110, 118, 225, and 589).

(b) The requirements of this subpart do not apply to shippers, receivers, or carriers when they are engaged in transportation operations of:

(1) Food that is transshipped through the United States to another country; or

(2) Food that is imported for future export and that is neither consumed nor distributed in the United States.

§ 1.902 How do the criteria and definitions in this subpart apply under the Federal Food, Drug, and Cosmetic Act?

(a) The criteria and definitions of this subpart apply in determining whether food is adulterated within the meaning

of section 402(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(i)) in that the food has been transported or offered for transport by a shipper, carrier by motor vehicle or rail vehicle, or receiver engaged in transportation operations under conditions that are not in compliance with this subpart.

(b) The failure by a shipper, carrier by motor vehicle or rail vehicle, or receiver engaged in transportation operations to comply with the requirements of this subpart is a prohibited act under section 301(hh) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(hh)).

§ 1.904 What definitions apply to this subpart?

The definitions and interpretations of terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) are applicable to such terms when used in this part. The following definitions also apply:

Adequate means that which is needed to accomplish the intended purpose in keeping with good public health practice.

Animal food means food for animals other than man, and includes pet food, animal feed, and raw materials and ingredients.

Bulk vehicle means a tank truck, hopper truck, rail tank car, hopper car, cargo tank, portable tank, freight container, or hopper bin, or any other vehicle in which food is shipped in bulk, with the food coming into direct contact with the vehicle.

Carrier means a person who owns, leases, or is otherwise ultimately responsible for the use of a motor vehicle or rail vehicle to transport food. The carrier is responsible for all functions assigned to a carrier in this subpart even if they are performed by other persons, such as a driver that is employed or contracted by a trucking firm. A carrier may also be a receiver or a shipper if the person also performs the functions of those respective persons as defined in this subpart.

Cross-contact means the unintentional incorporation of a food allergen as defined in section 201(qq) of the Federal Food, Drug, and Cosmetic Act into food, except animal food.

Farm means a facility in one general physical location devoted to the growing and harvesting of crops, the raising of animals (including seafood), or both. The term ''farm'' includes facilities that pack or hold food, regardless of whether all food used in such activities is grown, raised, or consumed on that farm or another farm under the same ownership.

Food means food as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act and includes raw materials and ingredients. *Food* includes animal food and food also subject to the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act.

Food not completely enclosed by a container means any food that is placed into a container in such a manner that it is partially open to the surrounding environment. Examples of such containers include an open wooden basket or crate, an open cardboard box, a vented cardboard box with a top, or a vented plastic bag. This term does not include food transported in a bulk vehicle as defined in this subpart.

Microorganisms means yeasts, molds, bacteria, viruses, protozoa, and microscopic parasites and includes species having public health significance. The term ''undesirable microorganisms'' includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated.

Non-covered business means a shipper, receiver, or carrier engaged in transportation operations that has less than $500,000 in total annual sales.

Pest means any objectionable animals or insects including birds, rodents, flies, and larvae.

Receiver means any person who receives food after transportation, whether or not that person represents the final point of receipt for the food. A receiver may also be a carrier or a shipper if the person also performs those functions as defined in this subpart. A receiver does not include an individual consumer or a person who receives or holds food on behalf of an individual consumer and who is not also a party to the transaction and who is not in the business of distributing food.

Shelf stable food means a food that can be stored under ambient temperature and humidity conditions and, if the package integrity is maintained will not spoil or become unsafe throughout its storage life. Examples of shelf stable food include canned juice, canned vegetables, canned meat, bottled water and dry food items such as rice, pasta, flour, sugar, and spices.

Shipper means a person who initiates a shipment of food by motor vehicle or rail vehicle. The shipper is responsible for all functions assigned to a shipper in this subpart even if they are performed by other persons, such as a person who only holds food and physically transfers it onto a vehicle arranged for by the shipper. A shipper may also be a carrier or a receiver if the shipper also performs those functions as defined in this subpart.

Small business means a business subject to § 1.900(a) employing fewer than 500 persons except that for carriers by motor vehicle that are not also shippers and/or receivers, this term would mean a business subject to § 1.900(a) having less than $25,500,000 in annual receipts.

Time/temperature control for safety (TCS) Food means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

Transportation means any movement of food in commerce by motor vehicle or rail vehicle.

