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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0961; Airspace Docket No. 13–AEA–13]

RIN 2120–AA66

Amendment of VOR Federal Airways V–35 and V–276; Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies VOR Federal airways V–35 and V–276 in the eastern United States. The FAA is taking this action due to the scheduled decommissioning of the Tyrone, PA, VORTAC facility, which provides navigation guidance for portions of the routes.

DATES: Effective date 0901 UTC, May 29, 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 January 22, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend VOR Federal airways V–35 and V–276, Eastern United States (79 FR 3544); due to the decommissioning of the Tyrone, PA, VORTAC. This document also corrects a typographical error in the title block of the NPRM; correcting VOR Federal Airway V–267 to V–276. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment was received. The comment was not aeronautical in nature and was outside the scope of this rule.

The Rule

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airways V–35 and V–276 due to the decommissioning of the Tyrone, PA, VORTAC facility. In light of the planned VORTAC decommissioning, the FAA conducted an analysis of the air traffic usage of V–35 and V–276 and found that some segments of both airways experienced low utilization in the general area of the Tyrone VORTAC. Consequently, the FAA is removing the underutilized segments in both airways. Specifically, this action makes the following changes to the routes:

V–35 is modified by eliminating the route segments from Morgantown, WV, through Indian Head, PA, Johnstown, PA, and Tyrone, PA to Phillipsburg, PA. The modified V–35 extends between Dolphin, FL, and Morgantown, WV; and between Phillipsburg, PA, and Syracuse, NY.

V–276 is modified by eliminating the segments between Erie, PA, and the intersection of radials from the Phillipsburg, PA, and Ravine, PA, VORTACs (i.e., RASHE intersection). The modified V–276 now extends from the RASHE intersection, then proceeds along its currently charted track through Ravine, PA; Yardley, PA; and Robbinsville, NJ, to the intersection of the Robbinsville, NJ, 112° and the Coyle, NJ, 090° radials (i.e., the PREPI intersection). This action also makes a correction in the title block of the NPRM, to correct the inverted numbers of VOR Federal Airway from V–267 to V–276.

Except for editorial changes, and the change noted above, this rule is the same as published in the NPRM.

VOR Federal airways are published in paragraph 6010 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 VOR Federal airways listed in this document will be subsequently published 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 because 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 because it modifies the route structure as required to preserve the safe and efficient flow of air traffic within the eastern United States.

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 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 6010 VOR Federal airways.

V–35

From Dolphin, FL; INT Dolphin 266° and Cypress, FL, 110° radials; INT Cypress 110° and Lee County, FL, 138° radials; Lee County; INT Lee County 326° and St. Petersburg, FL, 152° radials; St. Petersburg; INT St. Petersburg 350° and Cross City, FL, 168° radials; Cross City; Greenville, FL; Pecan, GA; Macon, GA; INT Macon 005° and Athens, GA, 195° radials; Athens; Electric City, SC; Sugarloaf Mountain, NC; Holston Mountain, TN; Glade Spring, VA; Charleston, WV; INT Charleston 051° and Elkins, WV, 264° radials; Clarksburg, WV to Morgantown, WV. From Philipsburg, PA; Stonyfork, PA; Elmira, NY; to Syracuse, NY. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

V–276

From INT Philipsburg, PA 132° and Ravine, PA 279° radials; Ravine; Yardley, PA; Robbinsville, NJ; to INT Robbinsville 112° and Coyle, NJ, 090° radials.

Issued in Washington, DC, on March 20, 2014.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–06660 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0921; Airspace Docket No. 13–AAL–4]

Modification of Class E Airspace; Sitka, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace at Sitka Rocky Gutierrez Airport, Sitka, AK. Controlled airspace is necessary to accommodate the new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at the airport. This action enhances the safety and management of aircraft operations at the airport.

DATES: Effective date, 0901 UTC, May 29, 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: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4517.

SUPPLEMENTARY INFORMATION:

History

On November 21, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish controlled airspace at Sitka Rocky Gutierrez Airport, Sitka, AK (78 FR 69787). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraphs 6002 and 6005, respectively, 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 Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E surface area airspace and Class E airspace extending upward from 700 feet above the surface at Sitka Rocky Gutierrez, AK. After review of the airspace, the FAAs Western Terminal Products Office found modification of the airspace necessary for the safety and management of aircraft departing and arriving under IFR operations at the airport. The segment of Class E surface area airspace southwest of the 4.1-mile radius of the airport is modified to 10 miles southwest of the airport. The segment of Class E airspace extending upward from 700 feet above the surface southwest of the 6.6-mile radius of the airport is modified to 14 miles southwest of the airport, and the segment northwest of the 6.6-mile radius of the airport is modified to 29 miles northwest of the airport. The segments of controlled airspace west and southwest of the airport are removed as they are no longer required for aircraft arriving and departing under IFR operations.

The FAA has determined 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 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 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 U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at the Sitka Rocky Gutierrez Airport, Sitka, AK.

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 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 6002 Class E airspace designated as surface areas.

* * * * *

AAL AK E2 Sitka, AK [Modified]

Sitka Rocky Gutierrez Airport, AK
(Lat. 57°02′50″ N., long. 135°21′42″ W.)

Within a 4.1 mile radius of Sitka Rocky Gutierrez Airport, and within 3.5 miles each side of the airport 209° radial extending from the 4.1-mile radius to 10.5 miles southwest of the airport, and within 3 miles each side of the airport 313° radial extending from the 4.1-mile radius to 11.1 miles northwest of the airport. This Class E airspace is effective during the dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory, Alaska Supplement.

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

* * * * *

AAL AK E5 Sitka, AK [Modified]

Sitka Rocky Gutierrez Airport, AK
(Lat. 57°02′50″ N., long. 135°21′42″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Sitka Rocky Gutierrez Airport, and within 4 miles each side of the airport 209° radial extending from the 6.6-mile radius to 14.5 miles south of the airport, and within 4 miles east and 8 miles west of the airport 313° radial extending from the 6.6-mile radius to 29 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within a 40-mile radius of lat. 56°51′34″ N., long. 135°33′05″ W.; and that airspace extending upward from 5,500 feet MSL within an 85-mile radius of lat. 56°51′34″ N., long. 135°33′05″ W.; excluding that airspace that extends beyond 12 miles from the coast

Issued in Seattle, Washington, on March 18, 2014.

Johanna Forkner,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2014–06722 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–1008; Airspace Docket No. 13–AAL–8]

Revocation of Class E Airspace; Kwigillingock, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E airspace at Kwigillingock Airport, Kwigillingock, AK, due to the cancellation of the approaches. The FAA is taking this action to enhance the management of aircraft operations within the National Airspace System.

DATES: Effective date, 0901 UTC, July 24, 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: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4517.

SUPPLEMENTARY INFORMATION:

History

On January 31, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to remove controlled airspace at Kwigillingock, AK (79 FR 5329). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received from Mr. Skillman in support of the proposal. Mr. Skillman further recommended the FAA focus resources into re-extending the runway to regain Class E status. This recommendation is beyond the scope of this docket and was not considered.

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 designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by removing Class E airspace extending upward from 700 feet above the surface, at Kwigillingock Airport, Kwigillingock, AK, as instrument approach procedures were cancelled and controlled airspace is no longer needed.

The FAA has determined 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 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 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 U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Kwigillingock Airport, Kwigillingock, AK.

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 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, 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 Kwigillingok, AK [Removed]

Issued in Seattle, Washington, on March 21, 2014.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2014–06800 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 516, 520, 522, 526, and 558

[Docket No. FDA–2013–N–0002]

New Animal Drugs; Amprolium; Bambermycins; Ceftiofur; Deslorelin; Florfenicol; Florfenicol and Flunixin; Paclitaxel; Phenylbutazone; Pimobendan; Salinomycin; Tilmicosin; Tiludronate; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during January and February 2014. FDA is also informing the public of the availability of summaries of the basis of approval and of environmental review documents, where applicable. The animal drug regulations are also being amended to reflect previous approval of revised food safety warnings. This is being done to improve the accuracy of the regulations. The animal drug regulations are also being amended to reflect a change of sponsorship of an NADA and a change to a sponsor's address.

DATES: This rule is effective April 1, 2014.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9019, *george.haibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is amending the animal drug regulations to reflect approval actions for NADAs and ANADAs during January and February 2014, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain these documents at the Center for Veterinary Medicine FOIA Electronic Reading Room: *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CVM/CVMFOIAElectronicReadingRoom/default.htm.* Marketing exclusivity and patent information may be accessed in FDA's publication, Approved Animal Drug Products Online (Green Book) at: *http://www.fda.gov/AnimalVeterinary/Products/ApprovedAnimalDrugProducts/default.htm.*

In addition, the regulations are being amended to reflect the previous approval of revised food safety warnings for florfenicol injectable solutions, florfenicol and flunixin combination drug injectable solution, ceftiofur hydrochloride intramammary infusions, and salinomycin medicated feeds. These amendments are being done to improve the accuracy of the regulations.

The regulations are also being amended to reflect two changes of sponsorship. Dechra, Ltd., Dechra House, Jamage Industrial Estate, Talke Pits, Stoke-on-Trent, Staffordshire, ST7 1XW, United Kingdom, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 141–044 for OVUPLANT (deslorelin acetate implant) to Virbac AH, Inc., 3200 Meacham Blvd., Fort Worth, TX 76137. Also, West-Ward Pharmaceutical Corp., 465 Industrial Way West, Eatontown, NJ 07724, has informed FDA that it has transferred ownership of, and all rights and interest in, ANADA 200–323 for Phenylbutazone Tablets to Hikma Pharmaceuticals LLC, P.O. Box 182400, Bayader Wadi Seer, Amman, Jordan 11118. Accordingly, the Agency is amending the regulations to reflect these changes of sponsorship.

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING JANUARY AND FEBRUARY 2014

NADA/ ANADA	Sponsor	New animal drug product name	Action	21 CFR section	FOIA summary	NEPA review
141–361	Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285.	PULMOTIL AC (tilmicosin phosphate) Concentrate Solution.	Original approval for the control of swine respiratory disease associated with *Pasteurella multocida* and *Haemophilus parasuis* in groups of swine in buildings where a respiratory disease outbreak is diagnosed.	520.2471	yes	EA/ FONSI [1].
141–420	Ceva Sante Animale, 10 Avenue de la Ballastière, 33500 Libourne, France.	TILDREN (tiludronate disodium).	Original approval for the control of clinical signs associated with navicular syndrome.	522.2473	yes	CE [2 3].
141–422	Oasmia Pharmaceutical AB, Vallongatan 1, SE–752 28, Uppsala, 75228 Sweden.	PACCAL VET–CA1 (paclitaxel for injection).	Conditional approval for the treatment of certain carcinomas in dogs that have not received previous chemotherapy or radiotherapy.	516.1684	yes	CE [2 3].
130–185	Huvepharma AD, 5th Floor, 3A Nikolay Haytov Str., 1113 Sophia, Bulgaria.	AMPROL 25% (amprolium) plus FLAVOMYCIN (bambermycins) Type A medicated articles.	Supplemental approval for prevention of coccidiosis caused by *Eimeria tenella* only or for prevention of coccidiosis where immunity to coccidiosis is not desired; and for increased rate of weight gain and improved feed efficiency in broiler chickens.	[4] 558.55	yes	CE [2 5].
141–246	Intervet, Inc., (d/b/a Merck Animal Health), 556 Morris Ave., Summit, NJ 07901.	AQUAFLOR (florfenicol) Type A medicated article.	Supplemental approval for an increase in the maximum daily dose for freshwater-reared finfish other than freshwater-reared warmwater finfish.	558.261	yes	EA/ FONSI [1].
141–273	Boehringer Ingelheim, Vetmedica, Inc., 2621 North Belt Hwy., St. Joseph, MO 64506–2002.	VETMEDIN (pimobendan) Chewable Tablets.	Supplemental approval for the addition of a 10-milligram chewable tablet.	520.1780	no	CE [2 6].

[1] The Agency has carefully considered an environmental assessment (EA) of the potential environmental impact of this action and has made a finding of no significant impact (FONSI).
[2] The Agency has determined that this action is categorically excluded (CE) from the requirement to submit an environmental assessment or an environmental impact statement because it is of a type that does not individually or cumulatively have a significant effect on the human environment.
[3] CE granted under 21 CFR 25.33(d)(1).
[4] The regulation in 21 CFR 558.55 has been amended in a separate rule (79 FR 10980, February 27, 2014).
[5] CE granted under 21 CFR 25.33(a)(2).
[6] CE granted under 21 CFR 25.33(a)(1).

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 516

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, and 526

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 516, 520, 522, 526, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), alphabetically add entries for ''Hikma Pharmaceuticals LLC'' and ''Oasmia Pharmaceutical AB'', and remove the entry for ''West-Ward Pharmaceutical Corp.''; and in the table in paragraph (c)(2), numerically add entries for ''052818'' and ''059115'', and remove the entry for ''000143'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Hikma Pharmaceuticals LLC, P.O. Box 182400, Bayader Wadi Seer, Amman, Jordan 11118	059115
* * * * * * *	
Oasmia Pharmaceutical AB, Vallongatan 1, 75228 Uppsala, Sweden	052818
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
052818	Oasmia Pharmaceutical AB, Vallongatan 1, 75228 Uppsala, Sweden.
* * * * * * *	
059115	Hikma Pharmaceuticals LLC, P.O. Box 182400, Bayader Wadi Seer, Amman, Jordan 11118.
* * * * * * *	

PART 516—NEW ANIMAL DRUGS FOR MINOR USE AND MINOR SPECIES

■ 3. The authority citation for 21 CFR part 516 continues to read as follows:

Authority: 21 U.S.C. 360ccc, 360ccc–2, 371.

■ 4. Add § 516.1684 to subpart E to read as follows:

§ 516.1684 Paclitaxel.

(a) *Specifications.* Each vial of powder contains 60 milligrams (mg) paclitaxel. Each milliliter of constituted solution contains 1 mg paclitaxel.

(b) *Sponsor.* See No. 052818 in 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer 150 mg per square meter of body surface area intravenously over 15 to 30 minutes, once every 3 weeks, for up to 4 doses.

(2) *Indications for use.* For the treatment of nonresectable stage III, IV, or V mammary carcinoma in dogs that have not received previous chemotherapy or radiotherapy. For the treatment of resectable and nonresectable squamous cell carcinoma in dogs that have not received previous chemotherapy or radiotherapy.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian. It is a violation of Federal law to use this product other than as directed in the labeling.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 5. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1780 [Amended].

■ 6. In paragraph (a) of § 520.1780, remove ''or 5 milligrams'' and in its place add ''5, or 10 milligrams''.

■ 7. Add § 520.2471 to read as follows:

§ 520.2471 Tilmicosin.

(a) *Specifications.* Each milliliter of concentrate solution contains 250 milligrams (mg) tilmicosin as tilmicosin phosphate.

(b) *Sponsor.* See No. 000986 in § 510.600(c) of this chapter.

(c) *Tolerances.* See § 556.735 of this chapter.

(d) *Conditions of use in swine*—(1) *Amount.* Administer in drinking water at a concentration of 200 mg per liter for 5 consecutive days.

(2) *Indication for use.* For the control of swine respiratory disease associated with *Pasteurella multocida* and *Haemophilus parasuis* in groups of swine in buildings where a respiratory disease outbreak is diagnosed.

(3) *Limitations.* Swine intended for human consumption must not be slaughtered within 7 days of the last treatment with this product. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 8. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.533 [Amended]

■ 9. In paragraph (b)(1) of § 522.533, remove ''043246'' and in its place add ''051311''.

■ 10. In § 522.955, revise paragraphs (d)(1)(i)(C) and (d)(1)(ii)(C) to read as follows:

§ 522.955 Florfenicol.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(C) *Limitations.* Do not slaughter within 44 days of treatment. This drug product is not approved for use in female dairy cattle 20 months of age or older, including dry dairy cows. Use in these cattle may cause drug residues in milk and/or in calves born to these cows. A withdrawal period has not been established in preruminating calves. Do not use in calves to be processed for veal. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(ii) * * *

(C) *Limitations.* Do not slaughter within 28 days of last intramuscular treatment or within 38 days of subcutaneous treatment. This drug product is not approved for use in female dairy cattle 20 months of age or older, including dry dairy cows. Use in these cattle may cause drug residues in milk and/or in calves born to these cows. A withdrawal period has not been established in preruminating calves. Do not use in calves to be processed for veal. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

■ 11. In § 522.956, revise paragraph (d)(3) to read as follows:

§ 522.956 Florfenicol and flunixin.

* * * * *

(d) * * *

(3) *Limitations.* Animals intended for human consumption must not be slaughtered within 38 days of treatment. This drug product is not approved for use in female dairy cattle 20 months of age or older, including dry dairy cows. Use in these cattle may cause drug residues in milk and/or in calves born to these cows. A withdrawal period has not been established in preruminating calves. Do not use in calves to be processed for veal. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 12. Add § 522.2473 to read as follows:

§ 522.2473 Tiludronate.

(a) *Specifications.* Each vial of powder contains 500 milligrams (mg) tiludronate disodium. Each milliliter of constituted solution contains 20 mg tiludronate disodium.

(b) *Sponsor.* See No. 013744 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* Administer a single dose of 1 mg per kilogram (0.45 mg/pound) of body weight by intravenous infusion.

(2) *Indication for use.* For the control of clinical signs associated with navicular syndrome.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 526—INTRAMAMMARY DOSAGE FORM NEW ANIMAL DRUGS

■ 13. The authority citation for 21 CFR part 526 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 14. In § 526.313, remove paragraph (d); redesignate paragraph (e) as paragraph (d); and revise newly redesignated paragraphs (d)(1)(iii) and (d)(2)(iii) to read as follows:

§ 526.313 Ceftiofur.

* * * * *

(d) * * *

(1) * * *

(iii) *Limitations.* Milk taken from cows during treatment (a maximum of eight daily infusions) and for 72 hours after the last treatment must not be used for human consumption. Following label use for up to 8 consecutive days, a 2-day preslaughter withdrawal period is required. Federal law restricts this drug to use by or on the order of a licensed veterinarian. Federal law prohibits extra-label use of this drug in lactating dairy cattle for disease prevention purposes; at unapproved doses; frequencies, durations, or routes of administration; and in unapproved major food producing species/production classes.

(2) * * *

(iii) *Limitations.* Milk taken from cows completing a 30-day dry-off period may be used for food with no milk discard due to ceftiofur residues. Following intramammary infusion, a 16-day preslaughter withdrawal period is required for treated cows. Following label use, no preslaughter withdrawal period is required for neonatal calves from treated cows regardless of colostrum consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian. Federal law prohibits extra-label use of this drug in dry dairy cattle for disease prevention purposes; at unapproved doses; frequencies, durations, or routes of administration; and in unapproved major food producing species/production classes.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 15. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.261 [Amended]

■ 16. In § 558.261, in paragraph (e)(2)(ii), in the ''Limitations'' column, remove ''10 mg florfenicol'' and in its place add ''10 to 15 mg florfenicol''; and in paragraph (e)(2)(iii), in the ''Limitations'' column, remove ''10 mg florfenicol per kg of fish for''.

§ 558.550 [Amended]

■ 17. In § 558.550, in paragraph (d)(1)(i)(*c*), remove ''layers'' and in its place add ''laying hens producing eggs for human consumption''; and add at the end of paragraph (d)(2)(i)(*c*), ''Do not feed to laying hens producing eggs for human consumption.''

Dated: March 27, 2014.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2014–07220 Filed 3–31–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9644]

RIN 1545–BK44

Net Investment Income Tax; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 9644) that were published in the **Federal Register** on Monday, December 2, 2013 (78 FR 72394). The final regulations provide guidance on the general application of the Net Investment Income Tax and the computation of Net Investment Income.

DATES: This correction is effective April 1, 2014 and applicable December 2, 2013.

FOR FURTHER INFORMATION CONTACT: Adrienne M. Mikolashek, at (202) 317–6852 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9644) that are the subject of this correction is under section 1411 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9644) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.469–11 is amended by revising the first sentence of paragraph (b)(3)(iv)(C)(*1*) and the last sentence of paragraph (b)(3)(iv)(C)(*3*) *Example 4.* to read as follows:

§ 1.469–11 Effective date and transition rules.

* * * * *

(b) * * *

(3) * * *

(iv) * * *

(C) * * * (1) * * * An individual, estate, or trust also may regroup activities, in the manner described in paragraph (b)(3)(iv)(A) of this section, on an amended return only if the changes reported on such amended return cause the taxpayer to meet the Eligibility Criteria for the first time beginning in the taxable year for which the amended return is applicable and that the taxable year is not closed by the

period of limitations on assessments under section 6501. * * *

* * * * *

(*3*) * * *

Example 4. * * * Third, Y may file an original or an amended return to regroup in a manner different from groupings in effect prior to Year 1 and different from the Year 1 groupings (for example, Y could choose to group Activity C and D into a single activity, thus causing Y to have two groups; Group A–B and Group C–D).

* * * * *

■ **Par. 3.** Section 1.1411–0 is amended by revising the entries in the table of contents for § 1.1411–3(c)(2)(ii) and (iii) to read as follows:

§ 1.1411–0 Table of contents of provisions applicable to section 1411.

* * * * *

§ 1.1411–3 Application to Estates and Trusts.

* * * * *

(c) * * *

(2) * * *

(ii) Step two.

(iii) Step three.

* * * * *

■ **Par. 4.** Section 1.1411–2 is amended by revising the first sentence of paragraph (b)(2) to read as follows:

§ 1.1411–2 Application to individuals.

* * * * *

(b) * * *

(2)

Example. During Year 1 (a year in which section 1411 is in effect), A, an unmarried United States citizen, has modified adjusted gross income (as defined in paragraph (c) of this section) of $190,000, which includes $50,000 of net investment income. * * *

* * * * *

■ **Par. 5.** Section 1.1411–3 is amended by revising the second sentence of paragraph (c)(3)(ii)(A) and the first sentence of paragraph (c)(3)(iii)(B) to read as follows:

§ 1.1411–3 Application to estates and trusts.

* * * * *

(c) * * *

(3) * * *

(ii) * * * (A) * * * The undistributed net investment income for the S portion is $27,600 and is determined as follows:

* * * * *

(iii) * * *

(B) The adjusted gross income for the ESBT is $40,000 and is determined as follows: * * *

* * * * *

■ **Par. 6.** Section 1.1411–4 is amended as follows:

■ 1. The first sentence of paragraph (d)(4)(i)(C) *Example 2.* (i) is revised.

■ 2. The language ''deduction'' in the last sentence of paragraph (f)(2)(v) *Example 1.* (iv) is removed and ''deductions'' is added in its place.

■ 3. The language ''A'' in the third sentence of paragraph (f)(2)(v) Example 2. (iii) is removed and ''A's'' is added in its place.

■ 4. Paragraph (f)(3)(iii) is revised.

■ 5. The language ''§ 1.171–2T(a)(4)(i)(C)'' in paragraph (f)(3)(vii) is removed and ''§ 1.171–2(a)(4)(i)(C)'' is added in its place.

■ 6. The second sentence of paragraph (f)(4)(ii) Example 1. (iii) is revised.

■ 7. The language ''one or more'' in paragraph (g)(7)(i) introductory text is removed and ''a'' is added in its place.

■ 8. The language ''activities'' in paragraph (g)(7)(i) introductory text is removed and ''activity'' is added in its place.

■ 9. Paragraph (h)(2) introductory text is revised.

■ 10. The language ''.2'' in paragraph (h)(5) Example 1. (ii) is removed and added in its place ''0.2''.

The revisions read as follows:

§ 1.1411–4 Definition of net investment income.

* * * * *

(d) * * *

(4) * * *

(i) * * *

(C) * * *

Example 2. * * * (i) PRS, a partnership for Federal income tax purposes, operates an automobile dealership. * * *

* * * * *

(f) * * *

(3) * * *

(iii) *Taxes described in section 164(a)(3).* State, local, and foreign income, war profits, and excess profit taxes described in section 164(a)(3) that are allocable to net investment income pursuant to paragraph (g)(1) of this section. Except to the extent specifically expected from section 275(a)(4), foreign income, war profits, and excess profit taxes are not allowed as deductions under section 164(a)(3) in determining net investment income if the taxpayer claims the benefit of the foreign tax credit under section 901 with respect to the same taxable year. For rules applicable to refunds of taxes described in this paragraph, see paragraph (g)(2) of this section.

* * * * *

(4) * * *

(ii) * * *

Example 1. * * *

(iii) * * * Pursuant to paragraph (d) of this section, A takes into account the $60,000 at ordinary loss from PRS and the $50,000 of long term capital gain in the computation of A's net gain. * * *

* * * * *

(h) * * *

(2) *Applicable portion of a net operating loss.* In any taxable year beginning after December 31, 2012, in which a taxpayer incurs a net operating loss, the applicable portion of such loss is the lesser of:

* * * * *

■ **Par. 7.** Section 1.1411–5 is amended by revising paragraph (b)(2)(i) and (b)(2)(iii) to read as follows:

§ 1.1411–5 Trades or businesses to which tax applies.

* * * * *

(b) * * *

(2) * * * (i) *Income and gain recharacterization.* To the extent that any income or gain from a trade or business is recharaterized as ''not from a passive activity'' by reason of § 1.469–2T(f)(2), § 1.469–2(f)(5), or § 1.469–2(f)(6), such trade or business does not constitute a passive activity within the meaning of paragraph (b)(1)(ii) of this section solely with respect to such recharaterized income or gain.

* * * * *

(iii) *Exception for certain portfolio recharacterizations.* To the extent that any income or gain from a trade or business is recharacterized as ''not from a passive activity'' and is further characterized as portfolio income under § 1.469–2(f)(10) or § 1.469–2(c)(2)(iii)(F), then such trade or business constitutes a passive activity within the meaning of paragraph (b)(1)(ii) of this section solely with respect to such recharacterized income or gain.

* * * * *

■ **Par. 8.** Section 1.1411–10 is amended as follows:

■ 1. Revise paragraph (c)(5)(i)(B).

■ 2. In paragraph (h) *Example 2.* (ii)(A), revise the first sentence.

The revisions read as follows:

§ 1.1411–10 Controlled foreign corporations and passive foreign investment companies.

* * * * *

(c) * * *

(5) * * *

(i) * * *

(B) Decreasing the amount of investment income determined for chapter 1 purposes under section 163(d)(4)(B) by the amount included in gross income for chapter 1 purposes under section 951(a) or section 1293(a) that is attributable to a CFC or QEF with respect to which an election under paragraph (g) of this section is not in effect; and

* * * * *

(h) * * *

Example 2. * * *

(ii) * * * (A) In 2016, A does not include the $15,000 section 951(a)(1)(A) income inclusion in A's net investment income under section 1411(c)(1)(A)(i) and § 1.1411–1(a)(1)(i). * * *

* * * * *

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2014–07160 Filed 3–31–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9644]

RIN 1545–BK44

Net Investment Income Tax; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; correction

SUMMARY: This document contains corrections to final regulations (TD 9644) that were published in the **Federal Register** on Monday, December 2, 2013 (78 FR 72394). The final regulations provide guidance on the general application of the Net Investment Income Tax and the computation of Net Investment Income.

DATES: This correction is effective April 1, 2014 and applicable December 2, 2013.

FOR FURTHER INFORMATION CONTACT: Adrienne M. Mikolashek, at (202) 317–6852 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9644) that are the subject of this correction is under section 1411 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9644) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9644), that are the subject of FR Doc. 2013–28410, are corrected as follows:

1. On page 72399, first column, in the preamble, ninth line of the first full paragraph, the language ''provides that the section 1411 is applied'' is corrected to read ''provides that section 1411 is applied''.

2. On page 72405, second column, in the preamble, twelfth line from the top of the page, the language ''1411(c)(1)(A)(i). See part 5.b.ii.a of this'' is corrected to read ''1411(c)(1)(A)(i). See part 5.b.ii.a. of this''.

3. On page 72405, second column, in the preamble, fifteenth line from the top of the page, the language ''purpose of section 1411'' is corrected to read ''purposes of section 1411''.

4. On page 72406, first column, in the preamble, sixteenth line from the top of the page, the language ''1411(c)(1)(a)(iii)'' is corrected to read ''1411(c)(1)(A)(iii)''.

5. On page 72406, third column, in the preamble, fourth line from the bottom of the page, the language ''Described in Section 1411(C)(1)(b)'' is corrected to read ''Described in Section 1411(c)(1)(B)''.

6. On page 72407, first column, in the preamble, fifteenth line from the bottom of the page, the language ''trades or business, rents, and royalties,'' is corrected to read ''trades or businesses, rents, and royalties,''.

7. On page 72409, first column, in the preamble, twelfth line of the first full paragraph, the language ''reasonable methods may lead to'' is corrected to read ''reasonable methods may lead''.

8. On page 72411, second column, in the preamble, twentieth line of the first full paragraph, the language ''considered passive activity. However,'' is corrected to read ''considered a passive activity. However,''.

9. On page 72412, second column, in the preamble, seventh and the eighth lines of the first full paragraph, the language ''participates in rental real estate activities for more than 500 hours per'' is corrected to read ''participates in a rental real estate activity for more than 500 hours per''.

10. On page 72412, second column, in the preamble, thirteenth and fourteenth lines of the second full paragraph, the language ''taxpayer has participated in rental real estate activities for more than 500 hours'' is corrected to read ''taxpayer has participated in a rental real estate activity for more than 500 hours''.

11. On page 72415, first column, in the preamble, ninth line from the top of the page, the language ''469(e)(1)(A)) by § 1.469–2T(f)(10). In the'' is corrected to read ''469(e)(1)(A)) by § 1.469–2(f)(10). In the''.

12. On page 72415, first column, in the preamble, eighteenth line from the bottom of the page, the language ''covered by § 1.469–2T(f)(10) and'' is corrected to read ''covered by § 1.469–2(f)(10) and''.

13. On page 72420, second column, in the preamble, third line of the first full paragraph, the language ''election under § 1.1411–10(g) election'' is corrected to read ''election under § 1.1411–10(g)''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2014–07162 Filed 3–31–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 156

[DOD–2008–OS–0160]

RIN 0790–AI42

Department of Defense Personnel Security Program (PSP)

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule updates policies and responsibilities for the Department of Defense (DoD) Personnel Security Program (PSP) in accordance with the provisions of current U.S. Code, Public Laws, and Executive Orders (E.O.). This rule establishes policy and assigns responsibilities related to the operation of the DoD PSP, including investigative and adjudicative policy for determining eligibility to hold a national security position. This rule also establishes investigative and adjudicative policy for the Department's personal identity verification (PIV) credential.

DATES: *Effective Date:* This rule is effective May 1, 2014.

FOR FURTHER INFORMATION CONTACT: Dr. Kelly Buck, (703) 604–1130.

SUPPLEMENTARY INFORMATION:

Executive Summary

I. Purpose and Legal Authority for This Rule

This rule updates policies, assigns responsibilities, and prescribes procedures for the Department of Defense (DoD) Personnel Security Program (PSP) in accordance with the provisions of current U.S. Code, Public Laws, and Executive Orders (E.O.). This rule establishes PSP policy related to the operation of the DoD PSP, including investigative and adjudicative policy for determining eligibility to hold national security positions. This rule also establishes Homeland Security Presidential Directive (HSPD)–12 investigative and adjudicative policy for the Department's personal identity verification (PIV) credential. Legal authorities for this rule are E.O. 12968,

as amended; E.O. 10450, as amended; E.O. 10865, as amended; E.O. 13526; E.O. 12829, as amended; E.O. 13467; E.O. 13488; E.O. 12333, as amended; 5 U.S.C. 301 and 7532; section 1072 of Public Law 110–181, as amended; 15 U.S.C. 278g–3; 40 U.S.C. section 11331; 10 U.S.C. 1564; 50 U.S.C.; 3343; 5 CFR parts 731, 732 and 736, and Homeland Security Presidential Directive (HSPD)–12.

II. Summary of Major Provisions of This Rule

The DoD Directive (DoDD) 5200.2, Personnel Security Program (PSP), codified at 32 CFR Part 156, was issued April 9, 1999. The Department is reissuing the DoD Directive as a DoD Instruction to update existing policy regarding operation of the DoD Personnel Security Program and to establish new policy implementing HSPD–12.

The updated policy incorporates Joint Security and Suitability Reform Team efforts to revise Executive branch-wide policy and procedures needed to implement reform. The Intelligence Reform and Terrorism Prevention Act of 2004, E.O. 13467, E.O. 12968, as amended, E.O. 10865, and HSPD–12 are some of the current Federal laws, directives and statutes that affect the DoD PSP. Since this rule was last published, additional executive orders have been issued directing alignment of security, suitability and reciprocal acceptance of prior investigations and determinations.

The procedural guidance for the DoD PSP is currently being updated and will subsequently be proposed as a rule codified at 32 CFR Part 154. The investigative and adjudication procedural guidance for the DoD Federal PIV credential pursuant HSPD–12 is undergoing coordination and will also be proposed a separate rule.

III. Costs and Benefits of This Rule

This is an update to an existing rule regarding personnel security investigative and adjudicative policy and implements new department policy related to HSPD–12. The personnel security program has no discernable increase in anticipated costs and benefits as the program is being updated to conform to current national security guidance. The latter dealing with HSPD–12 is an unfunded mandate. However, this rule does not increase costs; rather it implements the requirements of HSPD–12 in the most efficient and effective manner possible by ensuring uniform implementation. The benefits inherent to both the personnel security and HSPD–12 programs enhance security as directed by the Intelligence Reform and Terrorism Prevention Act of 2004 and subsequent implementing policies.

Public Comments

The Department of Defense (DoD) published a proposed rule on February 2, 2011 (76 FR 5729). One comment was received and is addressed below:

Comment: Given the increasing use of DNA (deoxyribonucleic acid) as an investigatory tool by federal, state, and local law enforcement agencies, the DoD should consider requiring applicants to provide a DNA sample. That provided DNA sample would be profiled and compared to available databases. This would help insure that no applicant for a clearance is a subject of an active federal, state, or local criminal investigation based on DNA evidence.

This would achieve the same end as the current collection of fingerprints from applicants that are run against Federal Bureau of Investigation databases. However, the additional use of DNA would recognize the greater prevalence of DNA evidence in criminal investigations.

I do note that DNA is distinctly different from fingerprints in that a search of databases may produce a result that does not link to the DoD clearance applicant but could instead provide a linkage to a familial relative of the applicant. This secondary issue would have to be examined by DoD and the legal community.

I also believe other federal agencies with similar personnel security programs should consider the collection of DNA samples from applicants to insure appropriate reciprocity of clearances between those agencies and DoD.

DoD Response: The Federal Government is looking into the feasibility of using biometric identifiers other than fingerprints in the security clearance process. However, any such requirement such as the suggested collection of DNA from clearance applicants would be covered in a separate rulemaking. As the comment correctly notes, such a policy would be best coordinated with the other federal agencies with personnel security programs to insure appropriate reciprocity of clearances between agencies.

Additional Changes by DoD: Other changes were made to the final rule from what was in the proposed due to additional coordination within the Department. These changes include:

(a) The title for § 156.5 has been changed from ''Procedures-sensitive positions, duties, and classified access'' to ''National Security Positions'' to incorporate the positions, duties, and access into one common phrase. The term is listed in the definitions section and its use in the part provides for ease of reading.

(b) Adjustments were made to the part to apply correct U.S. Code, Public Laws, or Executive Orders to the appropriate paragraph(s).

(c) Changes were made in the ''Responsibilities'' section to update the new title name for the Deputy Under Secretary of Defense for Intelligence and Security (previously known as the Deputy Under Secretary of Defense for HUMINT, Counterintelligence, and Security).

(d) Required responsibilities were also added for the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense for Policy.

(e) Verbiage was added that prohibits the use of DoD adjudication systems of record for use as a pre-hiring tool. Additional language directs the removal of personnel from national security positions who have received unfavorable security determinations.

(f) Any other changes made to the part were made for ease and clarity of reading.

Regulatory Procedures

E.O. 12866, ''Regulatory Planning and Review'' and EO 13563, ''Improving Regulation and Regulatory Review''

It has been certified that 32 CFR Part 156 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.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been certified that 32 CFR Part 156 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 32 CFR Part 156 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 32 CFR Part 156 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

E.O. 13132, ''Federalism''

It has been certified that 32 CFR Part 156 does not have federalism implications, as set forth in E.O. 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 156

Government employees, Security measures.

■ Accordingly, 32 CFR Part 156 is revised to read as follows:

PART 156—DEPARTMENT OF DEFENSE PERSONNEL SECURITY PROGRAM (PSP)

Sec.

156.1 Purpose.
156.2 Applicability.
156.3 Policy.
156.4 Responsibilities.
156.5 National security positions.
156.6 Common access card (CAC) investigation and adjudication.
156.7 Definitions.

Authority: E.O. 12968, as amended; E.O. 10450, as amended; E.O. 10865, as amended; E.O. 13526; E.O. 12829, as amended; E.O. 13467; E.O. 13488; E.O. 12333, as amended; 5 U.S.C 301 and 7532; section 1072 of Pub. L. 110–181, as amended; 15 U.S.C. 278g–3; 40 U.S.C. 11331; 10 U.S.C. 1564; 50 U.S.C. 3343; 5 CFR parts 731, 731.101, 732, and 736; and HSPD–12.

§ 156.1 Purpose.

This part updates policies and responsibilities for the DoD Personnel Security Program (PSP) consistent with E.O. 12968, as amended; E.O. 10450, as amended; E.O. 10865, as amended; E.O. 13526; E.O. 12829, as amended; E.O. 13467; E.O. 13488; E.O. 12333, as amended; 5 U.S.C. 301 and 7532; section 1072 of Public Law 110–181, as amended; 15 U.S.C. 278g–3; 40 U.S.C. 11331; 10 U.S.C. 1564; 32 CFR parts 147, 154 through 156; 50 U.S.C. 3343; 5 CFR parts 731, 731.101, 732 and 736; and HSPD–12.

§ 156.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the DoD, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (hereinafter referred to collectively as the ''DoD Components'').

§ 156.3 Policy.

It is DoD policy that:

(a) The Department shall establish and maintain a uniform DoD PSP to the extent consistent with standards and procedures in E.O. 12968, as amended; E.O. 10450, as amended; E.O. 10865, as amended; E.O. 13526; E.O. 12829, as amended; E.O. 13467; E.O. 13488; E.O. 12333, as amended; 32 CFR parts 147, 154 through 156; 5 CFR parts 731, 731.101, 732 and 736; 5 U.S.C. 301 and 7532; section 1072 of Public Law 110–181, as amended; 15 U.S.C. 278g–3; section 11331 of 40 U.S.C.; 10 U.S.C. 1564; 50 U.S.C. 3343; and the Intelligence Community Directive Number 704 (ICD 704) (available on the Internet at *http://www.dni.gov*).

(b) DoD PSP policies and procedures shall be aligned using consistent standards to the extent possible; provide for reciprocal recognition of existing investigations and adjudications; be cost-effective, timely, and provide efficient protection of the national interest; and provide fair treatment of those upon whom the Federal Government relies to conduct the Nation's business and protect national security.

(c) Discretionary judgments used to determine eligibility for national security positions are an inherently governmental function and shall be performed by appropriately trained and favorably adjudicated Federal Government personnel or appropriate automated procedures.

(d) No negative inference may be raised solely on the basis of mental health counseling. Such counseling may be a positive factor that, by itself, shall not jeopardize the rendering of eligibility determinations or temporary eligibility for access to national security information. However, mental health counseling, where relevant to adjudication for a national security position, may justify further inquiry to assess risk factors that may be relevant to the DoD PSP.

(e) The DoD shall not discriminate nor may any inference be raised on the basis of race, color, religion, sex, national origin, disability, or sexual orientation.

(f) Discretionary judgments that determine eligibility for national security positions shall be clearly consistent with the national security interests of the United States. Any doubt shall be resolved in favor of national security.

(g) No person shall be deemed to be eligible for a national security position merely by reason of Federal service or contracting, licensee, certificate holder, or grantee status, or as a matter of right or privilege, or as a result of any particular title, rank, position, or affiliation.

(h) No person shall be appointed or assigned to a national security position when an unfavorable personnel security determination has been rendered.

(i) Eligibility for national security positions shall be granted only to persons who are U.S. citizens for whom the investigative and adjudicative process has been favorably completed. However, based on exceptional circumstances where official functions must be performed prior to completion of the investigative and adjudicative process, temporary eligibility for access to classified information may be granted while the investigation is underway.

(j) As an exception, a non-U.S. citizen who possesses an expertise that cannot be filled by a cleared or clearable U.S. citizen, may hold a national security position or be granted a limited access authorization to classified information in support of a specific DoD program, project, or contract following a favorable security determination by an authorized adjudication facility.

(k) The DoD shall establish investigative and adjudicative policy and procedures to determine whether to issue, deny or revoke common access cards (CACs) in accordance with the standards of the Homeland Security Presidential Directive (HSPD)–12 (available in the Public Papers of the Presidents of the United States: George W. Bush (2004, Book II, page 1765) found on the Internet at *http://www.gpo.gov/*); Office of Management and Budget Memorandum (OMB) M–05–24 (available on the Internet at *http://www.whitehouse.gov/omb*); Federal Information Processing Standards Publication 201–1 (FIPS 201–1) or successor (available on the Internet at *http://csrc.nist.gov/*); 48 CFR, Chapter 1, Parts 1–99 (Federal Acquisition Regulation); 48 CFR, Chapter 2, Parts 201–253 (Defense Federal Acquisition Regulation Supplement), and the Office of Personnel Management (OPM)

Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12,'' dated July 31, 2008 (available on the Internet at *http://www.opm.gov/*), as applicable.

(l) Information about individuals collected as part of the investigative and adjudicative process shall be managed in accordance with applicable laws and DoD policies, including those related to privacy and confidentiality, security of information, and access to information.

§ 156.4 Responsibilities.

(a) The Under Secretary of Defense for Intelligence (USD(I)) shall:

(1) Develop, coordinate, and oversee the implementation of policy, programs, and guidance for the DoD PSP.

(2) In coordination with the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) and the General Counsel of the DoD (GC, DoD), develop policy for DoD personnel for the CAC personnel security investigation (PSI) and adjudication in accordance with HSPD–12; OMB Memorandum M–05–24; FIPS 201–1; and OPM Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12.''

(3) In coordination with the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)) and the GC, DoD, develop policy for contractor investigations for CAC adjudication, outside the purview of the National Industrial Security Program, under the terms of applicable contracts in accordance with HSPD–12; OMB Memorandum M–05–24; FIPS 201–1; the Federal Acquisition Regulation; the Defense Federal Acquisition Regulation Supplement; and OPM Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12.''

(4) Issue guidance implementing the policy in this part.

(b) The Deputy Under Secretary of Defense for Intelligence & Security (DUSD(I&S)), under the authority, direction, and control of the USD(I) shall:

(1) Ensure that the PSP is consistent, cost-effective, efficient, and balances the rights of individuals with the interests of national security.

(2) Develop and publish revisions to 32 CFR Part 154.

(3) Approve, coordinate, and oversee all DoD personnel security research initiatives and activities to improve the efficiency, effectiveness, and fairness of the DoD PSP.

(4) Ensure that the Defense Security Service (DSS) provides education, training, and awareness support to the DoD PSP.

(5) Serve as the primary contact between DoD, the Red Cross, United Service Organizations, and other organizations with direct DoD affiliation for all matters relating to the DoD PSP.

(6) When appropriate, approve requests for exceptions to the DoD PSP relating to national security eligibility requirements for access to classified information except North Atlantic Treaty Organization (NATO) classified information. Requests for exceptions involving access to NATO classified information shall be sent to the Office of the Under Secretary of Defense for Policy.

(7) Develop guidance, interpretation, and clarification regarding the DoD PSP as needed.

(8) Conduct oversight inspections of the DoD Components for implementation and compliance with DoD personnel security policy and operating procedures.

(9) In furtherance of coordinated Government-wide initiatives under E.O. 13467, develop a framework setting forth an overarching strategy identifying goals, performance measures, roles and responsibilities, a communications strategy, and metrics to measure the quality of security clearance investigations and adjudications to ensure a sound DoD PSP that will continue to meet the needs of DoD.

(c) The USD(AT&L) shall:

(1) Establish acquisition policy, procedures, and guidance, in coordination with the USD(I) that facilitate DoD Component compliance with the DoD PSP.

(2) Establish regulatory requirements within the Federal Acquisition Regulation and Defense Federal Acquisition Regulation for contracts and agreements that require non-DoD personnel to adhere to personnel security procedures in the performance of a contract or agreement.

(d) The Under Secretary of Defense for Policy (USD(P)) is the approval authority for requests for exceptions to the DoD PSP involving access to NATO classified information.

(e) The GC, DoD shall:

(1) Provide advice and guidance as to the legal sufficiency of procedures and standards involved in implementing the DoD PSP and exercise oversight of the established administrative due process procedures of the DoD PSP.

(2) Perform functions relating to the DoD PSP including the maintenance and oversight of the Defense Office of Hearings and Appeals (DOHA).

(f) The Heads of the DoD Components shall:

(1) Designate a senior agency official, consistent with the provisions of E.O. 12968, as amended, who shall direct and administer the DoD PSP consistent with this part.

(2) Comply with the policy and procedures regarding investigation and adjudication for CAC issuance and distribute this guidance to local and regional organizations.

(3) Provide funding to cover Component requirements for PSIs, adjudication, and recording of results to comply with the DoD PSP.

(4) Enforce requirements for prompt reporting of significant derogatory information, unfavorable administrative actions, and adverse actions to the appropriate personnel security, human resources, and counterintelligence official(s), as appropriate, within their respective Component.

(5) Perform functions relating to the DoD Security Professional Education Development Program to ensure the security workforce in their respective Component has the knowledge and skills required to perform security functional tasks.

(6) Provide requested information and recommendations, as appropriate, on any aspect of this part and the DoD PSP to the USD(I).

(7) Enforce the requirement that DoD personnel security adjudication system(s) of records, within their respective Components, shall only be used as a personnel security system of records and shall not be used as a pre-hiring screening tool.

§ 156.5 National security positions.

(a) *Procedures.* The objective of the PSP is to ensure persons deemed eligible for national security positions remain reliable and trustworthy.

(1) Duties considered sensitive and critical to national security do not always involve classified activities or classified matters. Personnel security procedures for national security positions are set forth in E.O. 12968, as amended; E.O. 10865, 32 CFR parts 154–155; ICD 704; and DoD Regulation 5220.22–R. The specific procedures applicable in each case type are set forth in DoD issuances.