Transportation equipment means equipment used in food transportation operations, other than vehicles, e.g., bulk and non-bulk containers, bins, totes, pallets, pumps, fittings, hoses, gaskets, loading systems and unloading systems. Transportation equipment also includes a railcar not attached to a locomotive or a trailer not attached to a tractor.

Transportation operations means all activities associated with food transportation that may affect the sanitary condition of food including cleaning, inspection, maintenance, loading and unloading, and operation of vehicles and transportation equipment. Transportation operations do not include any activities associated with the transportation solely of shelf stable food that is completely enclosed by a container, compressed food gases or live food animals. In addition, transportation operations do not include any transportation activities for raw agricultural commodities that are performed by a farm.

Vehicle means a land conveyance that is motorized, e.g., a motor vehicle, or that moves on rails, e.g., a railcar, which is used in transportation operations.

Vehicles and Transportation Equipment

§ 1.906 What requirements apply to vehicles and transportation equipment?

(a) Vehicles and transportation equipment used in transportation operations must be so designed and of such material and workmanship as to be suitable and adequately cleanable for their intended use to prevent the food they transport from becoming filthy, putrid, decomposed or otherwise unfit for food, or being rendered injurious to health from any source during transportation operations.

(b) Vehicles and transportation equipment must be maintained in such a sanitary condition as to prevent the food they transport from becoming filthy, putrid, decomposed or otherwise unfit for food, or being rendered injurious to health from any source during transportation operations.

(c) Vehicles and transportation equipment that are used in transportation operations for food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation must be designed, maintained, and equipped, to maintain the food under temperature conditions that will prevent the rapid growth of undesirable microorganisms.

(d) Each freezer and mechanically refrigerated cold storage compartment in vehicles or transportation equipment used in transportation operations for food that can support the rapid growth of microorganisms in the absence of temperature control during transportation, must be equipped with an indicating thermometer, temperature-measuring device, or temperature-recording device installed to show the temperature accurately within the compartment.

(e) Vehicles and transportation equipment must be stored in a manner as to prevent the vehicles or transportation equipment from harboring pests or becoming contaminated in any other manner that could result in food for which they will be used becoming filthy, putrid, decomposed or otherwise unfit for food, or being rendered injurious to health from any source during transportation operations.

Transportation Operations

§ 1.908 What requirements apply to transportation operations?

(a) *General requirements.* (1) Unless stated otherwise in this section, the requirements of this section apply to all shippers, carriers, and receivers engaged in transportation operations.

(2) Responsibility for ensuring that transportation operations are carried out in compliance with all requirements in this subpart must be assigned to competent supervisory personnel.

(3) All transportation operations must be conducted under such conditions and controls necessary to prevent the food from becoming filthy, putrid, decomposed or otherwise unfit for food, or being rendered injurious to health from any source during transportation operations, including:

(i) Taking effective measures such as segregation or isolation to protect food from contamination by raw foods and non-food items in the same load.

(ii) Taking effective measures such as segregation, isolation, or other protective measures such as hand washing, to protect food transported in bulk vehicles or food not completely enclosed by a container from contamination and cross-contact during transportation operations.

(iii) For food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation, ensuring that the food is transported in a manner, including the temperature conditions, such that the transportation operation meets the requirements of paragraph (a)(3) of this section.

(b) *Requirements applicable to shippers engaged in transportation operations.* (1) The shipper must specify to the carrier, in writing, all necessary sanitary requirements for the carrier's vehicle and transportation equipment, including any specific design requirements and cleaning procedures to ensure that the vehicle is in appropriate sanitary condition for the transportation of the food, e.g., that will prevent the food from becoming filthy, putrid, decomposed or otherwise unfit for food, or being rendered injurious to health from any source during the transportation operation. The information submitted by the shipper to the carrier is subject to the records requirements in § 1.912(a).

(2) Before loading food not completely enclosed by a container onto a vehicle provided by a carrier or into transportation equipment provided by a carrier, the shipper must visually inspect the vehicle or the transportation equipment provided by the carrier for cleanliness. The shipper must determine that the vehicle or transportation equipment is in appropriate sanitary condition for the transport of the food, e.g., it is free of visible evidence of pest infestation and of debris, previous cargo, or dirt that could cause the food to become adulterated.

(3) A shipper of food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation, whether a TCS food or a non-TCS food, must specify in writing to the carrier, except a carrier who transports the food in a thermally insulated tank, the temperature conditions necessary during the transportation operation, including the pre-cooling phase, to ensure that the operation will maintain the temperature conditions and meet the requirements of paragraph (a)(3) of this section. The information submitted by the shipper to the carrier is subject to the records requirements in § 1.912(a).