(2) Employees with access to automated systems that contain active duty, guard, or military reservists' personally identifiable information or information pertaining to Service members that are otherwise protected from disclosure by section 552a of title 5 United States Code, may be designated as national security positions within DoD, where such access has the potential to cause damage to national security.

(b) *Sensitive Compartmented Information (SCI) Eligibility.* Investigative and adjudicative requirements for SCI eligibility shall be executed in accordance with this part and ICD 704.

(c) *Adjudication.* (1) Personnel security criteria and adjudicative standards are described in E.O. 12968, as amended; 32 CFR parts 147, 154 and 155; ICD 704, and DoD Regulation 5220.22–R, as applicable, in accordance with Adjudicative Guidelines for Determining Eligibility for Access to Classified Information and other types of protected information or assignment to national security positions. Adjudications of eligibility for national security positions, regardless of whether they involve access to classified information, must be made in accordance with the Adjudicative Guidelines for Determining Eligibility for Access to Classified Information.

(2) When an unfavorable personnel security determination is rendered:

(i) Individuals cannot be appointed or assigned to national security positions.

(ii) An individual currently occupying a national security position will be immediately removed from the national security position and placed, in accordance with agency policy, in an existing non-sensitive position if available. Placement in a non-sensitive position requires compliance with employment suitability standards. The national security position is not to be modified or a new position created to circumvent an unfavorable personnel security determination. The individual is to be placed in an appropriate status, in accordance with agency policy, until a final security determination is made. A final security determination is the granting, denial or revocation by an appropriate central adjudications facility or an appeal board decision, whichever is later.

(iii) To ensure consistency and quality in determinations of eligibility for national security positions, adjudicators must successfully complete the full program of professional training provided by the DSS Center for Development of Security Excellence (or equivalent training) and be certified through the DoD Professional Certification Program for Adjudicators within 2 years of program implementation or, for new hires, within 2 years of eligibility for certification testing.

(d) *Appeal Procedures—Denial or Revocation of Eligibility.* Individuals may elect to appeal unfavorable personnel security determinations in accordance with the procedures set forth in E.O. 12968, as amended; parts 154 and 155 of 32 CFR; ICD 704, and DoD Regulation 5220.22–R as applicable or as otherwise authorized by law.

(e) *Polygraph.* Under certain conditions, DoD Components are authorized to use polygraph examinations to resolve credible derogatory information developed in connection with a personnel security investigation; to aid in the related adjudication; or to facilitate classified access decisions.

(f) *Continuous Evaluation.* All personnel in national security positions shall be subject to continuous evaluation.

(g) *Financial Disclosure.* DoD Component implementation of the electronic financial disclosure requirement, consistent with E.O. 12968, shall be completed by the end of calendar year 2012.

(h) *Reciprocal Acceptance of Eligibility Determinations.* (1) DoD reciprocally accepts existing national security eligibility determinations or clearances from other government agencies in accordance with E.O. 13467, OMB Memorandums ''Reciprocal Recognition of Existing Personnel Security Clearances'' dated December 12, 2005 (Copies available on the Internet at *http://www.whitehouse.gov/omb*) and July 17, 2006 (Copies available on the Internet at *http://www.whitehouse.gov/omb*).

(2) Reciprocity for SCI eligibility shall be executed in accordance with ICD 704 and associated Director of National Intelligence guidance.

(3) Personnel who have been determined eligible for national security positions should not be subjected to additional security reviews, completion of a new security questionnaire, or initiation of a new investigative check, unless credible derogatory information that was not previously adjudicated becomes known, or the previous adjudication was granted by a condition, deviation, or waiver pursuant the provisions of OMB Memorandums ''Reciprocal Recognition of Existing Personnel Security Clearances'' dated December 12, 2005, or there has been a break in service of more than 24 months. Exceptions for access to SCI or special access programs are listed in the OMB Memorandums ''Reciprocal Recognition of Existing Personnel Security Clearances'' dated July 17, 2006.

(i) *National Security Agency (NSA)/Central Security Service (CSS).* Employees, contractors, military assignees, and others with similar affiliations with the NSA/CSS must maintain SCI eligibility for access to sensitive cryptologic information in accordance with 50 U.S.C. chapter 23.

(j) *Wounded Warrior Security and Intelligence Internship Program.* PSIs in support of wounded warriors may be submitted and processed regardless of the time remaining in military service. Investigations will be accelerated through a special program code established by the Office of the USD(I) to ensure expedited service by the investigating and adjudicating agencies.

(1) Category 2 wounded, ill, or injured uniformed service personnel who expect to be separated with a medical disability rating of 30 percent or greater may submit a PSI for Top Secret clearance with SCI eligibility prior to medical separation provided they are serving in or have been nominated for a wounded warrior internship program.

(2) The investigations will be funded by the DoD Component that is offering the internship. If the DoD Component does not have funds available, the Military Service in which the uniform service personnel served may choose to fund the investigation.

§ 156.6 Common access card (CAC) investigation and adjudication.

(a) *General.* Individuals entrusted with access to Federal property, information systems, and any other information bearing on national security must not put the Government at risk or provide an avenue for terrorism.

(1) All individuals requiring a CAC must meet credentialing standards of OPM Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12.'' For those individuals who are subject to an interim credentialing decision before a security, suitability, or equivalent adjudication is completed, the OPM credentialing standards will be the basis for issuing or denying a CAC. The subsequent credentialing decision will be made upon receipt of the completed investigation from the ISP.

(2) If an individual is found unsuitable for employment in a covered position under 5 CFR 731.101, ineligible for access to classified information under E.O. 12968, or disqualified from appointment in the excepted service or from working on a contract, the unfavorable decision is a sufficient basis for non-issuance or revocation of a CAC, but does not necessarily mandate this result.

(b) *Investigation.* A favorably adjudicated National Agency Check with Inquiries (NACI) is the minimum investigation required for a final credentialing determination for CAC.

(1) An interim credentialing determination can be made based on the results of a completed National Agency Check or an Federal Bureau of Investigation National Criminal History Check (fingerprint check), and submission of a request for investigation (NACI or greater).

(2) Individuals identified as having a favorably adjudicated investigation on record, equivalent to (or greater than) the NACI do not require an additional investigation for CAC issuance.

(3) There is no requirement to reinvestigate CAC holders unless they are subject to reinvestigation for national security or suitability reasons as specified in applicable DoD issuances.

(4) Existing CAC holders without the requisite background investigation on record must be investigated in accordance with OMB Memorandum M–05–24, ''Implementation of Homeland Security Presidential Directive (HSPD) 12—Policy for a Common Identification Standard for Federal Employees and Contractors,'' dated August 5, 2005.

(c) *Adjudication.* The ultimate determination whether to authorize CAC issuance or revoke the CAC must be an overall common-sense judgment after careful consideration of the basic and, if applicable, supplemental credentialing standards in OPM Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12,'' each of which is to be evaluated in the context of the whole person. These standards shall be evaluated to determine if there is a reasonable basis to believe that issuing a CAC to the individual poses an unacceptable risk.

(1) Each case is unique and must be judged on its own merits. To the extent pertinent to the individual case, when evaluating the conduct, the adjudicator should consider: the nature and seriousness of the conduct, the circumstances surrounding the conduct, the recency and frequency of the conduct, the individual's age and maturity at the time of the conduct, contributing external conditions, and the presence or absence of rehabilitation or efforts toward rehabilitation.

(2) Final credentialing standards are:

(i) *Basic Credentialing Standards.* All CAC adjudications must apply the basic credentialing standards. CAC shall not be issued when a disqualifying factor cannot be mitigated.

(ii) *Supplemental Credentialing Standards.* The supplemental credentialing standards, in addition to the basic credentialing standards, shall apply generally to individuals who are not subject to adjudication for eligibility for a sensitive position or access to classified information, suitability for Federal employment or fitness. These standards may be applied based on the risk associated with the position or work on the contract.

(3) All interim and final adjudicative determinations shall be made by cleared and trained Federal Government personnel. Automated adjudicative processes shall be used to the maximum extent practicable.

(4) Adjudication decisions of CAC investigations shall be incorporated into the Consolidated Central Adjudication Facility as directed by the Deputy Secretary of Defense.

(5) CAC adjudicators must successfully complete formal training through a DoD adjudicator course from the DSS Center for Development of Security Excellence to achieve maximum consistency and fairness of decisions rendered.

(6) Federal Government credentialing standards do not prohibit employment of convicted felons who have been released from correctional institutions, absent other issues, if they have demonstrated clear evidence of rehabilitation.

(d) *Appeals.* CAC applicants or holders may appeal CAC denial or revocation.

(1) No separate administrative appeal process is allowed when an individual has been denied a CAC as a result of a negative suitability determination under 5 CFR Part 731, an applicable decision to deny or revoke a security clearance, or based on the results of a determination to disqualify the person from an appointment in an excepted service position or from working on a contract for reasons other than eligibility for a Federal Credential as described in OPM Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12.'' If a later denial or revocation of a CAC results from an applicable denial or revocation of a security clearance, suitability decision, or other action for which administrative process was already provided on grounds that support denial or revocation of a CAC, no separate appeal for CAC denial or revocation is allowed.

(2) Initial civilian and contractor applicants who have been denied a CAC, and for whom an appeal is allowed under this paragraph, may elect to appeal to a three member board containing no more than one security representative from the sponsoring activity.

(3) Contractor employees who have had their CAC revoked, and for whom an appeal is allowed under this paragraph, may appeal to DOHA under the established administrative process set out in 32 CFR Part 155.

(4) Decisions following appeal are final.

(5) Individuals whose CACs have been denied or revoked are eligible for reconsideration 1 year after the date of final denial or revocation, provided the sponsoring activity supports reconsideration. Individuals with a statutory or regulatory bar are not eligible for reconsideration while under debarment.

(e) *Foreign Nationals.* Special considerations for conducting background investigations of non-U.S. nationals (foreign nationals) are addressed in OPM Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12.'' The following criteria shall be met prior to CAC issuance to foreign nationals:

(1) The background investigation must be completed and favorably adjudicated before issuing CACs to foreign nationals.

(2) Foreign nationals are not eligible to receive CAC on an interim basis.

(3) At foreign locations:

(i) Foreign national background investigations may vary based on standing reciprocity treaties concerning identity assurance and information exchange that exist between the United States and its allies. This includes foreign military, civilian, or contract support with a visit status and security assurance that has been confirmed, documented, and processed in accordance with USD(P) policy.

(ii) The type of background investigation may also vary based upon agency agreements with the host country when the foreign national CAC applicant (such as a DoD direct or indirect hire) has not resided in the United States for at least 3 of the past 5 years or is residing in a foreign country. The investigation must be consistent with NACI, to the extent possible, and include a fingerprint check against the Federal Bureau of Investigation (FBI) criminal history database, an FBI Investigations Files (name check) search, and a name check against the Terrorist Screening Database.

(4) At U.S.-based locations and in U.S. territories:

(i) Foreign nationals who have resided in the United States or U.S. territory for 3 years or more must have a NACI or greater investigation.

(ii) Components may delay the background investigation of foreign nationals who have resided in the U.S. or U.S. territory for less than 3 years

until the individual has been in the U.S. or U.S. territory for 3 years. When the investigation is delayed, the Component may, in lieu of a CAC, issue an alternative facility access credential at the discretion of the relevant Component official based on a risk determination.

(f) *Recording Final Adjudication.* Immediately following final adjudication, the sponsoring activity shall record the final eligibility determination (active, revoked, denied, etc.) in the OPM Central Verification System as directed by OPM Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12,'' and maintain local records for posting in a DoD repository when available.

(g) *Reciprocity of CAC Determinations.* (1) The sponsoring activity shall not re-adjudicate CAC determinations for individuals transferring from another Federal department or agency, provided:

(i) Possession of a valid personal identity verification (PIV) card or CAC can be verified by the individual's former department or agency.

(ii) The individual has undergone the required NACI or other equivalent suitability, public trust, or national security investigation and received favorable adjudication from the former agency.

(iii) There is no break in service greater than 24 months and the individual has no actionable information since the date of the last completed investigation.

(2) Interim CAC determinations are not eligible to be transferred or reciprocally accepted. Reciprocity shall be based on final favorable adjudication only.

§ 156.7 Definitions.

These terms and their definitions are for the purposes of this part:

Continuous evaluation. Defined in section 1.3(d) of E.O. 13467.

Contractor. Defined in E.O. 13467.

Employee. Defined in E.O. 12968, as amended.

Limited access authorization. Defined in 32 CFR Part 154.

National security position. (1) Any position in a department or agency, the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security.

(i) Such positions include those requiring eligibility for access to classified information.

(ii) Other such positions include, but are not limited to, those whose duties include:

(A) Protecting the nation, its citizens and residents from acts of terrorism, espionage, or foreign aggression, including those positions where the occupant's duties involve protecting the nation's borders, ports, critical infrastructure or key resources, and where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(B) Developing defense plans or policies;

(C) Planning or conducting intelligence or counterintelligence activities, counterterrorism activities and related activities concerned with the preservation of the military strength of the United States;

(D) Protecting or controlling access to facilities or information systems where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(E) Controlling, maintaining custody, safeguarding, or disposing of hazardous materials, arms, ammunition or explosives, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(F) Exercising investigative or adjudicative duties related to national security, suitability, fitness or identity credentialing, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(G) Exercising duties related to criminal justice, public safety or law enforcement, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security; or

(H) Conducting investigations or audits related to the functions described in paragraphs (1)(ii)(B) through (G) of this definition, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security.

(2) The requirements of this part apply to positions in the competitive service, positions in the excepted service where the incumbent can be noncompetitively converted to the competitive service, and career appointments in the Senior Executive Service within the executive branch. Departments and agencies may apply the requirements of this part to other excepted service positions within the executive branch and contractor positions, to the extent consistent with law.

Unacceptable risk. Threat to the life, safety, or health of employees, contractors, vendors, or visitors; to the Government's physical assets or information systems; to personal property; to records, privileged, proprietary, financial, or medical records; or to the privacy of data subjects, which will not be tolerated by the Government.

Dated: March 20, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–06544 Filed 3–31–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2013–1059]

RIN 1625–AA08

Special Local Regulations for Marine Events, Tred Avon River; Between Bellevue, MD and Oxford, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the ''Oxford-Bellevue Sharkfest Swim'', a marine event to be held on the waters of the Tred Avon River on May 10, 2014. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Tred Avon River during the event.

DATES: This rule is effective from 9 a.m. to 11:59 a.m. on May 10, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–1059]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.* If you have questions on viewing or submitting material to the

docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On February 4, 2014, we published a notice of proposed rulemaking (NPRM) entitled ''Special Local Regulations for Marine Events, Tred Avon River; Between Bellevue, MD and Oxford, MD'' in the **Federal Register** (79 FR 6506). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Oxford-Bellevue Sharkfest Swim event.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held.

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.

The economic impact of this rule is not significant for the following reasons: (1) The special local regulations will be enforced for only 3 hours; (2) the regulated area has been narrowly tailored to impose the least impact on general navigation, yet provide the level of safety deemed necessary; (3) although the regulated area applies to the entire width of the Tred Avon River, persons and vessels will be able to transit safely through a portion of the regulated area once the last participant has cleared that portion of the regulated area and when the Coast Guard Patrol Commander deems it safe to do so; and (4) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Tred Avon River encompassed within the special local regulations from 9 a.m. to 11:59 a.m. on May 10, 2014. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary section, § 100.35–T05–1059 to read as follows:

§ 100.35–T05–1059 Special Local Regulations for Marine Events, Tred Avon River; Between Bellevue, MD and Oxford, MD.

(a) *Regulated area.* The following location is a regulated area: All waters of the Tred Avon River, from shoreline to shoreline, within and area bounded on the east by a line drawn from latitude 38°42′25″ N, longitude 076°10′45″ W, thence south to latitude 38°41′37″ N, longitude 076°10′26″ W, and bounded on the west by a line drawn from latitude 38°41′58″ N, longitude 076°11′04″ W, thence south to latitude 38°41′25″ N, longitude 076°10′49″ W, thence east to latitude 38°41′25″ N, longitude 076°10′30″ W, located at Oxford, MD. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all persons and vessels participating in the Oxford-Bellevue Sharkfest Swim event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(c) *Special local regulations.* (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) With the exception of participants, all persons desiring to transit the regulated area must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410–576–2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

(3) The Coast Guard Patrol Commander may terminate the event, or the operation of any participant in the event, at any time it is deemed necessary for the protection of life or property.

(4) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

(d) Enforcement period: This section will be enforced from 9 a.m. to 11:59 a.m. on May 10, 2014.

Dated: March 18, 2014.

Kevin C. Kiefer,

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

[FR Doc. 2014–07266 Filed 3–31–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG–2013–0904]

RIN 1625–AA08; AA00

Special Local Regulations and Safety Zones; Recurring Events in Northern New England

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is updating special local regulations and permanent safety zones in the Coast Guard Sector Northern New England Captain of the Port (COTP) Zone for annual recurring marine events. When enforced, these proposed special local regulations and safety zones will restrict vessels from portions of water areas during certain annually recurring events. The revised special local regulations and safety zones will expedite public notification and ensure the protection of the maritime public and event participants from the hazards associated with certain maritime events.

DATES: This rule is effective on May 1, 2014.

This rule will be enforced during dates and times specified in a series of

Notices of Enforcement to be published no less than 30 days prior to any event which it is enforcing.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0904]. 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 Lieutenant Junior Grade Elizabeth Gunn, U.S. Coast Guard, Sector Northern New England, Waterways Management Division, via telephone at 207–767–0398 or email at *Elizabeth.V.Gunn@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, via telephone at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On Tuesday, December 23, 2013, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Special Local Regulations and Safety Zones; Recurring Events in Northern New England'' in the **Federal Register**. We received one comment and no requests for a public meeting on the proposed rule. The single comment is addressed below.

B. Basis and Purpose

The legal bases for this rule are 33 U.S.C. 1231, 1233; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones and special local regulations.

Swim events, fireworks displays, and marine events are held on an annual recurring basis on the navigable waters within the Coast Guard Sector Northern New England COTP Zone. In the past, the Coast Guard has established special local regulations, regulated areas, and safety zones for these annual recurring events on a case by case basis to ensure the protection of the maritime public and event participants from the hazards associated with these events. In the past year, events were assessed for their likelihood to recur in subsequent years or to discontinue and were added to or deleted from the tables accordingly. In addition, minor changes to existing events were made to ensure the accuracy of event details.

This rulemaking updates the existing regulation in order to meet the Coast Guard's intended purpose of ensuring safety during these events.

C. Discussion of Comments, Changes and the Final Rule

The only comment received questioned the legality of the proposed regulation in which the dates provided for marine events are uncertain. This Coast Guard regulation covers events spanning a five month period, from May through September. Due to the amount of time required to complete the regulatory process (120 days) it is not possible to wait until the event dates are certain for the coming marine events before publishing the NPRM.

The Coast Guard makes every effort to provide notice of regulated areas by utilizing Notice of Enforcements, Local Notice to Mariners (LNM) and Broadcast Notice to Mariners (BNM). The Coast Guard will publish multiple Notices of Enforcement listing the exact date, time, and location for every event. These notices will be published and available for public viewing at least 30 days prior to every event. Events will be listed in the LNM each week that events occur, including recurring events such as weekly regattas. A BNM will also be broadcast over VHF Channel 16 before and during each event. All of these methods to notify the public have been successful in prior years.

With all of the above in mind, the Coast Guard made no change to this rule in response to the received comment.

Table to § 100.120 was revised to read as follows. The event date for ''7.2 The Great Race'' has been changed to ''A one day event on a Sunday between the 15th of June and the 15th of July.*'' The event ''8.1 Eggemoggin Reach Regatta'' has been renamed to ''7.11 Eggemoggin Reach Regatta'' and is now listed under July events to remain consistent with the organization of the other events. ''8.1'' now reads ''(event moved to 7.11 of this table).'' This will allow all other August events to retain the number they were listed under in the NPRM.

No further changes were made to the regulatory text.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect the economic impact of this rule to be minimal. Although this regulation may have some impact on the public, the potential impact will be minimized because the Coast Guard is only modifying an existing regulation to account for new information.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: owners or operators of vessels intending to transit, fish, or anchor in the areas where the listed annual recurring events are being held.

The rule will not have a significant economic impact on a substantial number of small entities for the following reasons: vessels will only be restricted from safety zones and special local regulation areas for a short duration of time; vessels may transit in portions of the affected waterway except for those areas covered by the regulated areas; and notifications will be made to the local maritime community through the LNM and BNM well in advance of the events. In addition, this action is only modifying an existing rule which,

in and of itself, did not have a significant impact on a substantial number of small entities.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and record-keeping requirements, Waterways.

33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In § 100.120, revise the TABLE to read as follows:

§ 100.120 Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England COTP Zone.