(4) Before loading food, a shipper of food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation, must verify that each freezer and mechanically refrigerated cold storage compartment or container has been pre-cooled in accordance with information submitted by the shipper as required by paragraph (b)(3) of this section.

(5) The shipper assumes the requirements applicable to the carrier in § 1.908(d)(2)(i) with respect to providing a demonstration to the receiver if the shipper and carrier have agreed in writing under § 1.908(d)(2)(ii) that the shipper is responsible for ensuring that the food was held under acceptable temperature conditions during transportation operations. When the shipper and carrier have established such an agreement, the shipper also assumes the corresponding records requirements of §§ 1.908(d)(6)(ii) and 1.912(b).

(c) *Requirements applicable to shippers and receivers engaged in transportation operations.* (1) Shippers and receivers must provide vehicle operators who are expected to handle food not completely enclosed by a container during loading and unloading operations with access to a hand washing facility. The hand washing facility must be convenient and provide running water to enable vehicle operators to wash their hands and avoid contamination of food.

(2) Shippers and receivers of food that can support the rapid growth of undesirable microorganisms in the absence of temperature control during transportation must carry out loading and unloading operations under conditions that will prevent the food from supporting such microbial growth.

(d) *Requirements applicable to carriers engaged in transportation operations.* (1) A carrier must supply a vehicle and transportation equipment that meets any requirements specified by the shipper in accordance with paragraph (b)(1) of this section and is otherwise appropriate to prevent the food from becoming filthy, putrid, decomposed or otherwise unfit for food, or being rendered injurious to health from any source during the transportation operation.

(2) A carrier:

(i) Must, once the transportation operation is complete, demonstrate to the shipper and if requested, to the receiver, that it has maintained

temperature conditions during the transportation operation consistent with those specified by the shipper in accordance with § 1.908(b)(3). Such demonstration may be accomplished by any appropriate means agreeable to the carrier and shipper such as the carrier presenting printouts of a time/temperature recording device or a log of temperature measurements taken at various times during the shipment.

(ii) Is not subject to the requirement of paragraph (d)(2)(i) of this section if the carrier and shipper agree in writing, before transportation operations, that the shipper is responsible for monitoring the temperature conditions during the transportation operation or otherwise ensuring that the food was held under acceptable temperature conditions during the transportation operation. The carrier must provide the written agreement to the receiver, if requested. The written agreement is subject to the records requirements of § 1.912(b).

(3) Before offering a vehicle or transportation equipment with an auxiliary refrigeration unit for use for the transportation of food that can support the rapid growth of undesirable microorganisms in the absence of temperature control, a carrier must pre-cool each mechanically refrigerated freezer and cold storage compartment as specified by the shipper in accordance with paragraph (b)(3) of this section.

(4) A carrier that offers a bulk vehicle for food transportation must provide information to the shipper that identifies the three previous cargoes transported in the vehicle. The shipper and carrier may agree in writing that the carrier will provide information that identifies fewer than three previous cargoes or that the carrier need not provide any such information if procedures have been established that would ensure that the bulk vehicle offered will be adequate for the intended transportation operation, e.g., if the carrier by contract, will only offer vehicles dedicated to hauling a single type of product. The written agreement is subject to the records requirements of § 1.912(b).

(5) A carrier that offers a bulk vehicle for food transportation must provide information to the shipper that describes the most recent cleaning of the bulk vehicle, except that a shipper and carrier may agree in writing that the carrier need not provide any such information, if the carrier follows procedures that would ensure that the bulk vehicle offered will be adequate for the intended transportation operation, e.g., if the carrier has contractually agreed to use a specified cleaning procedure at specified intervals or if the shipper cleans the vehicle at his own facility. The written agreement is subject to the records requirements of § 1.912(b).

(6) A carrier must develop and implement written procedures subject to the records requirements of § 1.912(b) that:

(i) Specify practices for cleaning, sanitizing if necessary, and inspecting vehicles and transportation equipment that the carrier provides for use in the transportation of food to maintain the vehicles and the transportation equipment in appropriate sanitary condition as required by § 1.906(b);

(ii) Describe how it will comply with the provisions for temperature control in paragraph (2) of this section, and;

(iii) Describe how it will comply with the provisions for the use of bulk vehicles in paragraphs (d)(4) and (d)(5) of this section.