* * * * *

TABLE TO § 100.120

0.0	May occur May through September
0.1 Tall Ships Visiting Portsmouth	• Event Type: Regatta and Boat Parade. • Sponsor: Portsmouth Maritime Commission, Inc. • Date: A four day event from Friday through Monday.* • Time (Approximate): 9:00 a.m. to 8:00 p.m. each day. • Location: The regulated area includes all waters of Portsmouth Harbor, New Hampshire in the vicinity of Castle Island within the following points (NAD 83): 43°03′11″ N, 070°42′26″ W. 43°03′18″ N, 070°41′51″ W. 43°04′42″ N, 070°42′11″ W. 43°04′28″ N, 070°44′12″ W. 43°05′36″ N, 070°45′56″ W. 43°05′29″ N, 070°46′09″ W. 43°04′19″ N, 070°44′16″ W. 43°04′22″ N, 070°42′33″ W.
6.0	JUNE
6.1 Bar Harbor Blessing of the Fleet	• Event Type: Regatta and Boat Parade. • Sponsor: Town of Bar Harbor, Maine. • Date: A one day event between the 15th of May and the 15th of June.* • Time (Approximate): 12:00 p.m. to 1:30 p.m. • Location: The regulated area includes all waters of Bar Harbor, Maine within the following points (NAD 83): 44°23′32″ N, 068°12′19″ W. 44°23′30″ N, 068°12′00″ W. 44°23′37″ N, 068°12′00″ W. 44°23′35″ N, 068°12′19″ W.
6.2 Charlie Begin Memorial Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Boothbay Harbor Lobster Boat Race Committee. • Date: A one day event in June.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of John's Island within the following points (NAD 83): 43°50′04″ N, 069°38′37″ W. 43°50′54″ N, 069°38′06″ W. 43°50′49″ N, 069°37 50″ W. 43°50′00″ N, 069°38′20″ W.
6.3 Rockland Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Rockland Harbor Lobster Boat Race Committee. • Date: A one day event in June.* • Time (Approximate): 9:00 a.m. to 5:00 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Breakwater Light within the following points (NAD 83): 44°05′59″ N, 069°04′53″ W. 44°06′43″ N, 069°05′25″ W. 44°06′50″ N, 069°05′05″ W. 44°06′05″ N, 069°04′34″ W.
6.4 Windjammer Days Parade of Ships	• Event Type: Tall Ship Parade. • Sponsor: Boothbay Region Chamber of Commerce. • Date: A one day event in June.* • Time (Approximate): 12:00 p.m. to 5:00 p.m. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of Tumbler's Island within the following points (NAD 83): 43°51′02″ N, 069°37′33″ W. 43°50′47″ N, 069°37′31″ W. 43°50′23″ N, 069°37′57″ W. 43°50′01″ N, 069°37′45″ W. 43°50′01″ N, 069°38′31″ W. 43°50′25″,N, 069°38′25″ W. 43°50′49″ N, 069°37′45″ W.
6.5 Bass Harbor Blessing of the Fleet Lobster Boat Race	• Event Type: Power Boat Race. • Sponsor: Tremont Congregational Church. • Date: A one day event in June.*

TABLE TO § 100.120—Continued

	• Time (Approximate): 10:00 a.m. to 2:00 p.m. • Location: The regulated area includes all waters of Bass Harbor, Maine in the vicinity of Lopaus Point within the following points (NAD 83): 44°13′28″ N, 068°21′59″ W. 44°13′20″ N, 068°21′40″ W. 44°14′05″ N, 068°20′55″ W. 44°14′12″ N, 068°21′14″ W.
6.6 Long Island Lobster Boat Race	• Event Type: Power Boat Race. • Sponsor: Long Island Lobster Boat Race Committee. • Date: A one day event in June.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Casco Bay, Maine in the vicinity of Great Ledge Cove and Dorseys Cove off the north west coast of Long Island, Maine within the following points (NAD 83): 43°41′59″ N, 070°08′59″ W. 43°42′04″ N, 070°09′10″ W. 43°41′41″ N, 070°09′38″ W. 43°41′36″ N, 070°09′30″ W.
7.0	JULY
7.1 Moosabec Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Moosabec Boat Race Committee. • Date: A one day event held near the 4th of July.* • Time (Approximate): 10:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters of Jonesport, Maine within the following points (NAD 83): 44°31′21″ N, 067°36′44″ W. 44°31′36″ N, 067°36′47″ W. 44°31′44″ N, 067°35′36″ W. 44°31′29″ N, 067°35′33″ W.
7.2 The Great Race.	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Franklin County Chamber of Commerce. • Date: A one day event on a Sunday between the 15th of June and the 15th of July.* • Time (Approximate): 10:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Saint Albans Bay within the following points (NAD 83): 44°47′18″ N 073°10′27″ W. 44°47′10″ N 073°08′51″ W.
7.3 Searsport Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Searsport Lobster Boat Race Committee. • Date: A one day event in July.* • Time (Approximate): 9:00 a.m. to 4:00 p.m. • Location: The regulated area includes all waters of Searsport Harbor, Maine within the following points (NAD 83): 44°26′50″ N, 068°55′20″ W. 44°27′04″ N, 068°55′26″ W. 44°27′12″ N, 068°54′35″ W. 44°26′59″ N, 068°54′29″ W.
7.4 Stonington Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Stonington Lobster Boat Race Committee. • Date: A one day event in July.* • Time (Approximate): 8:00 a.m. to 3:30 p.m. • Location: The regulated area includes all waters of Stonington, Maine within the following points (NAD 83): 44°08′55″ N, 068°40′12″ W. 44°09′00″ N, 068°40′15″ W. 44°09′11″ N, 068°39′42″ W. 44°09′07″ N, 068°39′39″ W.
7.5 Mayor's Cup Regatta	• Event Type: Sailboat Parade. • Sponsor: Plattsburgh Sunrise Rotary. • Date: A one day event in July.* • Time (Approximate): 10:00 a.m. to 4:00 p.m. • Location: The regulated area includes all waters of Cumberland Bay on Lake Champlain in the vicinity of Plattsburgh, New York within the following points (NAD 83):

TABLE TO § 100.120—Continued

	44°41′26″ N, 073°23′46″ W. 44°40′19″ N, 073°24′40″ W. 44°42′01″ N, 073°25′22″ W.
7.6 The Challenge Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Lake Champlain Maritime Museum. • Date: A one day event in July.* • Time (Approximate): 11:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Button Bay State Park within the following points (NAD 83): 44°12′25″ N, 073°22′32″ W. 44°12′00″ N, 073°21′42″ W. 44°12′19″ N, 073°21′25″ W. 44°13′16″ N, 073°21′36″ W.
7.7 Yarmouth Clam Festival Paddle Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Maine Island Trail Association. • Date: A one day event in July.* • Time (Approximate): 8:00 a.m. to 4:00 p.m. • Location: The regulated area includes all waters in the vicinity of the Royal River outlet and Lane's Island within the following points (NAD 83): 43°47′47″ N, 070°08′40″ W. 43°47′50″ N, 070°07′13″ W. 43°47′06″ N, 070°07′32″ W. 43°47′17″ N, 070°08′25″ W.
7.8 Maine Windjammer Lighthouse Parade	• Event Type: Wooden Boat Parade. • Sponsor: Maine Windjammer Association. • Date: A one day event in July.* • Time (Approximate): 1:00 p.m. to 3:00 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Harbor Breakwater within the following points (NAD 83): 44°06′14″ N, 069°03′48″ W. 44°05′50″ N, 069°03′47″ W. 44°06′14″ N, 069°05′37″ W. 44°05′50″ N, 069°05′37″ W.
7.9 Friendship Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Friendship Lobster Boat Race Committee. • Date: A one day event during a weekend between the 15th of July and the 15th of August.* • Time (Approximate): 9:30 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Friendship Harbor, Maine within the following points (NAD 83): 43°57′51″ N, 069°20′46″ W. 43°58′14″ N, 069°19′53″ W. 43°58′19″ N, 069°20′01″ W. 43°58′00″ N, 069°20′46″ W.
7.10 Harpswell Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Harpswell Lobster Boat Race Committee. • Date: A one day event between the 15th of July and the 15th of August.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes waters of Middle Bay near Harpswell, Maine within the following points (NAD 83): 43°44′15″ N, 070°02′06″ W. 43°44′59″ N, 070°01′21″ W. 43°44′51″ N, 070°01′05″ W. 43°44′06″ N, 070°01′49″ W.
7.11 Eggemoggin Reach Regatta	• Event Type: Wooden Boat Parade. • Sponsor: Rockport Marine, Inc. and Brooklin Boat Yard. • Date: A one day event on a Saturday between the 15th of July and the 15th of August.* • Time (Approximate): 11:00 a.m. to 7:00 p.m. • Location: The regulated area includes all waters of Eggemoggin Reach and Jericho Bay in the vicinity of Naskeag Harbor, Maine within the following points (NAD 83): 44°15′16″ N, 068°36′26″ W. 44°12′41″ N, 068°29′26″ W. 44°07′38″ N, 068°31′30″ W.

TABLE TO § 100.120—Continued

	44°12′54″ N, 068°33′46″ W.
8.0	AUGUST
8.1	(event moved to 7.11 of this table).
8.2 Southport Rowgatta Rowing and Paddling Boat Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Boothbay Region YMCA. • Date: A one day event in August.* • Time (Approximate): 8:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Sheepscot Bay and Boothbay, on the shore side of Southport Island, Maine within the following points (NAD 83): 43°50′26″ N, 069°39′10″ W. 43°49′10″ N, 069°38′35″ W. 43°46′53″ N, 069°39′06″ W. 43°46′50″ N, 069°39′32″ W. 43°49′07″ N, 069°41′43″ W. 43°50′19″ N, 069°41′14″ W. 43°51′11″ N, 069°40′06″ W.
8.3 Winter Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Winter Harbor Chamber of Commerce. • Date: A one day event in August.* • Time (Approximate): 9:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Winter Harbor, Maine within the following points (NAD 83): 44°22′06″ N, 068°05′13″ W. 44°23′06″ N, 068°05′08″ W. 44°23′04″ N, 068°04′37″ W. 44°22′05″ N, 068°04′44″ W.
8.4 Lake Champlain Dragon Boat Festival	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Dragonheart Vermont. • Date: A one day event in August.* • Time (Approximate): 7:00 a.m. to 5:00 p.m. • Location: The regulated area includes all waters of Burlington Bay within the following points (NAD 83): 44°28′49″ N, 073°13′22″ W. 44°28′41″ N, 073°13′36″ W. 44°28′28″ N, 073°13′31″ W. 44°28′38″ N, 073°13′18″ W.
8.5 Merritt Brackett Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Town of Bristol, Maine. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Pemaquid Harbor, Maine within the following points (NAD 83): 43°52′16″ N, 069°32′10″ W. 43°52′41″ N, 069°31′43″ W. 43°52′35″ N, 069°31′29″ W. 43°52′09″ N, 069°31′56″ W.
8.6 Multiple Sclerosis Harbor Fest Regatta And Lobster Boat/Tugboat Races.	• Event Type: Regatta and Sailboat Race; Power Boat Race. • Sponsor: Maine Chapter, Multiple Sclerosis Society. • Date: A two day event in August.* • Time (Approximate): 10:00 a.m. to 4:00 p.m. • Location: The regulated area for the start of the race includes all waters of Casco Bay, Maine in the vicinity of Peaks Island within the following points (NAD 83): 43°40′25″ N, 070°14′21″ W. 43°40′36″ N, 070°13′56″ W. 43°39′58″ N, 070°13′21″ W. 43°39′46″ N, 070°13′51″ W.
9.0	SEPTEMBER
9.1 Pirates Festival Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Eastport Pirates Festival. • Date: A one day event in September.* • Time (Approximate): 11:00 a.m. to 6:00 p.m. • Location: The regulated area includes all waters in the vicinity of Eastport Harbor, Maine within the following points (NAD 83): 44°54′14″ N, 066°58′52″ W.

TABLE TO § 100.120—Continued

	44°54′14″ N, 068°58′56″ W. 44°54′24″ N, 066°58′52″ W. 44°54′24″ N, 066°58′56″ W.

* Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

PART 165—REGULATED NAVIGATION, AREAS AND LIMITED ACCESS AREAS

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

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

■ 4. In § 165.171, revise the TABLE to read as follows:

§ 165.171 Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England COTP Zone.

* * * * *

TABLE TO § 165.171

5.0	MAY
5.1 Hawgs, Pies, & Fireworks	• Event Type: Fireworks Display. • Sponsor: Gardiner Maine Street. • Date: One night event between the 15th of May and the 15th of June.* • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of the Gardiner Waterfront, Gardiner, Maine in approximate position: 44°13′52″ N, 069°46′08″ W (NAD 83).
6.0	JUNE
6.1 Rotary Waterfront Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Gardiner Rotary. • Date: Two night event on a Wednesday and Saturday in June.* • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of the Gardiner Waterfront, Gardiner, Maine in approximate position: 44°13′52″ N, 069°46′08″ W (NAD 83).
6.2 LaKermesse Fireworks	• Event Type: Fireworks Display. • Sponsor: Ray Gagne. • Date: One night event in June.* • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: Biddeford, Maine in approximate position: 43°29′37″ N, 070°26′47″ W (NAD 83).
6.3 Windjammer Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Boothbay Harbor Region Chamber of Commerce. • Date: One night event in June.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position: 43°50′38″ N, 069°37′57″ W (NAD 83).
7.0	JULY
7.1 Vinalhaven 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Vinalhaven 4th of July Committee. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Grime's Park, Vinalhaven, Maine in approximate position: 44°02′34″ N, 068°50′26″ W (NAD 83).
7.2 Burlington Independence Day Fireworks	• Event Type: Fireworks Display. • Sponsor: City of Burlington, Vermont. • Date: One night event in July.* • Time (Approximate): 9:00 p.m. to 11:00 p.m. • Location: From a barge in the vicinity of Burlington Harbor, Burlington, Vermont in approximate position: 44°28′31″ N, 073°13′31″ W (NAD 83).
7.3 Camden 3rd of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Camden, Rockport, Lincolnville Chamber of Commerce. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:00 p.m.

TABLE TO § 165.171—Continued

	• Location: In the vicinity of Camden Harbor, Maine in approximate position: 44°12′32″ N, 069°02′58″ W (NAD 83).
7.4 Bangor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Bangor 4th of July Fireworks. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Bangor Waterfront, Bangor, Maine in approximate position: 44°47′27″ N, 068°46′31″ W (NAD 83).
7.5 Bar Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Bar Harbor Chamber of Commerce. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Bar Harbor Town Pier, Bar Harbor, Maine in approximate position: 44°23′31″ N, 068°12′15″ W (NAD 83).
7.6 Boothbay Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Boothbay Harbor. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position: 43°50′38″ N, 069°37′57″ W (NAD 83).
7.7 Colchester 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Colchester, Recreation Department. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of Bayside Beach and Mallets Bay in Colchester, Vermont in approximate position: 44°32′44″ N, 073°13′10″ W (NAD 83).
7.8 Eastport 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Eastport 4th of July Committee. • Date: One night event in July.* • Time (Approximate): 9:00 p.m. to 9:30 p.m. • Location: From the Waterfront Public Pier in Eastport, Maine in approximate position: 44°54′25″ N, 066°58′55″ W (NAD 83).
7.9 Ellis Short Sand Park Trustee Fireworks	• Event Type: Fireworks Display. • Sponsor: William Burnham. • Date: One night event in July.* • Time (Approximate): 8:30 p.m. to 11:00 p.m. • Location: In the vicinity of York Beach, Maine in approximate position: 43°10′27″ N, 070°36′26″ W (NAD 83).
7.10 Hampton Beach 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Hampton Beach Village District. • Date: One night event in July.* • Time (Approximate): 8:30 p.m. to 11:00 p.m. • Location: In the vicinity of Hampton Beach, New Hampshire in approximate position: 42°54′40″ N, 070°36′25″ W (NAD 83).
7.11 Jonesport 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Jonesport 4th of July Committee. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Beals Island, Jonesport, Maine in approximate position: 44°31′18″ N, 067°36′43″ W (NAD 83).
7.12 Lubec Bicentennial Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Lubec, Maine. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Lubec Public Boat Launch in approximate position:

TABLE TO § 165.171—Continued

	44°51′52″ N, 066°59′06″ W (NAD 83).
7.13 Main Street Heritage Days 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Main Street Inc. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Reed and Reed Boat Yard, Woolwich, Maine in approximate position: 43°54′56″ N, 069°48′16″ W (NAD 83).
7.14 Portland Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Department of Parks and Recreation, Portland, Maine. • Date: One night event in July.* • Time (Approximate): 8:30 p.m. to 10:30 p.m. • Location: In the vicinity of East End Beach, Portland, Maine in approximate position: 43°40′16″ N, 070°14′44″ W (NAD 83).
7.15 St. Albans Day Fireworks	• Event Type: Fireworks Display. • Sponsor: St. Albans Area Chamber of Commerce. • Date: One night event in July.* • Time (Approximate): 9:00 p.m. to 10:00 p.m. • Location: From the St. Albans Bay dock in St. Albans Bay, Vermont in approximate position: 44°48′25″ N, 073°08′23″ W (NAD 83).
7.16 Stonington 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Deer Isle—Stonington Chamber of Commerce. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Two Bush Island, Stonington, Maine in approximate position: 44°08′57″ N, 068°39′54″ W (NAD 83).
7.17 Southwest Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Sharon Gilley. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: Southwest Harbor, Maine in approximate position: 44°16′25″ N, 068°19′21″ W (NAD 83).
7.18 Prentice Hospitality Group Fireworks	• Event Type: Fireworks Display. • Sponsor: Prentice Hospitality Group. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: Chebeague Island, Maine in approximate position: 43°45′12″ N, 070°06′27″ W (NAD 83).
7.19 Shelburne Triathlons	• Event Type: Swim Event. • Sponsor: Race Vermont. • Date: Up to three Saturdays throughout July and August.* • Time (Approximate): 7:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Shelburne Beach in Shelburne, Vermont within a 400 yard radius of the following point (NAD 83): 44°21′45″ N, 075°15′58″ W.
7.20 St. George Days Fireworks	• Event Type: Fireworks. • Sponsor: Town of St. George. • Date: One night event in July.* • Time (Approximate): 8:30 p.m. to 10:30 p.m. • Location: The regulated area includes all waters of Inner Tenants Harbor, ME, in approximate position (NAD 83): 43°57′41.37″ N, 069°12′45″ W.
7.21 Tri for a Cure Swim Clinics and Triathlon	• Event Type: Swim Event. • Sponsor: Maine Cancer Foundation. • Date: A multi-day event held throughout July.* • Time (Approximate): 8:30 a.m. to 11:30 a.m. • Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Spring Point Light within the following points (NAD 83): 43°39′01″ N, 070°13′32″ W. 43°39′07″ N, 070°13′29″ W. 43°39′06″ N, 070°13′41″ W.

TABLE TO § 165.171—Continued

	43°39′01″ N, 070°13′36″ W.
7.22 Richmond Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Richmond, Maine. • Date: A one day event in July.* • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: From a barge in the vicinity of the inner harbor, Tenants Harbor, Maine in approximate position: 44°08′42″ N, 068°27′06″ W (NAD83).
7.23 Colchester Triathlon	• Event Type: Swim Event. • Sponsor: Colchester Parks and Recreation Department. • Date: A one day event in July.* • Time (Approximate): 7:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters of Malletts Bay on Lake Champlain, Vermont within the following points (NAD 83): 44°32′18″ N, 073°12′35″ W. 44°32′28″ N, 073°12′56″ W. 44°32′57″ N, 073°12′38″ W.
7.24 Peaks to Portland Swim	• Event Type: Swim Event. • Sponsor: Cumberland County YMCA. • Date: A one day event in July.* • Time (Approximate): 5:00 a.m. to 1:00 p.m. • Location: The regulated area includes all waters of Portland Harbor between Peaks Island and East End Beach in Portland, Maine within the following points (NAD 83): 43°39′20″ N, 070°11′58″ W. 43°39′45″ N, 070°13′19″ W. 43°40′11″ N, 070°14′13″ W. 43°40′08″ N, 070°14′29″ W. 43°40′00″ N, 070°14′23″ W. 43°39′34″ N, 070°13′31″ W. 43°39′13″ N, 070°11′59″ W.
7.25 Friendship Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Friendship. • Date: A one day event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Town Pier, Friendship Harbor, Maine in approximate position: 43°58′23″ N, 069°20′12″ W (NAD83).
7.26 Bucksport Festival and Fireworks	• Event Type: Fireworks Display. • Sponsor: Bucksport Bay Area Chamber of Commerce. • Date: A one day event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. Location: In the vicinity of the Verona Island Boat Ramp, Verona, Maine, in approximate position: 44°34′9″ N, 068°47′28″ W (NAD83).
7.27 Nubble Light Swim Challenge	• Event Type: Swim Event. • Sponsor: Nubble Light Challenge. • Date: A one day event in July.* • Time (Approximate): 9:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters around Cape Neddick, Maine and within the following coordinates: 43°10′28″ N, 070°36′26″ W. 43°10′34″ N, 070°36′06″ W. 43°10′30″ N, 070°35′45″ W. 43°10′17″ N, 070°35′24″ W. 43°09′54″ N, 070°35′18″ W. 43°09′42″ N, 070°35′37″ W. 43°09′51″ N, 070°37′05″ W.
8.0	AUGUST
8.1 Sprucewold Cabbage Island Swim	• Event Type: Swim Event. • Sponsor: Sprucewold Association. • Date: A one day event in August.* • Time (Approximate): 1:00 p.m. to 6:00 p.m. • Location: The regulated area includes all waters of Linekin Bay between Cabbage Island and Sprucewold Beach in Boothbay Harbor, Maine within the following points (NAD 83): 43°50′37″ N, 069°36′23″ W.

TABLE TO § 165.171—Continued

	43°50′37″ N, 069°36′59″ W. 43°50′16″ N, 069°36′46″ W. 43°50′22″ N, 069°36′21″ W.
8.2 Westerlund's Landing Party Fireworks	• Event Type: Fireworks Display. • Sponsor: Portside Marina. • Date: A one day event in August.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Westerlund's Landing in South Gardiner, Maine in approximate position: 44°10′19″ N, 069°45′24″ W (NAD 83).
8.3 Y-Tri Triathlon	• Event Type: Swim Event. • Sponsor: Plattsburgh YMCA. • Date: A one day event in August.* • Time (Approximate): 9:00 a.m. to 10:00 a.m. • Location: The regulated area includes all waters of Treadwell Bay on Lake Champlain in the vicinity of Point Au Roche State Park, Plattsburgh, New York within the following points (NAD 83): 44°46′30″ N, 073°23′26″ W. 44°46′17″ N, 073°23′26″ W. 44°46′17″ N, 073°23′46″ W. 44°46′29″ N, 073°23′46″ W.
8.4 York Beach Fire Department Fireworks	• Event Type: Fireworks Display. • Sponsor: York Beach Fire Department. • Date: A one day event in August.* • Time (Approximate): 8:30 p.m. to 11:30 p.m. • Location: In the vicinity of Short Sand Cove in York, Maine in approximate position: 43°10′27″ N, 070°36′25″ W (NAD 83).
8.5 Rockland Breakwater Swim	• Event Type: Swim Event. • Sponsor: Pen-Bay Masters. • Date: A one day event in August.* • Time (Approximate): 7:30 a.m. to 1:30 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of Jameson Point within the following points (NAD 83): 44°06′16″ N, 069°04′39″ W 44°06′13″ N, 069°04′36″ W. 44°06′12″ N, 069°04′43″ W. 44°06′17″ N, 069°04′44″ W. 44°06′18″ N, 069°04′40″ W.
8.6 Tri for Preservation	• Event Type: Swim Event. • Sponsor: Tri-Maine Productions. • Date: A one day event in August.* • Time (Approximate): 7:30 a.m. to 9:00 a.m. • Location: In the vicinity of Crescent Beach State Park in Cape Elizabeth, Maine in approximate position: 43°33′46″ N, 070°13′48″ W. 43°33′41″ N, 070°13′46″ W. 43°33′44″ N, 070°13′40″ W. 43°33′47″ N, 070°13′46″ W.
8.7 North Hero Air Show	• Event Type: Air Show. • Sponsor: North Hero Fire Department. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 5:00 p.m. • Location: In the vicinity of Shore Acres Dock, North Hero, Vermont in approximate position: 44°48′24″ N, 073°17′02″ W. 44°48′22″ N, 073°16′46″ W. 44°47′53″ N, 073°16′54″ W. 44°47′54″ N, 073°17′09″ W.
9.0	SEPTEMBER
9.1 Windjammer Weekend Fireworks.	• Event Type: Fireworks Display. • Sponsor: Town of Camden, Maine. • Date: A one night event in September.* • Time (Approximate): 8:00 p.m. to 9:30 p.m.

TABLE TO § 165.171—Continued

	• Location: From a barge in the vicinity of Northeast Point, Camden Harbor, Maine in approximate position: 44°12′10″ N, 069°03′11″ W (NAD 83).
9.2 Eastport Pirate Festival Fireworks	• Event Type: Fireworks Display. • Sponsor: Eastport Pirate Festival. • Date: A one night event in September.* • Time (Approximate): 7:00 p.m. to 10:00 p.m. • Location: From the Waterfront Public Pier in Eastport, Maine in approximate position: 44°54′17″ N, 066°58′58″ W (NAD 83).
9.3 The Lobsterman Triathlon	• Event Type: Swim Event. • Sponsor: Tri-Maine Productions. • Date: A one day event in September.* • Time (Approximate): 8:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters in the vicinity of Winslow Park in South Freeport, Maine within the following points (NAD 83): 43°47′59″ N, 070°06′56″ W. 43°47′44″ N, 070°06′56″ W. 43°47′44″ N, 070°07′27″ W. 43°47′57″ N, 070°07′27″ W.
9.4 Eliot Festival Day Fireworks	• Event Type: Fireworks Display. • Sponsor: Eliot Festival Day Committee. • Date: A one night event in September.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Eliot Town Boat Launch, Eliot, Maine in approximate position: 43°08′56″ N, 070°49′52″ W (NAD 83).

* Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

Dated: March 3, 2014.

B.S. Gilda,

Captain, U.S. Coast Guard, Captain of the Port Sector Northern New England.

[FR Doc. 2014–06244 Filed 3–31–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0121]

RIN 1625–AA09

Drawbridge Operation Regulation; Great Egg Harbor Bay, (Ship Channel and (Beach Thorofare NJICW)), Somers Point and Ocean City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the operating schedules that govern the opening of the S52 (Ship Channel) Bridge, mile 0.5, across Great Egg Harbor Bay at Somers Point, NJ and the Route 52 (Ninth Street) Bridge, mile 80.4, across Great Egg Harbor Bay Beach Thorofare NJICW at Ocean City, NJ. The existing regulations contain drawbridge operation schedules for the Route 52 Bridges. However, the existing bridges were modified in 2012 from movable bridges to fixed bridges. Since the bridges are no longer movable bridges, the regulations controlling the opening and closing of the bridges are no longer necessary.

DATES: This rule is effective April 1, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0121. 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 in ''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. Jim Rousseau, Bridge Management Specialist, Coast Guard, telephone 757–398–6557, email *James.L.Rousseau2@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code
NJICW New Jersey Intracoastal Waterway

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Route 52 bridges that once required draw operations as outlined in 33 CFR 117.753 and 33 CFR 117.733(h) were modified from movable bridges to fixed bridges. As such, the bridges no longer open for the passage of vessels. Therefore, the regulations are no longer

applicable and should be removed from publication. It is unnecessary to publish an NPRM because this regulatory action does not purport to place any restrictions on mariners but rather removes restrictions that have no further use or value.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The bridges have been fixed bridges for 2 years and this rule merely requires an administrative change to the Code of Federal Regulations, in order to omit a regulatory requirement that is no longer applicable or necessary. The modification has already taken place and the removal of the regulation will not affect mariners currently operating on this waterway. Therefore, a delayed effective date is unnecessary.

B. Basis and Purpose

On September 19, 2005, a Coast Guard Bridge Permit (1–05–5) was issued to the New Jersey Department of Transportation (NJDOT) to replace the existing bascule bridges, which carries Route 52 over Great Egg Harbor Bay (Ship Channel) at Somers Point, NJ and over Great Egg Harbor Bay (Beach Thorofare NJICW) at Ocean City, NJ, with new fixed bridges. NJDOT completed construction for the new fixed bridges in May 2012. The elimination of these drawbridges necessitates the removal of the drawbridge operation regulations in 33 CFR 117.753 and 33 CFR 117.733(h) that contain the operating schedules pertaining to the former drawbridges.

C. Discussion of the Final Rule

The Coast Guard is changing the regulation in 33 CFR 117 without publishing an NPRM. The change removes the regulations governing movable bridges that were modified to fixed bridges. Specifically, this rule will remove the section of 33 CFR 117.753 that refers to the S52 Bridge at mile 0.5 and section of 33 CFR 117.733(h), that refers to the Route 52 Bridge at mile 80.4, from the Code of Federal Regulations since they govern bridges that are no longer able to be opened.

D. Regulatory Analysis

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

1. Regulatory Planning and Review

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13653, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We reached this conclusion based on the fact that the regulations are no longer necessary since these bridges have been modified to fixed bridges.

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 final rule would affect the following entities, some of which might be small entities: None. Due to the fact that these bridges have been fixed bridges for 2 years, this final rule will not have a significant economic impact on a substantial number of small entities.

3. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

4. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt 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 have determined that it does not have implications for federalism.

5. Protest Activities

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

6. Unfunded Mandates Reform Act

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

7. Taking of Private Property

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

8. Civil Justice Reform

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

9. Protection of Children

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

10. Indian Tribal Governments

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

11. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

12. Technical Standards

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

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the removal of regulations for bridges that are now fixed bridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

§ 117.733 [Amended]

■ 2. In § 117.733, remove paragraph (h) and redesignate paragraphs (i) through (m) as paragraphs (h) through (l).

§ 117.753 [Removed]

■ 3. Remove § 117.753.

Dated: March 19, 2014.

Steven H. Ratti,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2014–07083 Filed 3–31–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2014–0191; FRL–9908–27–Region 6]

Approval and Promulgation of Implementation Plans; Texas; Revisions to the Minor New Source Review (NSR) State Implementation Plan (SIP); Types of Standard Permits, State Pollution Control Project Standard Permit and Control Methods for the Permitting of Grandfathered and Electing Electric Generating Facilities

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving several revisions to the Texas State Implementation Plan (SIP) related to the Texas Minor New Source Review (NSR) Standard Permits (SP) Program. First, EPA is approving revisions submitted by the Texas Commission on Environmental Quality (TCEQ, or Commission) on January 3, 2000, and March 11, 2011, expanding the Texas SP Program to include the Rule Standard Permit (Rule SP). The EPA is also approving a revision to the Texas SIP submitted by the TCEQ on February 1, 2006, for a specific Rule SP, the Rule Standard Permit for Pollution Control Projects (Rule SP for PCP) as meeting the requirements for a Minor NSR SIP revision. Finally, because EPA is approving the Rule SP for PCP, EPA is also approving a severable portion of the January 3, 2000, submittal concerning the Texas Senate Bill 7 (SB7) permitting program for grandfathered and electing electric generating facilities (EGFs). All of the Texas SB7 EGFs permitting program provisions have been approved as part of the Texas NSR SIP except for this severable portion. This severable portion allowing for the use of the Rule SP for PCP for permitting of collateral emission increases is being approved as meeting the requirements for a Minor NSR SIP revision. EPA is approving these actions under section 110 of the Federal Clean Air Act (the Act or CAA) through a direct final rulemaking.

DATES: This rule is effective on June 2, 2014 without further notice, unless EPA receives relevant adverse comment by May 1, 2014. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2014–0191, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions.
- Email: Ms. Adina Wiley at *wiley.adina@epa.gov.* Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Mail or delivery: Ms. Adina Wiley, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2014–0191. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. 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 and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy

location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Barrett (6PD–R), Air Permits Section, telephone (214) 665–7227; email: *barrett.richard@epa.gov.* Ms. Adina Wiley (6PD–R), Air Permits Section, telephone (214) 665–2115; email: *wiley.adina@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''our,'' and ''us'' refers to EPA.

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I. Overview of State Submittals

EPA is approving through direct final action revisions to the Texas Minor NSR Program, related to the Texas SP Program, which were submitted on January 3, 2000; February 1, 2006; and March 11, 2011, and are summarized below. The effect of this direct final action will be to approve into the Texas Minor NSR SIP the provisions for the adoption and development of the Rule SP, the specific Rule SP for PCP, and a provision allowing for the use of the Rule SP for PCP for grandfathered and electing electric generating facilities. The approval of the provisions for the adoption and development of Rule SP brings this category of SP under the umbrella provisions of the Texas Minor NSR SIP SP Program, ensuring that Rule SP meet all the requirements of the Act for Minor NSR permits. As discussed more fully in Sections I.B and II.B of this notice, we recognize that the TCEQ has recently promulgated a Non-Rule SP for PCP to replace the Rule SP for PCP. Despite the replacement of the Rule SP for PCP with the Non-Rule SP for PCP, the TCEQ has not withdrawn the Rule SP for PCP from our consideration. Therefore, we are acting on it today. Additionally, our action today is responsive to the March 26, 2012, Fifth Circuit Court of Appeals decision to vacate and remand our September 15, 2010 disapproval of the Rule SP for PCP, as amended by the Court's order of February 21, 2014, directing EPA to take final action on this submittal by May 19, 2014.[1] [2]

A. 30 TAC Section 116.601(a)(1): Types of Standard Permits

Under state law, the Texas Standard Permits (SP) Program at 30 TAC Chapter 116, Subchapter F, is a component of the Texas Minor NSR Program. A SP under the Texas Minor NSR Program is not a case-by-case Minor NSR permit, but rather is a streamlined mechanism with all permitting requirements for construction and operation of a certain source category. Within the Texas SP Program, the TCEQ has the ability to develop and implement two types of Standard Permits—Rule Standard Permits (Rule SP) and Non-Rule Standard Permits (Non-Rule SP). These two categories of SP are identified at 30 TAC Section 116.601(a). The Non-Rule SP and the general provisions applicable to all SP are already approved as part of the Texas Minor NSR SIP. We are approving into the Texas Minor NSR SIP portions of two revisions to the Texas SIP submitted on January 3, 2000, and March 11, 2011, pertaining to the Rule SP. Specifically, we are approving 30 TAC Section 116.601(a)(1) as initially adopted on December 16, 1999, and submitted as a revision to the Texas SIP on January 3, 2000, which addresses the development of Rule SP. Additionally, we are approving a non-substantive revision to 30 TAC Section 116.601(a)(1) adopted on February 9, 2011, and submitted as a revision to the Texas SIP on March 11, 2011. EPA has taken no action to date on the development of Rule SP at 30 TAC Section 116.601(a)(1).[3] Therefore, our action approves the initial adoption and submittal on January 3, 2000, and the revisions submitted on March 11, 2011, addressing the development and implementation of Rule SP. Further, our action today approves the general provisions at 30 TAC Sections 601, 604, 605, 606, 610, 611, 614 and 615 pertaining to all SP as applicable to the Rule SP as well as the Non-Rule SP. With today's action, the category of Rule SP will now become part of the Texas Minor NSR SIP.

B. 30 TAC Section 116.617: State Pollution Control Project Standard Permit

The Texas State Pollution Control Project Standard Permit (referred to as the SP for PCP) before us for SIP action is a Rule SP that must meet the requirements of 30 TAC Section 116.601(a)(1), which we are also approving today as described above. The Rule SP for PCP at 30 TAC Section 116.617 is a component of Texas's broader SP Program, which originated in 1994.

The Rule SP for PCP authorizes projects undertaken voluntarily, or as required by any federal or state statute or rule, that reduce or maintain currently authorized air emission rates for facilities authorized by a NSR permit, Standard Permit, or Permits by Rule, and that may have associated Minor NSR collateral emission increases in other regulated pollutants.[4] [5] On April 22, 1994, Texas adopted a regulation at 30 TAC Section 116.617 that was a Rule SP applicable to pollution control projects for any regulated pollutant. On January 27, 2006, Texas repealed the previously submitted Rule SP for PCP and adopted a new Rule SP for PCP that is limited to Minor NSR only. Texas adopted the new Rule SP for PCP to be consistent with federal law after the D.C. Circuit limited the use of pollution control projects to Minor NSR. *New York* v. *EPA,* 413 F.3d 3, 40–42 (D.C. Cir. 2005). On February 1, 2006, Texas submitted the newly adopted Rule SP for PCP found at 30 TAC Section 116.617, among other provisions, to the EPA for approval into the Texas SIP.[6] On

[1] *Luminant Generation Co., LLC* v. *EPA,* 675 F 3d 917 at 922 (5th Cir. 2012) (hereinafter *Luminant*).

[2] Order on Motion to Amend and Enforce Judgment, *Luminant Generation Co.* v. *EPA,* No. 10–60891 (Fifth Cir. Feb. 21, 2014), amending *Luminant.*

[3] EPA approved the provision at 30 TAC Section 116.601(a)(2) regarding the development of Non-Rule SP in a separate rulemaking. See 68 FR 64543, November 14, 2003.

[4] See 30 TAC Section 116.617(a)(1) describing the scope and applicability of the Rule SP for PCP as adopted on January 27, 2006 by the State of Texas and submitted as a revision to the Texas SIP on February 1, 2006. See also the TCEQ Response to Comments provided in the preamble to the rule adoption at 31 TexReg 529, January 27, 2006.

[5] See *Luminant,* 675 F.3d at 922 n. 3 (''although the projects by definition reduce or maintain emissions of the primary pollutant, they have the potential to cause incidental increases in the emissions of other regulated pollutants.''

[6] The February 1, 2006, SIP submittal also included amendments to 30 TAC Sections 116.610(a) and 116.610(b). EPA disapproved 30 TAC Sections 116.610(a) and (b) in our September 15, 2010 disapproval of the Rule SP for PCP. See 75 FR 56424. EPA consented to vacatur of our disapproval of 30 TAC Sections 116.610(a) and (b), and on March 26, 2012, the Fifth Circuit Court of Appeals vacated our disapproval of those two provisions, In response to the Court's vacatur and remand, EPA separately finalized approval of 30

September 23, 2009, EPA proposed to disapprove revisions to the Texas SIP, including the Rule SP for PCP at 30 TAC Section 116.617, on the basis that the Rule SP for PCP did not meet the requirements for a Minor NSR SIP revision. 74 FR 48467, 48471. EPA finalized our disapproval of the Rule SP for PCP on September 15, 2010. See 75 FR 56424.

Upon finalization of our disapproval, several parties (Luminant Generation Company, L.L.C.; Oak Grove Management Company, L.L.C.; Big Brown Power Company, L.L.C.; Luminant Mining Company, L.L.C.; Sandow Power Company, L.L.C.; Texas Association of Business; Texas Association of Manufacturers; Texas Oil & Gas Association; Chamber of Commerce of the United States of America; and the State of Texas) appealed our disapproval to the Fifth Circuit Court of Appeals.

Prior to a ruling by the Fifth Circuit Court of Appeals, the TCEQ conducted rulemaking to revise the Rule SP for PCP at 30 TAC Section 116.617 and issued pursuant to the Texas Minor NSR SIP, a new Non-Rule SP for PCP to replace the Rule SP for PCP at 30 TAC Section 116.617. On February 9, 2011, TCEQ adopted, without submitting for SIP approval, revisions to the Rule SP for PCP at 30 TAC Section 116.617. Those new non-SIP provisions are codified at 30 TAC Section 116.617(a)(4) and (a)(5), and provide that ''no new or modified registrations will be accepted and no existing registrations will be renewed'' under the Rule SP for PCP ''on or after March 3, 2011.'' See 36 TexReg 1323, February 25, 2011. Additionally, the Non-Rule SP for PCP issued on February 9, 2011, that became part of the Texas Minor NSR SIP immediately upon its effective date of March 3, 2011, requires at sections (1)(D)(i)–(iii) that all Rule SP for PCP authorized as of March 3, 2011, must be converted to a Non-Rule SP for PCP no later than the ten-year renewal anniversary of the authorization.[7] Therefore, from March 3, 2011, forward, under the Texas SIP, no source can register for a new Rule SP for PCP at 30 TAC Section 116.617, and registrants for the existing Rule SP for PCP must use for revision and renewal purposes, the Non-Rule SP for PCP which the TCEQ developed pursuant to the Texas SIP at 30 TAC Sections 116.601(a)(2) and 116.603. 36 TexReg 2305, February 25, 2011. Because a SP must be renewed every 10 years pursuant to the SIP-approved provisions at 30 TAC Section 116.604, all PCPs currently authorized under a Rule SP for PCP are required by the Texas Minor NSR SIP to be renewed and comply with the Non-Rule SP for PCP no later than March 3, 2021. Effectively, the SIP Non-Rule SP for PCP creates a sunset date beyond which the Rule SP for PCP will be unavailable.

On March 26, 2012, the Fifth Circuit Court of Appeals granted the petition for review, vacated our disapproval of the Rule SP for PCP, and remanded the matter back to EPA for further review. *Luminant,* 675 F 3d 917. The ruling did not address the changes Texas had made to the Rule SP for PCP but not submitted for SIP approval, including the date limitations Texas added to the Rule SP for PCP. Nor did the decision address the availability of the SIP-approved Non-Rule SP for PCP as a replacement for the Rule SP for PCP and the mechanism to obtain federal authorization for PCP in Texas.[8] The effect of the ruling was to put back in front of EPA for review and consideration as a revision to the Texas SIP the Rule SP for PCP as submitted on February 1, 2006. The Fifth Circuit issued an Order on February 21, 2014, instructing EPA to issue a final rule regarding the Rule SP for PCP by May 19, 2014.

Our action today is confined to the approval of the Rule SP for PCP submitted on February 1, 2006, at 30 TAC Section 116.617, combined with the approval of the Rule SP as an available type of SP, as meeting the Minor NSR SIP requirements consistent with the Fifth Circuit decision regarding the Rule SP for PCP as a Minor NSR program.[9] Today's action reflects EPA's evaluation of the Texas regulations and its conclusion that the Texas rules are consistent with the requirements of the CAA. EPA's approval of the Rule SP for PCP into the Texas SIP will not provide federal authorization for projects registered under the Rule SP for PCP before it was SIP-approved. CAA Section 110(i); 40 CFR 51.105; *see also, Train* v. *Natural Res. Def. Council, Inc.,* 421 U.S. 60 (1975); *Bethlehem Steel Corp.* v. *Gorsuch,* 742 F.2d 1028, 1034 (7th Cir. 1984); *United States* v. *Ford Motor Co.,* 814 F.2d 1099, 1102–03 (6th Cir. 1987); *Sierra Club* v. *TVA,* 430 F.3d 1337, 1347 (11th Cir. 2005).[10]

C. 30 TAC Section 116.911(a)(2): Control Method for Grandfathered and Electing Electric Generating Facilities

We are approving a portion of revisions to the Texas SIP submitted on January 3, 2000, regarding the application and permitting procedures for grandfathered and electing electric generating facilities (EGFs). Specifically, we are approving 30 TAC Section 116.911(a)(2)—Control method. Background information about the permitting of grandfathered and electing EGFs in Texas subject to Texas Senate Bill 7 (SB 7) is available in EPA's partial approval and partial disapproval of the Texas provisions for permitting grandfathered and electing EGFs on January 11, 2011. See 76 FR 1525.

As explained more fully in EPA's January 11, 2011 notice, EPA partially approved and partially disapproved the Texas provisions for permitting grandfathered and electing EGFs, referred to as the Texas SB 7 permitting program. 76 FR 1525. Specifically, EPA partially disapproved the provisions for control methods for grandfathered electric generating units at 30 TAC Section 116.911(a)(2) because they provided that a source could obtain coverage under the Rule SP for PCP at 30 TAC Section 116.617, which we had disapproved on September 15, 2010. Upon finalization of our partial approval and partial disapproval, several parties (Luminant Generation Company, L.L.C.; Big Brown Power Company, L.L.C.; and the State of Texas) filed a petition for review of EPA action to the Fifth Circuit Court of Appeals. On September 12, 2012, EPA requested the Fifth Circuit vacate our disapproval and remand the provision back to EPA for further proceedings. On October 4, 2012, the Fifth Circuit granted our request by vacating our disapproval of

TAC Sections 116.610(a) and (b) on February 14, 2014. See 79 FR 8861.

[7] The State's summary document explains that ''This new non-rule standard permit replaces the existing 30 TAC § 116.617 for authorization of new pollution control projects (PCP).'' Air Quality Standard Permit For Pollution Control Projects Summary Document, Section II—Explanation and Background of Air Quality Standard Permit (March 10, 2011), available at *http://www.tceq.state.tx.us/permitting/air/announcements/nsr-announce-3-10-11.html.*

[8] On remanding the case to EPA, the court noted as follows ''It is difficult to conceive, and the EPA has not suggested, how it could disapprove the PCP Standard Permit under the appropriate statutory factors . . . when pressed at oral argument, the EPA was unable to identify any legal deficiencies with the PCP Standard Permit other than its supposed failure to meet . . . requirements that today we hold unlawful—despite the half decade the EPA has had to evaluate it. Nevertheless, we defer to the Agency to evaluate Texas's regulations in light of the proper CAA standards.'' *Id.* At 932 n. 12.

[9] The Fifth Circuit has recognized that the Rule SP for PCP ''applies only to minor NSR.'' 675 F.3d at 922.

[10] We state this to clarify any potential confusion created by statements made in the Fifth Circuit February 21, 2014 Order on Motion to Amend and Enforce Judgment that seem to imply that authorizations under the Rule SP for PCP obtained prior to EPA's SIP approval ''may in fact be valid under the Clean Air Act'' upon approval by EPA. *Luminant et al.,* v. *EPA,* Order on Motion to Amend and Enforce Judgement, Case No. 10–60891, at 9 (5th Cir. Feb. 21, 2014).

30 TAC Section 116.911(a)(2) and remanded the matter back to EPA.

Our approval today of 30 TAC Section 116.601(a)(1), into the Texas SIP, results in the application of the SIP's general provisions for SP applying now to Rule SP as well as Non-Rule SP. Additionally, our evaluation today is that the specific Rule SP for PCP at 30 TAC Section 116.617, as submitted on February 1, 2006, when combined with the general provisions for SP, satisfies the requirements for Minor NSR and our prior basis for disapproval of 30 TAC Section 116.911(a)(2) is no longer supportable. Accordingly, today's direct final action approving 30 TAC Sections 116.601(a)(1) and 116.617 as part of the Texas Minor NSR SIP also approves 30 TAC Section 116.911(a)(2) as part of the Texas SB7 permitting program and the Minor NSR SIP consistent with the Fifth Circuit remand and vacatur of the Rule SP for PCP.

The following table identifies the sections addressed in today's direct final action.[11]

TABLE 1—SUMMARY OF THE INDIVIDUAL REVISIONS TO EACH SECTION EVALUATED

Section	Title	Date submitted to EPA	Adopted by state	Comments
Chapter 116				
Subchapter F				
30 TAC Section 116.601	Types of Standard Permits.	January 3, 2000	December 16, 1999	New provision at 30 TAC Section 116.601(a)(1) establishes the Rule SP as one of two types of SP available in the Texas Minor NSR Program.
		March 11, 2011	February 9, 2011	Revisions to 30 TAC Section 116.601(a)(1) to remove cross-references from the definition of the Rule SP.
30 TAC Section 116.617	State Pollution Control Project Standard Permit.	February 1, 2006	January 11, 2006	Repeal and replacement of the Rule SP for PCP at 30 TAC Section 116.617.
Subchapter I				
30 TAC Section 116.911(a)(2)	Control method	January 3, 2000	December 16, 1999	Requires the use of the Rule SP for PCP at 30 TAC 116.617.

II. Evaluation of State Submittals

A. 30 TAC Section 116.601(a)(1): Types of Standard Permits

EPA approved Texas' regulations for Non-Rule SP in 30 TAC Chapter 116, Subchapter F on November 14, 2003 (68 FR 64543) as meeting the federal requirements for Minor NSR.[12] When the Texas Minor NSR SP Program began in 1994, all SPs were developed using the State's rulemaking process under the Texas Government Code, Chapter 2001, Subchapter B. To streamline the process for development and issuance of SPs within the Texas Minor NSR Program, Texas Senate Bill 766 of the 76th Legislature directed the Texas Natural Resource Conservation Commission to develop an alternate process whereby the SPs could be developed and implemented without going through the formal rule-making process.[13] On January 3, 2000, the TCEQ submitted a SIP revision that created the two types of SP that exist today in the Texas Minor NSR Program—the Rule SP and the Non-Rule SP. Specifically, this revision to the Texas SIP included:

- New 30 TAC Section 116.601(a)(1) which identified those SP that were adopted through rulemaking in accordance with Texas Government Code, Chapter 2001, Subchapter B. (Rule Standard Permits or Rule SP).
- New 30 TAC Section 116.601(a)(2) which identified those SP that were issued after a public notice and comment period in accordance with 30 TAC Section 116.603 (relating to the Public Participation in Issuance of Standard Permits) (Non-Rule Standard Permits or Non-Rule SP) rather than through rulemaking.[14]

Since the initial adoption of 30 TAC Section 116.601(a)(1), the TCEQ has adopted one revision to the identification of Rule SPs and submitted this amendment to the Texas SIP on March 11, 2011. This non-substantive revision removes unnecessary cross-references in the Rule SP regulation in the Texas SP program for the Rule SP for PCP and the Rule SP for Oil and Gas Facilities. This non-substantive revision also removes the cross-reference to the repealed Rule SP for Municipal Solid Waste Landfills. Our direct final approval addresses the initial adoption of 30 TAC 116.601(a)(1), as revised through the March 11, 2011, SIP submittal.