Training

§ 1.910 What training requirements apply to carriers engaged in transportation operations?

(a) Carriers must provide training to personnel engaged in transportation operations that provides an awareness of potential food safety problems that may occur during food transportation, basic sanitary transportation practices to address those potential problems and the responsibilities of the carrier under this part. The training must be provided upon hiring and as needed thereafter.

(b) Carriers must establish and maintain records documenting the training described in paragraph (a) of this section. Such records must include the date of the training, the type of training, and the person(s) trained. These records are subject to the records requirements of § 1.912(c).

Records

§ 1.912 What record retention and other records requirements apply to shippers and carriers engaged in transportation operations?

(a) Shippers must retain records that demonstrate that they provide information to carriers as required by § 1.908(b)(1) and (3) as a regular part of their transportation operations for a period of 12 months beyond when the shipper is subject to any requirement to provide such information.

(b) Carriers must retain any written agreements required by § 1.908(d)(2)(ii) of this subpart and records of the written procedures required by § 1.908(d)(6) for a period of 12 months beyond when the agreements and procedures are in use in their transportation operations.

(c) Carriers must retain training records required by § 1.910(b) for a period of 12 months beyond when the person identified in any such records continues to perform the duties for which the training was provided.

(d) Shippers and carriers must make all records required by this subpart available to a duly authorized individual promptly upon oral or written request.

(e) All records required by this subpart must be kept as original records, true copies (such as photocopies, pictures, scanned copies, microfilm, microfiche, or other accurate reproductions of the original records), or electronic records, which must be kept in accordance with part 11 of this chapter.

(f) Except for the written procedures required by § 1.908(d)(6), offsite storage of records is permitted after 6 months following the date that the record was made if such records can be retrieved and provided onsite within 24 hours of request for official review. The written procedures required by § 1.908(d)(6) must remain onsite as long as the procedures are in use in transportation operations. Electronic records are considered to be onsite if they are accessible from an onsite location.

(g) All records required by this subpart are subject to the disclosure requirements under part 20 of this chapter.

Waivers

§ 1.914 Under what circumstances will FDA waive a requirement of this subpart?

FDA will waive any requirement of this subpart with respect to any class of persons, vehicles, food, or nonfood products, when FDA determines that:

(a) The waiver will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

(b) The waiver will not be contrary to the public interest.

§ 1.916 When will FDA consider whether to waive a requirement of this subpart?

FDA will consider whether to waive a requirement of this subpart on FDA's own initiative or on the petition submitted under § 10.30 of this chapter by any person who is subject to the requirements of this subpart with respect to any class of persons, vehicles, food, or nonfood products.

§ 1.918 What must be included in the Statement of Grounds in a petition requesting a waiver?

In addition to the requirements set forth in § 10.30 of this chapter, the Statement of Grounds in a petition requesting a waiver must:

(a) Describe with particularity the waiver requested, including the persons, vehicles, food, or nonfood product(s) to which the waiver would apply and the requirement(s) of this subpart to which the waiver would apply; and

(b) Present information demonstrating that the waiver will not result in the transportation of food under conditions that would be unsafe for human or animal health and will not be contrary to the public interest.

§ 1.920 What information submitted in a petition requesting a waiver or submitted in comments on such a petition are publicly available?

We will presume that information submitted in a petition requesting a waiver and comments submitted on such a petition does not contain information exempt from public disclosure under part 20 of this chapter and would be made public as part of the docket associated with this request.

§ 1.922 Who will respond to a petition requesting a waiver?

The Director or Deputy Directors of the Center for Food Safety and Applied Nutrition (CFSAN) or the Center for Veterinary Medicine (CVM), or the Director, Office of Compliance, CFSAN, or the Director, Office of Surveillance and Compliance, CVM, will respond to a petition requesting a waiver.

§ 1.924 What process applies to a petition requesting a waiver?

(a) In general, the procedures set forth in § 10.30 of this chapter govern our response to a petition requesting a waiver.

(b) Under § 10.30(h)(3) of this chapter, we will publish a notice in the **Federal Register**, requesting information and views on a filed petition, including information and views from persons who could be affected by the waiver if the petition were to be granted.

(c) Under § 10.30(e)(3) of this chapter, we will respond to the petitioner in writing.

(1) If we grant the petition, either in whole or in part, we will publish a notice in the **Federal Register** setting forth any waiver and the reasons for such waiver.