EPA finds that the 30 TAC Section 116.601(a)(1) as revised through the March 11, 2011, SIP submittal is an integral part of the Texas Minor NSR program and approves it as part of the Texas Minor NSR SIP. This provision enables the Texas SIP to meet the requirements of 40 CFR 51.160 by clearly identifying the scope of the Texas SP Program and identifying the

[11] Note that the TCEQ also submitted other, non-related revisions to the Texas SIP in the rulemakings identified in the Table. The accompanying Technical Support Document (TSD) for this direct final action identifies each submitted provision and the date of EPA's action on the provision. The TSD is available in the rulemaking docket.

[12] EPA did not approve the Rule SP at 30 TAC Section 116.601(a)(1) or the specific Rule SP for PCP at 30 TAC Section 116.617, the Rule SP for Oil and Gas Facilities at 30 TAC 116.620, or the Rule SP for Municipal Solid Waste Landfills at 30 TAC Section 116.621 in the November 14, 2003 action. See 68 FR 64543, at 64547. Since that time, EPA has approved the Rule SP for Oil and Gas Facilities at 30 TAC Section 116.620 on February 14, 2014 at 79 FR 8861. The TCEQ repealed the Rule SP for Municipal Solid Waste Landfills at 30 TAC Section 116.621 on March 1, 2006.

[13] The Texas Natural Resource Conservation Commission is the predecessor agency to the TCEQ, hereafter referred to as the TCEQ.

[14] On November 14, 2003, EPA fully approved the Non-Rule Standard Permit provisions, including the identification of the Non-Rule Standard Permits at 30 TAC Sections 116.601(a)(2). See 68 FR 64543. Thereafter, upon TCEQ issuance of a Non-Rule SP, the specific Non-Rule SP automatically becomes part of the Texas Minor NSR SIP.

legally enforceable procedures the TCEQ will use in developing Rule SPs. As previously noted, our approval also means that the general provisions at 30 TAC Sections 601, 604, 605, 606, 610, 611, 614, and 615 approved into the Texas Minor NSR SIP in our November 14, 2003 action, now apply to the Rule SP in addition to Non-Rule SP. Additionally, 30 TAC Section 116.601(a)(1) satisfies the Minor NSR public notice requirements at 40 CFR 51.161 by specifying that a Rule SP is developed in accordance with Texas Government Code, Chapter 2001, Subchapter B. This is the rulemaking process that TCEQ uses in developing any revision to the Texas SIP; under this Code, when developing a Rule SP the TCEQ is required to publish notice of the proposed Rule SP in the Texas Register. TCEQ is also required to provide for 30 days notice on the proposed Rule SP.[15]

B. 30 TAC Section 116.617: State Pollution Control Project Standard Permit

Federal regulations at 40 CFR 51.160 require a Minor NSR program to include legally enforceable procedures that enable the permitting authority to ensure that no construction of a facility or modification will cause a violation of applicable portions of the control strategy or interfere with attainment or maintenance of a NAAQS. The Rule SP for PCP at 30 TAC Section 116.617 submitted on February 1, 2006, is a component of the Texas Minor NSR program. 30 TAC Section 116.610(b) limits the Texas SP Program to Minor NSR and provides that a SP cannot be used to authorize a project that constitutes a new major stationary source or major modification. Therefore, the Rule SP for PCP can be used at minor sources, or at major sources taking a Minor NSR action. But in all cases, the Rule SP for PCP will not authorize emission increases that would have triggered Major NSR review under either the SIP-approved Texas Prevention of Significant Deterioration or Nonattainment NSR programs. As discussed above and in Section I.B. and as recognized by the Fifth Circuit, *Luminant,* 675 F.3d at 922, the applicability of the Rule SP for PCP is clearly limited to Minor NSR and EPA finds that the provisions at 30 TAC Section 116.617, in conjunction with the already-SIP approved general provisions for SP, satisfy the federal requirements for a Minor NSR program.

The Rule SP for PCP that we are acting on now is a Rule SP as identified in 30 TAC Section 116.601(a)(1). The TCEQ used the public notice procedures found in Texas Government Code, Chapter 2001, Subchapter B to develop and accept comments on the program. Consequently, the development of the Rule SP for PCP provided public notice that satisfies the requirements for Minor NSR public notice at 40 CFR 51.161. Furthermore, because we are approving into the Texas Minor NSR SIP, 30 TAC Section 116.601(a)(1), all of the SP general requirements previously approved into the Texas SIP in 2003 as applicable for the Non-Rule SP now apply to the Rule SP for PCP. The registrant is required at 30 TAC Section 116.615(1) to protect public health and welfare. Additionally, sources seeking authorization via the Rule SP for PCP are required to submit a SP registration to TCEQ under 30 TAC Section 116.611, which must include information regarding the proposed project to be authorized (e.g., emission estimates, description of project and related process, description of equipment being installed). 30 TAC Section 116.615 includes general conditions that must be met by sources authorized by a Rule SP, including the Rule SP for PCP; these general conditions specifically require that the sources authorized under a SP comply with ''all rules, regulations, and orders of the commission issued in conformity with the [Texas Clean Air Act].'' See 30 TAC Section 116.615(10). In the case where more than one state or federal rule, regulation, or permit condition is applicable, the source must comply with the most stringent requirement or limit. See 30 TAC Section 116.615(10). Therefore, the conditions of the Rule SP for PCP in no way supersede or relax other applicable state or federal requirements. In addition, 30 TAC Sections 116.610(a), 116.615, and 116.617(b) require that sources authorized under the Rule SP for PCP submit appropriate documentation to demonstrate compliance with state and federal provisions, including New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. Regarding testing, recordkeeping, reporting and monitoring provisions, 30 TAC Section 116.615 requires recordkeeping and monitoring sufficient to demonstrate compliance with the Rule SP for PCP and all other requirements for SP. This means the sources authorized under a Rule SP for PCP must maintain records/testing/monitoring/etc sufficient to demonstrate status as Minor NSR and compliance with all federal and state provisions, as discussed above. The Rule SP for PCP only authorizes collateral emission increases of regulated pollutants from permitted projects that otherwise ''reduce or maintain currently authorized emission rates.'' Additionally, 30 TAC Section 116.617(a)(3)(B) provides that the Rule SP for PCP cannot be used to authorize the installation of emission control equipment or the implementation of a control technique that the TCEQ Executive Director has determined has the potential to exceed a NAAQS until the potential exceedances are addressed. Based on all of these provisions, EPA concludes that the Rule SP for PCP contains legally enforceable procedures to prevent interference with a NAAQS.

As previously discussed, EPA disapproved the Rule SP for PCP on September 15, 2010. Prior to the ruling by the Fifth Circuit Court of Appeals, the TCEQ conducted rulemaking to revise the Rule SP for PCP at 30 TAC Section 116.617 and to also issue a new Non-Rule SP for PCP that automatically became part of the Texas Minor NSR SIP upon its effective date, to replace the Rule SP for PCP at 30 TAC Section 116.617. Therefore, from March 3, 2011, forward, pursuant to the Texas SIP, sources seeking authorization for a PCP must register under the Non-Rule SP for PCP and all renewals and revisions to currently authorized Rule SP for PCP must be done under the Non-Rule SP for PCP. The Non-Rule SP for PCP became effective on March 3, 2011, and was developed by TCEQ according to the requirements of 30 TAC Sections 116.601(a)(2) and 116.603. 36 TexReg 2305, February 25, 2011. Because the method for issuing the Non-Rule SP for PCP was approved by EPA into the Texas SIP in 2003, the Non-Rule SP for PCP issued by TCEQ is now part of the Texas Minor NSR SIP.

The TCEQ has not submitted the revisions to 30 TAC Section 116.617, the Rule SP for PCP, adopted on February 9, 2011, as revisions to the Texas SIP. Therefore, EPA is only approving as a revision to the Texas Minor NSR SIP the Rule SP for PCP at 30 TAC Section 116.617 as initially adopted and submitted February 1, 2006. The February 9, 2011, revisions to 30 TAC Section 116.617(a)(4) and (a)(5) establishing date and other limitations are not federally enforceable as SIP requirements. However, as previously noted, the issuance of the Non-Rule SP for PCP created the SIP-approved mechanism for obtaining initial, revised and renewal authorizations for PCP.

[15] As discussed previously, a SP is not a case-by-case permit. Therefore, the Rule SP goes through public comment during the development process, but does not have separate notice and comment requirements for each authorization of the Rule SP.

C. 30 TAC Section 116.911(a)(2): Control Method for Grandfathered and Electing Electric Generating Facilities

EPA previously disapproved 30 TAC Section 116.911(a)(2) because it allowed a source to obtain authorization through 30 TAC Section 116.617. However, we requested the Court to vacate that disapproval and remand to EPA for further consideration based on the Fifth Circuit ruling on EPA's disapproval of 30 TAC Section 116.617. As discussed previously in Section II.B of this direct final action, EPA now approves it as a SIP revision, based on today's finding that 30 TAC Section 116.617 is an approvable component of the Texas Minor NSR program. By extension, the provision in 30 TAC Section 116.911(a)(1) allowing sources to obtain authorization through 30 TAC Section 116.617 is also an approvable provision of the Texas Minor NSR program, and therefore approvable as submitted on January 3, 2000.

D. CAA Section 110(l) Analysis

Under Section 110(l) of the CAA, the regulations submitted as a SIP revision adopting and implementing the Texas SP Program, and specifically the Rule SP for PCP, must meet the procedural requirements of Section 110(l) by demonstrating that the State followed all necessary procedural requirements such as providing reasonable notice and public hearing of the SIP revision. Additionally, the SIP revision must demonstrate that the adopted rules will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. We find that the TCEQ satisfied all requirements pursuant to Section 110(l).

The regulation of minor sources is a requirement of Section 110(a)(2)(C) of the CAA and EPA's regulations at 40 CFR 51.160–51.164. As discussed in this direct final action and the accompanying TSD, EPA finds that the revisions to the Texas SP Program establishing the type of SP termed the Rule SP submitted on January 3, 2000 and revised on March 11, 2011; the Rule SP for PCP submitted on February 1, 2006; and the provision allowing for the use of the Rule SP for PCP as a control method for Texas SB7 grandfathered and electing EGFs as submitted on January 3, 2000; satisfy the requirements for Minor NSR. The Rule SP for PCP when combined with the already SIP-approved general provisions that apply to all SP, includes adequate provisions to provide legally enforceable procedures to ensure protection of the control strategy and any applicable NAAQS. The Texas Minor NSR SIP SP general provisions, and specifically the Rule SP for PCP, also contain sufficient safeguards to prevent circumvention of Major NSR permitting requirements. The Rule SP for PCP only authorizes collateral emission increases of regulated pollutants from permitted projects that would otherwise ''reduce or maintain currently authorized emissions rates.'' Additionally, 30 TAC Section 116.617(a)(3)(B) provides that the Rule SP for PCP cannot be used to authorize the installation of emission control equipment or the implementation of a control technique that the TCEQ Executive Director has determined has the potential to exceed a NAAQS until the potential exceedances are addressed. In sum, we find that the revisions to the Texas SIP adopting and implementing revisions to the Texas Minor NSR Program for Standard Permits, specifically provisions for the development of Rule SP and establishment and use of the Rule SP for PCP, satisfy the requirements of Section 110(l) of the Act.

III. Final Action

EPA has made the determination that the revisions to the Texas SIP submitted on January 3, 2000, February 1, 2006, and March 11, 2011, which are part of this direct final rulemaking, are approvable because they were adopted and submitted in accordance with the CAA and EPA regulations regarding Minor NSR. Therefore, under section 110 of the Act, and for the reasons stated above, EPA is taking direct final action to approve the following revisions to the Texas SIP:

- The initial submittal of 30 TAC Section 116.601(a)(1) as a revision to the Texas SIP on January 3, 2000, and the subsequent amendments to 30 TAC Section 116.601(a)(1) submitted on March 11, 2011.
- The repeal and replacement of 30 TAC Section 116.617 submitted as a revision to the Texas SIP on February 1, 2006.
- The adoption of 30 TAC Section 116.911(a)(2) submitted as a revision to the Texas SIP on January 3, 2000.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on June 2, 2014 without further notice unless we receive adverse comment by May 1, 2014. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. In that case, we will address all public comments on today's notice in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

application of those requirements would be inconsistent with the CAA; and

• does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 2, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 21, 2014.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS—Texas

■ 2. In § 52.2270 (c), the table titled ''EPA APPROVED REGULATIONS IN THE TEXAS SIP'' is amended by:

■ a. Revising the entries for Sections 116.601 and 116.911.

■ b. Adding a new entry for Section 116.617 immediately after the entry for Section 116.615.

The amendments read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
* *	*	*	*	*
Subchapter F—Standard Permits				
Section 116.601	Types of Standard Permits	2/9/2011	4/1/2014 [Insert *FR* page number where document begins].	
* *	*	*	*	*
Section 116.617	State Pollution Control Project Standard Permit.	1/11/2006	4/1/2014 [Insert *FR* page number where document begins].	
* *	*	*	*	*
Subchapter I—Electric Generating Facility Permits				
Section 116.911	Electric Generating Facility Permit.	5/22/2002	4/1/2014 [Insert *FR* page number where document begins].	Section 116.911(a)(2) is authorized for Minor NSR only.
* *	*	*	*	*

[FR Doc. 2014–07127 Filed 3–31–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0099; FXES11130900000–145–FF09E42000]

RIN 1018–AY44

Endangered and Threatened Wildlife and Plants; Removing the Island Night Lizard From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Under the authority of the Endangered Species Act of 1973, as amended (Act), we, the U.S. Fish and Wildlife Service (Service), remove the island night lizard (*Xantusia riversiana*) from the Federal List of Endangered and Threatened Wildlife. This determination is based on a thorough review of the best available scientific and commercial information, which indicates that the threats to this species have been eliminated or reduced to the point that the species has recovered and no longer meets the definition of an endangered species or threatened species under the Act.

DATES: This rule becomes effective on May 1, 2014.

ADDRESSES: This final rule and post-delisting monitoring plan are available on the Internet at *http://www.regulations.gov* at Docket Number [FWS–R8–ES–2013–0099]. Comments and materials received, as well as supporting documentation used in the preparation of this rule, will be available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2177 Salk Avenue Suite 250, Carlsbad, CA 92008.

FOR FURTHER INFORMATION CONTACT: Scott Sobiech, Deputy Field Supervisor, Carlsbad Fish and Wildlife Office, (see **ADDRESSES**); by telephone 760–431–9440; or by facsimile (fax) 760–431–5901. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

This document contains: (1) A final rule to remove the island night lizard from the Federal List of Endangered and Threatened Wildlife; and (2) a notice of availability of a final post-delisting monitoring plan.

Species addressed. The island night lizard (*Xantusia riversiana*) is endemic to three federally owned Channel Islands (San Clemente, San Nicolas, and Santa Barbara) located off the southern California coast and a small islet (Sutil Island) located just southwest of Santa Barbara Island. San Clemente and San Nicolas islands are both owned and managed by the U.S. Navy (Navy) and Santa Barbara Island is owned and managed by the National Park Service (NPS). Habitat restoration and reduced adverse human-related impacts since listing have resulted in significant improvements to habitat quality and quantity. As a result, threats to the island night lizard have been largely ameliorated. Though population densities were not known at the time of listing, the island night lizard populations are currently estimated at 21.3 million lizards on San Clemente Island, 15,300 lizards on San Nicolas Island, and 17,600 lizards on Santa Barbara Island (including Sutil Island).

Purpose of the Regulatory Action. Under the Endangered Species Act of 1973, we may be petitioned to list, delist, or reclassify a species. In 2004, we received a petition from the Navy asserting that each of the three occurrences of island night lizard qualify for recognition as a distinct population segment (DPS) under the DPS Policy (61 FR 4722; February 7, 1996) and requesting that we delist the San Clemente and San Nicolas Island DPSs (Navy 2004, p. 12). In 2006, we published a 90-day finding (71 FR 48900, August 22, 2006) concluding that the Navy's petition provided substantial information supporting that delisting may be warranted and we thus announced the initiation of a status review for this species. On February 4, 2013, we published a 12-month finding in response to the Navy's petition and proposed removing the island night lizard from the Federal List of Endangered and Threatened Wildlife (78 FR 7908). Threats to this species have been largely ameliorated and all remaining potential threats are currently managed by the Navy and NPS, with the exception of climate change, which is difficult to predict. Therefore, we have determined in this final rule that the island night lizard no longer meets the definitions of threatened or endangered under the Act. This final rule removes the island night lizard from the Federal List of Endangered and Threatened Wildlife.

Basis for the Regulatory Action. Under the Act, a species may be determined to be an endangered species or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We must consider the same factors in delisting a species. We may delist a species if the best scientific and commercial data indicate the species is neither threatened nor endangered for one or more of the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer threatened or endangered; or (3) the original scientific data used at the time the species was classified were in error.

Threats to the island night lizard at the time of listing included destruction of habitat by feral goats and pigs, predation, and the introduction of nonnatives throughout the species' range. We reviewed all available scientific and commercial information pertaining to the five threat factors in our status review of the island night lizard. The results of our status review are summarized below.

- We consider the island night lizard to be ''recovered'' because all substantial threats to the lizard have been ameliorated.
- All remaining potential threats to the species and its habitat, with the exception of climate change, are currently managed through implementation of management plans.
- While we recognize that results from climate change such as rising air temperatures, lower rainfall amounts, and rising sea level are important issues with potential effects to the island night lizard and its habitat, the best available information does not indicate that potential changes in temperature, precipitation patterns, and rising sea levels would significantly impact the island night lizard or its habitat nor rise to the magnitude or severity such that the species would be likely to become an endangered species within the foreseeable future. We expect that the lizard's susceptibility to climate change is somewhat reduced by its ability to use varying habitat types and by its broad generalist diet; therefore, we do not consider climate change to be a substantial threat to the species at this time.
- We find that delisting the island night lizard is warranted and are removing this taxon from the Federal

List of Endangered and Threatened Wildlife.

• We have also prepared a final post-delisting monitoring plan to monitor the island night lizard after delisting to verify that the species remains secure.

Acronyms Used

We use several acronyms throughout the preamble to this rule. To assist the reader, we set them forth here:

BMP = best management practices
DPS = Distinct Population Segment
FMP = Fire Management Plan
INLMA = Island Night Lizard Management Area
INRMP = Integrated Natural Resources Management Plan
MSRP = Montrose Settlements Restoration Program
Navy = United States Department of the Navy
NEPA = National Environmental Policy Act (Federal)
NPS = National Park Service
OMB = Office of Management and Budget
PDM = post-delisting monitoring
PRBO = Point Reyes Bird Observatory
Service = United States Fish and Wildlife Service

Background

This is a final rule to remove the island night lizard from the Federal List of Endangered and Threatened Wildlife. It is our intent to discuss in this final rule only those topics directly relevant to the removal of the island night lizard from the Federal List of Endangered and Threatened Wildlife.

Previous Federal Actions

Please refer to the proposed rule to delist the island night lizard (78 FR 7908; February 4, 2013) for a detailed description of previous Federal actions concerning this species. This document is our final rule to remove the island night lizard from the Federal List of Endangered and Threatened Wildlife.

Changes From Proposed Rule

(1) We inadvertently labeled a header in Table 1 as ''Estimated Population (million).'' We corrected Table 1 (see below) to reflect the populations on San Nicolas and Santa Barbara islands numbering in the thousands and not millions.

TABLE 1—ISLAND SIZE, AMOUNT OF HABITAT, AND POPULATION SIZE OF THE ISLAND NIGHT LIZARD

Island	Size	Amount of high-quality habitat*	Estimated population
San Clemente	37,200 ac (15,054 ha)	19,640 ac (7,948 ha)	21.3 million.
San Nicolas**	14,230 ac (5,698 ha)	11.8 ac (4.8 ha)	15,300.
Santa Barbara	640 ac (259 ha)	25.9 ac (10.5 ha)	17,599.

* High-quality habitat (*Lycium californicum* and *Opuntia* spp.).
** Amount of habitat includes cobble and driftwood habitat unique to San Nicolas Island.

(2) In the proposed rule (78 FR 7908, 7914), we stated that it was unknown whether the mixed-shrub habitat on San Nicolas Island supported a self-sustaining population of lizards. Through comments received by peer reviewers, we correct that statement to reflect that the mixed-shrub habitat on San Nicolas Island does support a self-sustaining population of island night lizards.

(3) In the proposed rule (78 FR 7908, 7911), we stated that in October 2006 following a very rainy winter on San Clemente Island (9.65 in (245 mm) of rainfall), surveys revealed 45 of the 127 lizards captured (35 percent) were yearlings (in the first year of life). This information is incorrect. First, the survey took place in February 2006 after a very rainy July and August, and 15 of the 84 lizards captured (17.9 percent) were neonates (in the first year of life). Second, lizards identified as yearlings are in the second year of life. These corrections are represented below (see Biology and Life History section below).

(4) We inadvertently left the following three references off the List of References Cited in the proposed rule: Dunkle 1950, Schwartz 1994, and USGS 2001. These are incorporated into this final rule's List of References Cited.

Species Information

The following ''Biology and Life History'' and ''Distribution and Habitat'' sections contain information updated from that presented in the proposed rule to remove the island night lizard from the Federal List of Endangered and Threatened Wildlife, which published in the **Federal Register** on February 4, 2013 (78 FR 7908). A thorough discussion on the species description, population density, and abundance is also found in the proposed rule (78 FR 7908).

Biology and Life History

The island night lizard is a slow-growing, late-maturing, and long-lived lizard (Goldberg and Bezy 1974, pp. 355–358; Fellers and Drost 1991, pp. 36–42). Island night lizards can live 10 years or more, with some individuals estimated to be 30 years of age (Fellers and Drost 1991, p. 38; Mautz 1993, p. 420; Fellers *et al.* 1998, p. 25).

Members of the genus *Xantusia* are primarily active during the day (Bezy 1988, p. 8); however, they are highly sedentary and tend to remain under shelter such as dense vegetation or rocks (Fellers and Drost 1991, pp. 50, 55; Mautz 1993, p. 419). Sheltered areas provide suitable cover to protect the species from predation and allow sufficient amounts of sunlight to penetrate to the ground, providing a range of temperatures for thermal regulation (regulation of body temperature) (Mautz 2001a, pp. 9–12).

Island night lizards are viviparous (bear live young) and reach sexual maturity at approximately 3 to 4 years of age (Goldberg and Bezy 1974, p. 355; Fellers and Drost 1991, p. 40). Breeding begins around March or April, and single broods of young are born around September (Goldberg and Bezy 1974, p. 353). Females demonstrate irregular intervals between reproductive cycles, but appear to approach a biennial cycle (approximately half of sexually mature females reproduce in any given year) (Goldberg and Bezy 1974, p. 358). The island night lizard is unique within the genus *Xantusia* for having a brood size greater than two (Fellers and Drost 1991, p. 59); however, brood size differs among each of the islands where the species occurs, with females on San Nicolas Island averaging 5.3 young per brood, and females on both San Clemente and Santa Barbara Islands averaging 3.9 young per brood (Fellers and Drost 1991, p. 60).

Based on multiple years of surveys on San Clemente Island, neonate (young of the year) island night lizards on average comprise about 25 percent of the

population (Mautz 1993, p. 422); however, this percentage may be an overestimate as adult lizards are largely inactive in the fall and winter months and neonates are more active during these months (Fellers and Drost 1991, p. 48). Additionally, this percentage may be lower during periods of drought. Between August 2003 and July 2004, only 1.65 in (42 mm) of rain fell on San Clemente Island (Mautz 2005, p. 5). Surveys conducted in 2004 during the first part of the birthing season (early September) revealed neonate lizards comprised only 14 of the 199 lizards captured (approximately 7 percent) (Mautz 2005, p. 5). In contrast, surveys conducted in February 2006 following a very rainy August and July on San Clemente Island (9.65 in (245 mm) of rainfall) revealed 15 of the 84 lizards (17.9 percent of those captured) were neonates (Mautz 2007, pp. 29–30). The increase in the percentage of neonates between dry and wet years may be representative of the species' reproductive response to annual variations in rainfall and food abundance.

Island night lizards are omnivorous, with a diet primarily consisting of insects and plant matter (Knowlton 1949, p. 45; Brattstrom 1952, pp. 168–171; Mautz 1993, p. 417). Analyses of stomach and digestive tract contents of 24 lizards collected from San Clemente Island in 1948 revealed an omnivorous diet consisting of insects (including species of Hemiptera, Coleoptera, Lepidoptera, Diptera, and Hymenoptera); grass, sedge, seeds, and fruits; lizard skin; and the remains of what appeared to be juvenile mice (Knowlton 1949, p. 45). In 15 of the 24 specimens, plant material constituted at least 50 percent of the total food identified in the stomach contents (Knowlton 1949, p. 46). A more detailed analysis of numerous species of *Xantusia,* including specimens of the island night lizard from San Clemente, San Nicolas, and Santa Barbara Islands, was conducted by Brattstrom (1952, p. 3). Based on samples of the stomach and intestinal contents, Brattstrom (1952, p. 172) determined that the island night lizard eats the widest variety of foods of any of the species of the Genus *Xantusia* included in the research. Although all age groups will eat both plant and animal material, younger lizards consume a greater amount of animal prey in their diet than older lizards (Fellers and Drost 1991, p. 56). Plant material found in the stomach or fecal samples of island night lizards included *Mesembryanthemum crystallinum* (crystalline iceplant); the fruits, flowers, and leaves of *Lycium californicum* (California boxthorn); and the fruits of *Atriplex semibaccata* (Australian saltbush) (Fellers and Drost 1991, pp. 55–56).

Distribution and Habitat

The island night lizard is endemic to three Channel Islands (San Clemente, San Nicolas, and Santa Barbara) located off the southern California coast (Goldberg and Bezy 1974, pp. 355–358; Fellers and Drost 1991, p. 28) and a small islet (Sutil Island) located just southwest of Santa Barbara Island (Bezy *et al.* 1980, p. 579). San Clemente, San Nicolas, and Santa Barbara Islands vary in size, and the amount of suitable habitat available for the island night lizard (see Table 1 above under *Changes from Proposed Rule* section above, which highlights the lizard's estimated population size for each island in relation to each island's size and the available habitat present).

Different surveys and descriptions of the vegetation types on San Clemente, San Nicolas, and Santa Barbara Islands have referred to the habitat supporting island night lizards under various names and descriptions. Although referred to by numerous names and descriptions, two vegetation types identified by Sawyer *et al.* (2009) support most of the known dominant plant taxa associated with the lizard. The two vegetation types are Coast prickly pear scrub and *Lycium californicum* Provisional Shrubland Alliance. In Coast prickly pear scrub, cacti such as *Opuntia littoralis* (coastal prickly pear), *Opuntia oricola* (chaparral prickly pear), and *Cylindropuntia prolifera* (coast cholla) are dominant or codominant among the shrub canopy (Sawyer *et al.* 2009, pp. 599–601).

Cylindropuntia prolifera is referred to by its older Latin name, *Opuntia prolifera,* in numerous references cited in this document (for example, Fellers and Drost 1991, pp. 34, 68; Mautz 2001a, p. 17; Navy 2002, p. 3.54). While we recognize that *C. prolifera* is the currently accepted name of this species and is used in discussions that reference current literature in this document (for example, Sawyer *et al.* 2009 and NPS *in litt.* 2011b), we will use the older name of *O. prolifera* only when referencing previous literature. *Lycium californicum* Provisional Shrubland Alliance is characterized by the prevalence of *L. californicum* (Sawyer *et al.* 2009, p. 588). To eliminate any confusion, we will refer to the vegetation types that comprise high-quality habitat and support high island night lizard densities as *L. californicum* and *Opuntia* spp. habitats.

Surveys conducted on the islands occupied by the island night lizard indicate strong habitat preferences for *Lycium californicum* and *Opuntia* spp. habitats (Fellers and Drost 1991, p. 34; Schwemm 1996, pp. 3–4; Mautz 2001a, p. 23; Mautz 2004, p. 18). These habitats are considered high-quality because they offer suitable cover to protect the species from predation and allow sufficient amounts of sunlight to penetrate to the ground, which provides a thermal mosaic for thermal regulation (Mautz 2001a, pp. 9–11, 17–18). Island night lizards are also known to occupy grasslands, *Coreopsis gigantea* stands, mixed-shrub communities, and rocky outcrops across all islands, as well as a unique cobble and driftwood habitat found only on San Nicolas Island (Fellers and Drost 1991, p. 34; Schwemm 1996, pp. 3–4; Fellers *et al.* 1998, p. 9; Mautz 2001a, p. 23; Mautz 2004, p. 18). Loose rocks or crevices in clay soils are also important habitat components within island night lizard habitat (Fellers and Drost 1991, p. 53; Mautz 2001a, p. 17).

Mautz (2001a, pp. 17–18) suggested that vegetation community characteristics, such as habitat structure, may be as important to island night lizard habitat as plant species composition. This assertion is corroborated by Fellers *et al.* (1998, p. 16), who concluded that plywood debris, which serves as cover in grasslands with scattered *Haplopappus* (haplopappus) (now known as *Isocoma menziesii* (Menzies goldenbush)), and few to no other shrub species, was a factor that contributed to high densities of lizards at sampling sites on San Nicolas Island.

In addition to natural cover, artificial cover created by human presence on San Clemente, San Nicolas, and Santa Barbara Islands is also utilized by island night lizards, thereby enabling them to persist in areas of otherwise unsuitable habitat. During surveys for the species on San Clemente and San Nicolas Islands, lizards were routinely found under pieces of plywood discarded by Navy personnel (Fellers *et al.* 1998, p. 18). The presence of these boards, some of which may have been in place for a decade or more, provided an opportunity for researchers to assess longevity of the species because some specific lizards were recorded (captured and recaptured) over long intervals of time (Fellers *et al.* 1998, p. 7). Underlying soils may also indicate whether an area supports lizards. Extensive trapping conducted on San Nicolas Island determined that loose sand substrates are unsuitable for the species (Fellers *et al.* 1998, pp. 11–17).

Very little information exists concerning the vegetative communities on Sutil Island.

San Clemente Island

San Clemente Island supports approximately 19,640 acres (ac) (7,948 hectares (ha)) of high-quality island night lizard habitat distributed primarily along the western marine terraces (Navy 2002, p. 3.54). There are approximately 13,791 ac (5,581 ha) of *Opuntia* spp. habitat and 5,849 ac (2,367 ha) of *Lycium californicum* habitat (Service 1997, p. 6; Navy 2002, p. 3.54). From 1992 to 2008, a long-term trend analysis was conducted, which indicated no clear trend in habitats dominated by *Opuntia* spp. or *L. californicum* on San Clemente Island (Tierra Data Inc. 2010, pp. 48–67). However, there was an approximate 6 percent reduction in percent cover of *L. californicum* and 10 percent reduction in percent cover of *Opuntia* spp. on the island over this timeframe (Tierra Data Inc. 2010, pp. 48–67). This observed decrease in percent cover was likely due to high rainfall amounts experienced in the baseline years from 1991 to 1993, in comparison to lower rainfall amounts in subsequent years (Tierra Data Inc. 2010, p. 125).

Low- to moderate-quality island night lizard habitat consisting of *Artemisia* spp. (sagebrush), *Eriogonum* spp. (buckwheat), *Deinandra clementina* (as *Hemizonia clementina*) (Catalina tarweed), as well as *Lycium californicum* and *Opuntia* spp., occupies approximately 386 ac (156 ha) of the northeastern escarpment of San Clemente Island (Navy 2002, p. 3.65). Low-quality grassland habitat occupies approximately 11,831 ac (4,788 ha) on the central plateau and eastern scarp of the island (Navy 2002, p. 3.54). Lizards on San Clemente Island have not been found in closed-canopy canyon or woodland habitats, which do not allow sufficient amounts of sunlight to penetrate the canopy cover for thermal regulation, or active sand dunes that do not offer sufficient cover for the species (Mautz 2001a, pp. 4, 9, 18).

San Nicolas Island

Due to differing surveying techniques, methodologies, and precision of mapping efforts, the amount of high-quality habitat reported on San Nicolas Island has varied over time. Based on these various surveys, little high-quality habitat is known to exist on San Nicolas Island. Site-specific vegetation transects completed in 1996 failed to locate *Lycium californicum* and only once located *Opuntia* spp. (Chess *et al.* 1996, pp. 19–46). Fellers *et al.* (1998, p. 46) conducted an island-wide analysis of the vegetation on San Nicolas Island, utilizing aerial photos and limited on-the-ground surveys, and estimated 1.9 ac (0.8 ha) of high-quality island night lizard habitat and approximately 161 ac (65 ha) of lower quality mixed-shrub habitat occur on San Nicolas Island. In 2003, Junak (2003, p. 7) also conducted an island-wide survey of the vegetation utilizing helicopter flyovers, extensive on-the-ground surveys, and Global Positioning System receivers and estimated that approximately 11.2 ac (4.6 ha) of high-quality habitats were available on the island.

Differences in the amount of high-quality habitat reported may be attributed to varying surveying methodologies and techniques (e.g., comparing acreages of only *L. californicum* and *Opuntia* spp. to acreages of vegetation communities where *L. californicum* and *Opuntia* spp. are dominant among a vegetative community). However, this habitat is stable, and active restoration efforts (see discussion of Nonnative Animals under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range* below) continue to improve habitat conditions for the island night lizard on San Nicolas Island.

High-quality habitat occurs primarily on the eastern half of the island and is patchily distributed among lower quality habitat (Fellers *et al.* 1998, pp. 13–14). The lower-quality habitat is a mixed-shrub community comprised of *Isocoma menziesii, Calystegia macrostegia* (island morning-glory), *Coreopsis gigantea, Atriplex semibaccata, Deinandra clementina, Lupinus albifrons* (silver lupine), *Baccharis pilularis* (coyote brush), and *Artemisia* spp. (Fellers *et al.* 1998, pp. 16–17). Island night lizards generally do not inhabit the western half of San Nicolas Island due to a lack of suitable vegetative or rock cover. One exception is a 0.6-ac (0.2-ha) area of cobble and driftwood habitat at Redeye Beach that is just above the intertidal zone on the northwestern side of the island (Fellers *et al.* 1998, p. 11). Occupancy within this small area of cobble and driftwood habitat, which supports the highest density of lizards on the island, is unique to San Nicolas Island (Fellers *et al.* 1998, p. 11).

Santa Barbara Island

Habitat on Santa Barbara Island is limited due to the small size of the island and the extensive habitat damage that occurred historically when goats (*Capra* spp.), sheep (*Ovis* spp.), and European rabbits (*Oryctolagus cuniculus*) were present (Service 1984, pp. 45–46; Fellers and Drost 1991, p. 70). Similar to San Nicolas Island, the amount of high-quality habitat reported on Santa Barbara Island has varied over time due to differing survey methodologies and precision of mapping efforts. However, this habitat is stable, and active restoration efforts continue to improve habitat conditions for the island night lizard on Santa Barbara Island.

Using aerial photographs of the island from 1983 and ground surveys, Fellers and Drost (1991, p. 68) identified approximately 14.8 ac (6 ha) of high-quality habitat on Santa Barbara Island consisting only of *Lycium californicum, Opuntia* spp., or rock outcrops. Low- to moderate-quality habitat on Santa Barbara Island also contains some *Lycium californicum* and *Opuntia* spp., but is dominated by *Coreopsis gigantea, Eriogonum giganteum* var. *compactum* (Santa Barbara Island buckwheat), and *Constancea nevinii* (formerly *Eriophyllum nevinii*) (silver-lace) (Fellers and Drost 1991, p. 70); these native shrub communities are patchily distributed in grasslands across a majority of the island (Halvorson *et al.* 1988, p. 111).

The NPS is preparing a new preliminary vegetative analysis of Santa Barbara Island, but it has not been finalized (Rodriguez 2013a, pers. comm.). Preliminary results from surveys conducted in 2010 by the NPS indicate an increase in high-quality habitat from the estimate determined by Fellers and Drost (1991, p. 68), where *Lycium californicum and Opuntia* spp. are dominant or codominant among the vegetation (NPS 2011b, *in litt.*). Though the report has not been finalized, results indicate that there are approximately 16.6 ac (6.7 ha) of *L. californicum* and 9.3 ac (3.8 ha) of *Opuntia oricola* habitat where these taxa account for greater than 39 percent of the vegetative cover (Rodriguez 2012, pers. obs.). A preliminary analysis concerning *Cylindropuntia prolifera,* another documented vegetation component of high-quality island night lizard habitat, is not yet available.

Sutil Island

Little is known about the habitat on Sutil Island. Sutil Island consists of approximately 13.7 ac (5.5 ha) (Rudolph 2011, pers. obs.), much of it unbroken bedrock, with some vegetation identified as island night lizard habitat, such as low shrubs, *Lycium californicum,* and rocks and fissures, but these are sparsely distributed (Drost 2011, pers. obs.). Sutil Island was not known to be occupied at the time the

island night lizard was listed. In 1978, a survey of Sutil Island was conducted, and 12 lizards were identified (Wilson 1979, as cited in Power 1979, p. 8.5). In 1991, Drost (2011, pers. obs.) visited the island and though there was little habitat that could be turned or searched, he observed one lizard in a rock crevice. He noted that though vegetative cover on the island was sparse, there were surface cracks, fissures, and boulder cover that could provide cover. We have no surveys for the island night lizard on Sutil Island since 1978. Because Sutil Island is within close proximity to Santa Barbara Island (0.4 miles (0.65 kilometers)), has very few to no visitors annually, and like Santa Barbara Island is managed by the NPS, we will incorporate Sutil Island in the discussion of Santa Barbara Island for the remainder of this document.

Recovery and Recovery Plan Implementation

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include: ''Objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of [section 4 of the Act], that the species be removed from the list.'' However, revisions to the list (adding, removing, or reclassifying a species) must reflect determinations made in accordance with sections 4(a)(1) and 4(b) of the Act. Section 4(a)(1) requires that the Secretary determine whether a species is endangered or threatened (or not) because of one or more of five threat factors. Section 4(b) of the Act requires that the determination be made ''solely on the basis of the best scientific and commercial data available.'' Therefore, recovery criteria should help indicate when we would anticipate an analysis of the five threat factors under section 4(a)(1) would result in a determination that the species is no longer an endangered species or threatened species because of any of the five statutory factors.

Thus, while recovery plans provide important guidance to the Service, States, and other partners on methods of minimizing threats to listed species and measurable objectives against which to measure progress towards recovery, they are not regulatory documents and cannot substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of or remove a species from the Federal List of Endangered and Threatened Plants (50 CFR 17.12) is ultimately based on an analysis of the best scientific and commercial data then available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

In 1984, we finalized a recovery plan for the island night lizard and nine other island species (Endangered and Threatened Species of the California Channel Islands (Recovery Plan); Service 1984). Given the threats in common to the 10 species addressed, the Recovery Plan is broad in scope and focuses on restoration of habitats and ecosystem function. The Recovery Plan included 6 general objectives for all 10 species:

(1) Identify present adverse impacts to biological resources and strive to eliminate them.

(2) Protect known resources from further degradation by: (a) Removing feral herbivores, carnivores, and selected exotic plant species; (b) controlling unnatural erosion in sensitive locations; and (c) directing military operations and adverse recreational uses away from biologically sensitive areas.

(3) Restore habitats by revegetating disturbed areas using native species.

(4) Identify areas of San Clemente Island where habitat restoration and population increase of certain addressed taxa may be achieved through a careful survey of the island and research on habitat requirements of each taxon.

(5) Delist or upgrade the listing status of those taxa that achieve vigorous, self-sustaining population levels as the result of habitat stabilization, restoration, and preventing or minimizing adverse human-related impacts.

(6) Monitor effectiveness of recovery effort by undertaking baseline quantitative studies and subsequent followup work (Service 1984, pp. 106–107).

Specific criteria for determining when threats have been removed or sufficiently minimized for the island night lizard are not identified in the Recovery Plan (although various actions are identified in the Recovery Plan that promote the recovery of island night lizard and described further in the Recovery section of the proposed rule). Following are a summary of actions and activities that have been implemented according to the Recovery Plan (Service 1984, pp. 106–107) and that contribute to achieving the six recovery objectives.

Objective 1: Identify Present Adverse Impacts to Biological Resources and Strive To Eliminate Them

Actions taken by the Navy and NPS supporting the achievement of this objective include: Education and outreach; development and implementation of management plans to identify, minimize, and address threats; management, control, and elimination of nonnative predators, herbivores, and invasive plants; consultation and coordination with the Service; and control of erosion. These actions are discussed briefly below and in greater detail in the five-factor analysis.

The Navy has taken steps to eliminate incidental impacts to the island night lizard by educating all Navy personnel stationed on San Clemente and San Nicolas Islands. All Navy personnel receive handouts, pamphlets, or posters presenting information on the distribution, threats, and management responsibilities of sensitive resources, such as federally threatened and endangered species, including the island night lizard. The NPS has also taken steps to eliminate incidental impacts to the lizard by educating all visitors to Santa Barbara Island (including Sutil Island). Brochures discussing the island's unique wildlife, including the island night lizard, as well as maps of designated trails that all visitors must use to decrease disturbance to wildlife and lessen damage to resources, are available to all visitors of the island at the visitors' center or online at the Channel Islands National Park's Web site (*http://www.nps.gov/chis/index.htm*).

The Recovery Plan also recommends that existing laws and regulations be used to protect candidate, threatened, and endangered species, including the island night lizard. Based on the occurrences of this species on federally owned land, the primary laws with potential to protect the island night lizard include the National Environmental Policy Act (NEPA), the Sikes Act Improvement Act, the NPS Organic Act, the Federal Noxious Weed Act, and the Soil Conservation and Domestic Allotment Act, in addition to the Act. Since listing of the island night lizard under the Act in 1977, the Navy and NPS have had a history of consultation and coordination with the Service regarding the effects of various activities on the island night lizard on San Clemente, San Nicolas, and Santa Barbara Islands.

NEPA requires Federal action agencies to integrate environmental values into their decisionmaking processes by considering the

environmental impacts of their proposed actions and reasonable alternatives to those actions. Since its enactment in 1970, the Navy has implemented NEPA for actions on San Clemente and San Nicolas Islands, and the NPS has implemented NEPA for actions on Santa Barbara Island (including Sutil Island).

The Sikes Act (16 U.S.C. 670) authorizes the Secretary of Defense to develop cooperative plans with the Secretaries of Agriculture and the Interior for natural resources on public lands (see *Sikes Act Improvement Act* section under *Factor D. Inadequacy of Existing Regulatory Mechanisms* below for further discussion). Pursuant to the Sikes Act Improvement Act of 1997, the Navy developed integrated natural resources management plans (INRMPs) for San Clemente Island in 2002 and San Nicolas Island in 2010 that help guide the management and protection of each island's natural resources (Navy 2002; Navy 2010).

INRMPs incorporate, to the maximum extent practicable, ecosystem management principles and provide the landscape necessary to sustain military land uses. Each INRMP includes specific management actions and objectives to address the Recovery Plan task of incorporating recovery actions into existing management plans (see *Factor D* below). Through these mechanisms, the Navy is required to identify and address all threats to federally listed species during the INRMP planning process. If possible, threats are ameliorated, eliminated, or mitigated through this procedure. The Navy strives to fulfill this objective through both internal planning (INRMP) and compliance with Federal law (consultations with the Service under the Act and preparing environmental review documents under NEPA). The actions taken by the Navy under the INRMPs have not completely eliminated all adverse impacts, but many threats to island night lizards have been greatly reduced. These contributions to the elimination of adverse impacts fulfill a majority of this Recovery Plan objective with respect to the island night lizard.

Objective 2: Protect Known Resources From Further Degradation by: (a) Removing Feral Herbivores, Carnivores, and Selected Exotic Plant Species; (b) Controlling Unnatural Erosion in Sensitive Locations; and (c) Directing Military Operations and Adverse Recreational Uses Away From Biologically Sensitive Areas

In 1992, the Navy fulfilled a major part of this objective by removing the last of the feral goats and pigs from San Clemente Island. Currently, the Navy has an ongoing predator control program to trap and remove feral cats and rats from San Clemente Island. From 2009 to 2010, projects funded by the Montrose Settlements Restoration Program (MSRP) and conducted by the Navy removed all feral cats from San Nicolas Island. In 1981, the last of the European rabbits (a nonnative herbivore) were removed from Santa Barbara Island. These actions to remove predators and nonnative herbivores, or develop removal programs for potential predators, have fulfilled this component of objective 2 in the Recovery Plan to remove feral and nonnative animals. Additionally, the Navy on both San Clemente and San Nicolas Islands, in accordance with the Federal Noxious Weed Act and through implementation of the Navy's INRMPs, conducts actions to reduce or eliminate all transport of nonnative plants to each island, and has facilitated programs to remove nonnative taxa that currently occur on the islands. On Santa Barbara Island, the NPS implements policies and management activities (in accordance with the Organic Act) that restrict all nonnative plant species from the island. Additionally, in partnership with the MSRP, nonnative plant removal is currently occurring on Santa Barbara Island. The NPS has also developed a Draft General Management Plan emphasizing the eradication of all nonnative plants from Santa Barbara Island (NPS 2013, pp. 50, 83). These actions to control nonnative plants on all islands occupied by the island night lizard have fulfilled most of this component of objective 2 in the Recovery Plan to remove exotic plant species.

The Navy is also taking steps to minimize the effects of erosion on San Clemente Island. Erosion control measures are being incorporated into project designs to minimize the potential to exacerbate existing erosion (O'Connor 2009, pers. comm.). Along with the Navy's planned expansion of its military operational areas, the Navy developed an erosion control plan that minimizes impacts of soil erosion and sedimentation on threatened and endangered species and their habitat (Navy 2013b pp. 5–6). The Erosion Control Plan includes development and application of best management practices (BMPs) to minimize impacts to sensitive resources, including the island night lizard and its habitat; addresses military operations and site-specific erosion control recommendations for areas potentially affected by military operations; provides guidelines for restriction of vehicle maneuvering when soils are wet, operator education, vegetation management, fire management, and methods for gully prevention and restoration; and includes an adaptive management and monitoring plan to assess the BMPs to minimize and prevent soil erosion (Navy 2013b, pp. 35–54, 113–122). On San Nicolas Island the Navy incorporates BMPs for erosion and sedimentation controls during construction and maintenance activities as well as to protect natural resources (Navy 2010, pp. 4.6–4.12). These actions taken by the Navy to reduce the threat of erosion on the island contribute to the achievement of this objective.