(2) If we deny the petition (including partial denials), our written response to the petitioner will explain the reason(s) for the denial.

(d) We will make readily accessible to the public, and periodically update, a list of filed petitions requesting waivers, including the status of each petition (for example, pending, granted, or denied).

§ 1.926 Under what circumstances may FDA deny a petition requesting a waiver?

We may deny a petition requesting a waiver if the petition does not provide the information required under § 1.918 (including the requirements of § 10.30 of this chapter), or if we determine that the waiver could result in the transportation of food under conditions that would be unsafe for human or animal health, or that the waiver could be contrary to the public interest.

§ 1.928 What process will FDA follow when waiving a requirement of this subpart on FDA's own initiative?

If FDA, on its own initiative, determines that a waiver is appropriate, FDA will publish a notice in the **Federal Register** setting forth the waiver and the reasons for such waiver.

§ 1.930 When will a waiver granted by FDA become effective?

Any waiver granted by FDA will become effective on the date that notice of the waiver is published in the **Federal Register.**

§ 1.932 Under what circumstances may FDA modify or revoke a waiver?

FDA may modify or revoke a waiver if FDA determines that the waiver could result in the transportation of food under conditions that would be unsafe for human or animal health or that the waiver could be contrary to the public interest.

§ 1.934 What procedures apply if FDA determines that a waiver should be modified or revoked?

(a) We will provide the following notifications:

(1) We will notify the entity that initially requested the waiver, in writing at the address identified in its petition, if we determine that a waiver granted in response to its petition should be modified or revoked.

(2) We will publish a notice of our determination that a waiver should be modified or revoked in the **Federal Register.** This notice will establish a public docket so that interested parties may submit written submissions on our determination.

(b) We will consider timely written submissions submitted to the public docket from interested parties.

(c) We will publish a notice of our decision in the **Federal Register.** The effective date of the decision will be the date of publication of the notice.

Dated: January 29, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–02188 Filed 1–31–14; 11:15 am]

BILLING CODE 4160–01–P

FEDERAL REGISTER

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Part III

The President

Memorandum of January 30, 2014—Job-Driven Training for Workers
Memorandum of January 31, 2014—Enhancing Safeguards To Prevent the Undue Denial of Federal Employment Opportunities to the Unemployed and Those Facing Financial Difficulty Through No Fault of Their Own

Federal Register
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Presidential Documents

Title 3—

The President

Memorandum of January 30, 2014

Job-Driven Training for Workers

Memorandum for the Secretary of Labor[,] the Secretary of Commerce[, and] the Secretary of Education

Giving workers the opportunity to acquire the skills that they need to pursue in-demand jobs and careers is critical to growing our economy, ensuring that everyone who works hard is rewarded, and building a strong middle class. Despite recent employment growth, far too many hard-working individuals still have not been able to find a job or increase their earnings, and many businesses report difficulty hiring workers with the right skills for jobs that they want to fill.

It is critical that the Federal Government ensure that its policies and programs in the workforce and training system are designed to equip the Nation's workers with skills matching the needs of employers looking to hire. To achieve this goal, employers must identify the skills and credentials required for in-demand jobs and help develop training programs; workers and job seekers must have access to education and training that meets their unique needs and the requirements for good jobs and careers; and employers must have easy ways to find workers who have or can acquire those skills. We must take steps to ensure that all relevant Federal programs follow such a job-driven approach to training, and that these programs are accountable for getting Americans into good jobs and careers as quickly as possible. That is why I have asked the Vice President to lead a Government-wide review of relevant Federal programs.

Therefore, as part of the overall review process led by the Vice President, I hereby direct as follows:

Section 1. *Job-Driven Reform of Federal Employment and Training Programs.* (a) Within 180 days of the date of this memorandum and in coordination with the Office of the Vice President, the National Economic Council, the Domestic Policy Council, the Council of Economic Advisers, the Office of Science and Technology Policy, and the Office of Management and Budget, the Secretaries of Labor, Commerce, and Education (Secretaries), in consultation with other executive departments and agencies as appropriate, shall develop a specific action plan, to be provided to me through the Vice President, to make the workforce and training system more job-driven, integrated, and effective.

(b) The action plan shall identify concrete steps to make Federal workforce and training programs and policies more focused on imparting relevant skills with job-market value, more easily accessed by employers and job seekers, and more accountable for producing positive employment and earning outcomes for the people they serve. Such steps shall be consistent with the following job-driven training principles:

(i) promoting more active engagement with industry, employers and employer associations, and worker representatives to identify the skills and supports workers need, and to make sure those skills are better communicated to education and training providers, workforce leaders, job seekers, and policy makers;

(ii) providing support for secondary and post-secondary education and training entities to equip individuals with the skills, competencies, and

credentials necessary to help them obtain jobs, increase earnings, and advance their careers;

(iii) making available to workers, job seekers, and employers the best information regarding job demand, skills matching, supports, and education, training, and career options, as well as innovative approaches to training using learning science and advanced technology;

(iv) improving accountability for the outcomes of training programs, including employment and earnings outcomes;

(v) ensuring better alignment across secondary, post-secondary, and adult education, and workforce training, including coordinating Federal programs and promoting foundational skill development for employability, on-the-job training, and apprenticeship options; and

(vi) encouraging effective regional partnerships among industry, educators, worker representatives, nonprofits, and the workforce system to prepare, support, and train youth, unemployed workers, low-skilled employed adults, and others for career path employment and advancement.

(c) In developing the action plan, the Secretaries shall consult with industry, employers and employer associations, State and local leaders, economic development organizations, worker representatives, education and training providers, workforce leaders, and relevant nonprofit organizations.

(d) In developing the action plan, the Secretaries shall review existing evidence of the job training strategies that most effectively achieve the goals of this memorandum, determine what information is lacking, and identify future research and evaluation that can be undertaken to ensure that Federal programs invest in effective practices.

Sec. 2. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Labor is authorized and directed to publish this memorandum in the *Federal Register.*

THE WHITE HOUSE,
Washington, January 30, 2014.

[FR Doc. 2014–02624
Filed 2–4–14; 11:15 am]
Billing code 4510–23

Presidential Documents

Memorandum of January 31, 2014

Enhancing Safeguards To Prevent the Undue Denial of Federal Employment Opportunities to the Unemployed and Those Facing Financial Difficulty Through No Fault of Their Own

Memorandum for the Heads of Executive Departments and Agencies

The Federal Government is America's largest employer. While seeking to employ a talented and productive workforce, it has a responsibility to lead by example. Although executive departments and agencies (agencies) generally can, and do, take job applicants' employment history and other factors into account when making hiring decisions, it is the policy of my Administration that applicants should not face undue obstacles to Federal employment because they are unemployed or face financial difficulties. The Government must continue to take steps to ensure the fair treatment of applicants, as well as incumbent Federal employees, who face financial difficulties through no fault of their own and make good faith efforts to meet those obligations. Therefore, I hereby direct as follows:

Section 1. *Individuals Who Are Unemployed or Facing Financial Difficulty.* (a) Agencies shall not make an unfavorable determination with respect to the suitability, fitness, or qualifications of an applicant for Federal employment because that applicant:

(i) is or was unemployed; or

(ii) has experienced or is experiencing financial difficulty through no fault of the applicant, if the applicant has undertaken a good-faith effort to meet his or her financial obligations.

(b) Consistent with existing law, agencies shall not remove, suspend, or demote a current Federal employee if the basis of the action is that the employee has experienced, or is experiencing, financial difficulty through no fault of the employee, and the employee has undertaken a good-faith effort to meet his or her financial obligations.

(c) Agencies shall review their recruiting and hiring practices to determine whether such processes intentionally or inadvertently place applicants at an undue disadvantage because of the factors set forth in subsection (a) of this section and report the results to the Director of the Office of Personnel Management (OPM) within 90 days of the date of this memorandum. Taking into account the results, the Director of OPM shall issue guidance to Chief Human Capital Officers to assist agencies with implementation of this memorandum.

Sec. 2. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department or agency, or the head thereof;

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals;

(iii) the authority granted by law, Executive Order, or regulation to a department or agency, or the head thereof, to determine eligibility for access to classified information or to occupy a sensitive position; or

(iv) the authority granted by law or Executive Order to a department or agency, or the head thereof, to take adverse actions against Federal employees for their failure to comply with any law, rule, or regulation imposing upon them an obligation to satisfy in good faith their just financial obligations, including Federal, State, or local taxes.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Director of OPM is authorized and directed to publish this memorandum in the *Federal Register.*

THE WHITE HOUSE,
Washington, January 31, 2014.

[FR Doc. 2014–02627
Filed 2–4–14; 11:15 am]
Billing code 6325–01

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