Through implementation of INRMPs on San Clemente and San Nicolas Islands, the Navy conducts measures to avoid areas with highly erodible soils. Additionally, San Clemente has a nursery to grow native island plants, which are then used to assist in erosion control of disturbed sites. San Nicolas Island has developed a nursery for similar erosion control measures. On Santa Barbara Island, NPS requires the active preservation of soil resources and the avoidance or minimization of impacts to soil. These actions to prevent erosion fulfill this component of objective 2 of the Recovery Plan.

As recommended through consultation with the Service (Service 1997), the Navy established the Island Night Lizard Management Area (INLMA), which is avoided to the maximum extent practicable, to assist with the recovery of the island night lizard and its habitat. Additionally, through implementation of INRMPs on both San Clemente and San Nicolas Islands, the Navy defines and marks work areas to prevent lizard mortality. The NPS has designated trails on Santa Barbara Island to allow visitors to view the island's ecosystems without being obtrusive or destructive to the natural resources, including island night lizard habitat. These actions to avoid biologically sensitive areas fulfill Recovery Plan Objective 2 with respect to the island night lizard.

Objective 3: Restore Habitats by Revegetating Disturbed Areas Using Native Species

To restore the structure and function of native island ecosystems, the Navy, through implementation of its INRMP on San Clemente Island, has developed the Native Habitat Restoration Program and constructed a native plant nursery where plants, including species that provide a benefit to island night lizard habitat, are grown from seed and stem and root cuttings, and outplanted

annually. In 2012, the Navy on San Nicolas Island completed development of a nursery and to date has outplanted approximately 1,300 plants to the island, some of which provide a benefit to the island night lizard. Additionally, projects funded by the MSRP currently grow native plant species in a nursery on Santa Barbara Island to support island night lizard restoration projects. To date, approximately 19,500 native plants, some providing a benefit to the island night lizard, have been restored to Santa Barbara Island. The NPS has also developed a Draft General Management Plan to clearly define and direct resource preservation, including restoration of natural ecosystems, their native habitat, and processes on Santa Barbara Island. These actions to restore habitat by revegetation fulfill the objective as stated in the Recovery Plan.

Objective 4: Identify Areas of San Clemente Island Where Habitat Restoration and Population Increase of Certain Addressed Taxa May Be Achieved Through a Careful Survey of the Island and Research on Habitat Requirements of Each Taxon

Since listing, research on the life history and biology of the island night lizard has been ongoing on San Clemente Island. Research has determined the island night lizard's distribution and density in various habitats on San Clemente Island (Mautz 1993; Mautz 2001a). Additionally, the Navy through consultation with the Service developed the INLMA to conserve the largest area of high-quality habitat with the highest densities of island night lizards. The Navy currently avoids and minimizes impacts to the lizard for any projects or training activities proposed in this area through consultation with the Service. Thus, these actions completely fulfill the objective as stated in the Recovery Plan.

Objective 5: Delist or Upgrade the Listing Status of Those Taxa That Achieve Vigorous, Self-Sustaining Population Levels as the Result of Habitat Stabilization, Restoration, and Preventing or Minimizing Adverse Human-Related Impacts

Since listing, threats to the island night lizard have been largely ameliorated, including removal of all nonnative herbivores from San Clemente and Santa Barbara Islands and removal of feral cats from San Nicolas Island. Given that habitat types that are strongly associated with island night lizards appear to be increasing slowly through natural recovery and restoration projects, as well as the amelioration of all substantial threats to the island night lizard, the populations on the three islands appear to be stable. Remaining threats, such as nonnative plants, land use and development, fire, and erosion, are potentially of concern, but are actively managed through implementation of management plans and measures described in the Navy's INRMPs and NPS's management policies and active management plans. We consider the populations of the island night lizard to be stable and improving. Thus, the objective to improve the status of the island night lizard to the point it can be delisted has been fully met.

Objective 6: Monitor Effectiveness of Recovery Effort by Undertaking Baseline Quantitative Studies and Subsequent Followup Work.

Since listing and publication of the Recovery Plan, island night lizard monitoring has been conducted on San Clemente Island, with one assessment of the population estimated at approximately 21.3 million island night lizards in 2001. High densities of island night lizards were determined to be strongly corresponded to certain habitats. Although no subsequent population assessments have occurred since 2001, ongoing monitoring to assess individual body condition and neonate-to-juvenile ratios indicates the density of island night lizards still strongly corresponds to certain habitats. Assessments of the extent and quality of those habitats have been conducted more recently, as discussed below in more detail.

San Clemente Island supports the largest amount of high-quality island night lizard habitat. Monitoring from 1992 to 2008 has shown fluctuating short-term trends, but no clear long-term trend, in *Opuntia* spp. or *Lycium californicum* habitats on San Clemente Island (Tierra Data Inc. 2010, pp. 48–67). There was an approximate 6 percent reduction in percent cover of *L. californicum* and 10 percent reduction in percent cover of *Opuntia* spp. habitats on the island (Tierra Data Inc. 2010, pp. 48–67). However, this decreasing trend in percent cover may be explained by changing rainfall patterns measured during this time interval. Higher rainfall amounts occurred from 1991 to 1993, when baseline data for percent cover was first collected. However, in subsequent years, lower rainfall amounts were reported and may therefore be responsible for the decrease in percent cover that was reported during this period (Tierra Data Inc. 2010, p. 125).

While research has not indicated how this reduction in cover affects the island night lizard population, monitoring of the island night lizard population indicates the species remains abundant in suitable habitat. We expect continued monitoring on San Clemente Island, including that associated with ongoing and proposed habitat restoration projects, to show island night lizard populations remaining stable or increasing on the island. These monitoring efforts fulfill the objective as stated in the Recovery Plan.

On San Nicolas Island, researchers conducted one assessment of the island night lizard's population in 1998, resulting in an estimated 15,300 lizards, and two assessments of the vegetation associated with high densities of island night lizards. The first vegetation assessment was conducted in 1998 by Fellers *et al.* (1998). A second vegetation assessment was conducted in 2003 by Junak (2003, p. 7), which indicated an increase in high-quality *Opuntia* spp. and *L. californicum* habitats from 1.9 ac (0.8 ha) in 1998 to 11.2 ac (4.6 ha). This increase was probably due to more current data and better mapping technology. Monitoring of lizards on San Nicolas Island will be conducted every 5 years by the U.S. Geological Survey in connection with proposed habitat restoration projects (Navy 2010, p. 4.55). We expect island night lizard populations to remain stable or increase in number on the island because this species' population is strongly correlated with abundance of habitat, and current information indicates that the habitat is stable and possibly increasing. Additionally, the Navy is restoring native habitat that can support island night lizards. These monitoring efforts fulfill the objective as stated in the Recovery Plan.

On Santa Barbara Island, there has been one assessment of the island night lizard population in 1991, resulting in an estimated 17,599 lizards, and two assessments of the amount of high-quality habitat consisting of *Opuntia* spp. and *Lycium californicum.* The first habitat assessment was conducted from an examination of aerial photographs from 1983 and indicated a total of 14.8 ac (6.0 ha) of *L. californicum* and *Opuntia* spp. habitats in which these species comprised 100 percent of the vegetation (Fellers and Drost 1991, p. 31). A more recent preliminary draft assessment indicates that approximately 16.6 ac (6.7 ha) of *L. californicum* and 9.3 ac (3.8 ha) of *O. oricola* habitats exist in which these species are dominant and comprise greater than 39 percent of the vegetative cover (Rodriguez 2012, pers. obs.). However, this more recent draft assessment has yet to be finalized (Rodriguez 2013a, pers. obs.).

Additionally, pursuant to the MSRP, the NPS continues to restore native habitat on Santa Barbara Island, including species that provide moderate-quality habitat for the island night lizard. Therefore, we expect the island night lizard population to remain stable or increase on Santa Barbara Island. These monitoring actions fulfill this objective as stated in the Recovery Plan.

Summary of Recovery Plan Implementation

In summary, while the Recovery Plan does not include taxon-specific downlisting or delisting criteria for the island night lizard, many of the actions identified in the Recovery Plan have been implemented to benefit the lizard. With the exception of a few recommended recovery actions that are still ongoing, nearly all recovery objectives have been fulfilled through research and monitoring efforts on all occupied islands and implementation of the Navy's INRMPs on San Clemente and San Nicolas Islands and NPS's management policies on Santa Barbara Island. Most significantly, the Navy removed feral goats and pigs from San Clemente Island in 1992. There are currently a number of programs in place to improve habitat suitability, prevent introduction of nonnative species, guide and track management efforts, and protect occurrences of the island night lizard. We investigated other potential threats (see Summary of Factors Affecting the Species below for further information on other potential threats) to the lizard and concluded that they do not pose significant impacts. As a result of the management actions conducted by the Navy and NPS, substantial threats have been ameliorated throughout the species' range, and the majority of objectives discussed in the Recovery Plan are fulfilled.

Based on our review of the Recovery Plan, we conclude that the status of the island night lizard has improved due to past and current activities being implemented by the Navy and NPS, and the objectives of the Recovery Plan have been met. The effects of these activities on the status of island night lizard are discussed in further detail below.

Summary of Comments and Recommendations

In the proposed rule published on February 4, 2013 (78 FR 7908), we requested that all interested parties submit written comments on the proposal by April 5, 2013. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Ventura County Star on February 11, 2013. We did not receive any requests for a public hearing.

During the comment period for the proposed rule, we received six comment letters (two from the public and four from peer reviewers) directly addressing the proposed removal of the island night lizard from the Federal List of Endangered and Threatened Wildlife. All substantive information provided during the comment period has either been incorporated directly into this final determination or addressed below.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from five knowledgeable individuals with scientific expertise that included familiarity with the island night lizard and its habitat, biological needs, recovery efforts, and threats. We received responses from four of the peer reviewers.

We reviewed all peer reviewer comments received for substantive issues and new information regarding the island night lizard. Comments included general technical and grammatical corrections, and specific concerns relating to the island night lizard, its habitat, or current management efforts. The peer reviewer and public comments are addressed in the following summary and incorporated into this final rule as appropriate.

Peer Reviewer Comments

Comment (1): One peer reviewer stated that the island night lizard populations from each island should be identified as DPSs based on the following: (a) Even though the island night lizard was listed at the ''species level,'' each of the three populations are geographically separated by miles of open sea and do not interbreed when mature, which is part of the requirement that defines a species under the Act; (b) recent (Common and Current Scientific Names of North American Amphibians, Turtles, Reptiles, & Crocodilians, Sixth Edition, 2009) and previous literature (Smith 1946, Cope 1883) identify the San Clemente and San Nicolas Island lizards as separate subspecies; and (c) evidence presented from an allozyme/karyotyping study (Bezy 1980) suggests that the three populations are each distinctive and have been separated without gene flow for at least 500,000 years, with the greatest standing variation in both allelic diversity and color pattern (a phenotypic marker) of the three populations being found in the San Nicolas population. Additionally, the peer reviewer noted that San Nicolas Island specifically should not be delisted due to the lack of suitable habitat and small population size in comparison to the size of the island, and if there is no option for the Service to designate San Nicolas Island as a DPS, then the island night lizard should remain a listed species throughout its range.

Our Response: Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. ''Species'' is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any DPS of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). The island night lizard was federally listed at the ''species'' level (42 FR 40682, August 11, 1977) throughout its range. As discussed in our 90-day finding (71 FR 48900, August 22, 2006), the Navy's 2004 petition requested that we delist the island night lizard on San Clemente Island and San Nicolas Island as distinct population segments. We indicated in that finding that we would consider information as to whether island night lizard populations qualify as distinct population segments in our 12-month finding. Both our 2012 5-year review and our 12-month finding indicate that further consideration of the DPS status is not addressed due to our recommendation that the species be delisted throughout its entire range due to the amelioration of substantial threats and current management of potential threats to the species and its habitat (Service 2012a, pp. 5, 44; Service 2013; 78 FR at 7910). Accordingly, we assert that the island night lizard be removed from the Federal List of Endangered and Threatened Wildlife and not reclassified as three separate DPSs. With regard to the peer reviewer's request that the island night lizard on San Nicolas Island not be delisted, we have reviewed the status of the island night lizard on San Nicolas Island. Although the island supports the lowest numbers of lizards and percentage of suitable habitat in comparison to the island's size, threats have been ameliorated or are currently managed such that the species no longer meets the definition of threatened or endangered.

Comment (2): One peer reviewer noted that the use of habitat as a surrogate for a determination of lizard population health is inadequate until at least one additional direct population assessment is completed for each island

to test the validity of habitat as a surrogate.

Our Response: We use the best scientific and commercial information available in the decision-making process. In many cases, the biology of the listed species makes it difficult to detect or monitor individuals, and, in those situations, evaluating a surrogate such as habitat is the most reasonable and meaningful measure of assessing listed species. For the island night lizard, the best available scientific information indicates that it is strongly correlated with vegetation dominated by the presence of *Lycium californicum* and *Opuntia* subsp. habitats (high-quality habitats) (see Distribution and Habitat above). Additionally, this species is sedentary and reclusive, and it is difficult to survey in those high-quality habitats without destroying the habitat. Currently, the best scientific information available indicates that island night lizards within these high-quality habitats number in the millions on San Clemente Island and tens of thousands on San Nicolas and Santa Barbara Islands (see *Population Density and Abundance* in the proposed rule (78 FR 7908)). Considering all these factors, we contend that the use of high-quality habitat as a surrogate for island night lizard population health is appropriate.

Comment (3): Three peer reviewers pointed out that the header ''Estimated Population (millions)'' in Table 1 of the proposed rule is incorrect as the populations on San Nicolas and Santa Barbara islands exist only in the thousands.

Our Response: We appreciate the peer reviewers' recommendation and agree that the table mistakenly represents the populations as ''millions.'' This table now reflects the correct population numbers for each island in Table 1 (see Summary of Changes from Proposed Rule above).

Comment (4): One peer reviewer suggested that to better compare the status among the three island populations, a table should be added to the final rule that displays density of lizards per island size (number of lizards per total island acre), density of lizards in high-quality habitat (number of lizards per high-quality habitat acreage), and percentage of high-quality habitat in comparison to island size.

Our Response: We appreciate the peer reviewer's suggestion; however, a table is not needed to discuss this information as there is detailed discussion of these data in the *Population Density and Abundance* section of the proposed rule (78 FR 7908), as well as detailed information identifying the number of acres per island, amount of high-quality island night lizard habitat per each island, and estimated island night lizard population on each island in Table 1 (see Summary of Changes from Proposed Rule above).

Comment (5): One peer reviewer stated that the major threat to island night lizards on San Nicolas Island is the lack of current suitable habitat on the island and that this threat has not been ameliorated. Additionally, although the Navy plans to create a nursery to assist in the restoration of native habitat, the nursery will not be a large operation, and, although it will assist in the creation of additional habitat for the island night lizard, it will not be able to restore habitat on the island to its historical state.

Our Response: The lack of current suitable habitat is not considered a substantial threat to the island night lizard on San Nicolas Island. Since listing, mapping precision and differing survey methodologies have resulted in different estimates of high-quality island night lizard habitat (Fellers *et al.* 1998, p. 46; Junak 2003, p. 7). However, the Service has determined that high-quality island night lizard habitat is stable and, with habitat restoration, removal of all nonnative feral grazers, and management efforts and policies to prevent the reintroduction of nonnative feral grazers, is likely increasing on San Nicolas Island (Navy 2005, p. 3; Service 2006, p. 12; 78 FR 7908, p. 7919). The Navy completed development of a nursery and is propagating native plants to restore native habitat and counter the negative impacts to the habitat by nonnative feral grazers. These efforts include growing and outplanting of native vegetation to assist in erosion management and to improve the quality of habitat on the island, including that utilized by the island night lizard (Ruane 2013a, pers. comm.; Vartanian 2013, pers. comm.; Hoyer 2013, pers. comm.). Although San Nicolas Island has the least amount of island night lizard habitat of the three inhabited islands, the best available scientific and commercial information indicates that island night lizard high-quality habitat is slowly recovering (Service 2012a). The Navy asserts the nursery operation is in its initial stages and, although there are no immediate plans to expand the nursery, the Navy does intend to expand the nursery to increase production and outplanting of native plants, including those plants that comprise low- to moderate- and high-quality island night lizard habitat in the future (Vartanian 2013, pers. comm.)

Comment (6): One peer reviewer commented that, throughout the proposed rule, we state that there has been no change in the amount of island night lizard habitat on San Clemente Island; however, we also note a declining trend of approximately 6 percent for *L. californicum* and approximately 10 percent for *Opuntia* ssp. has occurred. The reviewer stated that this decline is cause for concern because if this decline in habitat is extrapolated to the island night lizard population, it results in a decline of 3.4 million lizards on the island. The reviewer also noted that relating this decline in habitat to higher rainfall amounts in the baseline year (1992) compared to the last year (2008) is speculative.

Our Response: We note that the decline in *L. californicum* and *Opuntia* ssp. habitat on San Clemente Island is in percent cover and not total acreage, and that these surveys were conducted at only 4 sites for *L. californicum* and 10 sites for *Opuntia* ssp.; thus, this observed trend in percent cover is based on a small sample size that is not island-wide. We are aware that the island night lizard population of 21.3 million lizards was determined through correlating lizard densities in these habitats and extrapolating the densities across the island, but we do not agree with the peer reviewer that a decline in percent cover of these habitats at a few specific locations would lead to an overall island-wide loss of 3.4 million lizards because the correlation of lizard densities was based on quantity of habitat and not percent cover of habitat. Additionally, annual forb cover is closely correlated with rainfall, and annual forbs are members of both *L. californicum* and *Opuntia* ssp. habitats on San Clemente Island. Therefore, we find it reasonable that the higher rainfall reported in the baseline years (1991–1993) may account for higher percent cover, compared to lower percent cover observed after conditions of lower rainfall in 2008. Finally, although not mentioned in the proposed rule, the long-term assessment also found that there was little to no change in overall percent frequency of *L. californicum* and *Opuntia* ssp. (Tierra Data 2010, pp. 94–97).

Comment (7): One peer reviewer stated that the Navy should consider establishing an INLMA on San Nicolas Island to show long-term commitment to the island night lizard's protection as suggested in the Recovery Plan.

Our Response: We agree with the peer reviewer's comment and are suggesting in the post-delisting monitoring plan that the Navy establish an INLMA on San Nicolas Island in areas containing the highest densities of island night

lizards (as recommended in the Recovery Plan (Service 1984, pp. 111, 125)).

Comment (8): Two peer reviewers commented that island night lizards on San Nicolas Island are being collected at one sample site, and that the entire sampling population at that site has disappeared due to this collection and should be identified as a threat to the species.

Our Response: We appreciate these peer reviewers' comments and have incorporated a discussion of this information in this final rule (see *Factor B: Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*).

Comment (9): One peer reviewer noted that there appears to be an inconsistency in the proposed rule when identifying habitat areas that harbor the highest densities of island night lizards. Specifically, the proposed rule states that the highest densities of island night lizards are found in *L. californicum* and *Opuntia* spp. habitats, while the same statement is made of the cobble and driftwood habitat found on San Nicolas Island.

Our Response: We modified language in this final rule (see Distribution and Habitat above) to clarify that, although the majority of highest densities of island night lizards are found in *L. californicum* and *Opuntia* spp. habitats throughout the species' range, a small amount of unique habitat on San Nicolas Island made of cobble and driftwood supports the highest density of island night lizards on that island.

Comment (10): One peer reviewer noted that mixed-shrub habitat supports a self-sustaining population of island night lizards on San Nicolas Island although densities are much lower than in high-quality habitat.

Our Response: We appreciate the peer reviewer's correction of this information and have added a statement in this final rule (see Changes from the Proposed Rule above) to reflect this change.

Comment (11): One peer reviewer questioned whether erosion control efforts were being implemented on San Nicolas Island.

Our Response: In response to this comment, we reviewed the Navy's soils conservation management strategy. The Navy's INRMP states that the Navy's soils conservation management strategy is to ''. . . effectively implement best management practices to prevent and control soil erosion.'' (Navy 2010, p. 4.10). Additionally, as documented through our communications with Navy personnel (Ruane 2013d, pers. comm.), they continue to implement best management practices to promote soil conservation and prevent and control soil erosion. Based on our review, there is no indication that the Navy is not implementing actions and best management practices to prevent and control erosion. Accordingly, we conclude that erosion control efforts are being implemented on San Nicolas Island and such efforts will continue in the future.

Comment (12): One peer reviewer noted that, although the southern alligator lizard is not likely a threat to the island night lizard, there is no specific research to support the Service's claim that the southern alligator lizard is not a threat at this time.

Our Response: Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made solely on the basis of the best scientific and commercial data available. We agree with the peer reviewer that no specific research has been conducted to study the potential effects that the southern alligator lizard might have on island night lizards. However, there is also no information to indicate that southern alligator lizards are a threat to the island night lizard or its habitat. Therefore, we do not currently consider the southern alligator lizard a threat to the island night lizard or its habitat.

Public Comments

Comment (13): One commenter stated that the island night lizard should remain on the Federal List of Endangered and Threatened Wildlife because of overwhelming threats to the species, such as climate change (including sea level rise and ocean acidification) and land use and development.

Our Response: The Service reviews the best scientific and commercial information available when conducting a threats analysis. In considering what factors might constitute a threat, we must look beyond the mere exposure of the species to the factor to determine whether the exposure causes actual impacts to the species. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing (or maintaining a currently listed species on the Federal Lists of Endangered or Threatened Wildlife or Plants) is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of endangered or threatened under the Act.

In the proposed rule to delist the island night lizard (78 FR 7908), we reviewed numerous journal articles that examined models of projected sea level rise by the end of the twenty-first century (Cayan *et al.* 2008, p. S62; PRBO 2011, p. 41). Based on this review, available data do not indicate that a substantial rise in sea level would affect the island night lizard or its habitat (Service 2013, p. 7926). The commenter did not provide, nor is there available, information that suggests that ocean acidification would be a threat to the terrestrial island night lizard. We also reviewed the current land use and development practices by the Navy and NPS on all three islands inhabited by island night lizards. While land use and development is a concern on Santa Clemente and San Nicolas islands due to Navy activity, the amount, quality, and distribution of habitat together with avoidance measures implemented by the Navy reduce the potential impact to the species (Service 2013, pp. 7921–7922), and we expect this trend to continue in the future, even with delisting. Land use and development on Santa Barbara Island is not of concern. We therefore continue to conclude that land use and development are not substantial threats to the species.

Comment (14): One commenter noted that although climate change, and specifically long-lasting droughts, could cause a decline in birth rates of the island night lizard, the commenter was still in favor of delisting because of future post-delisting monitoring efforts.

Our Response: The Service appreciates the commenter's concern and understands the cyclical nature of birth rates depending on annual rainfall (as described in in the Life History and Biology section of the proposed rule) (78 FR 7908, 7911). Through post-delisting monitoring efforts to monitor recruitment, we will be monitoring this concern and have identified triggers in the post-delisting monitoring plan to indicate when a decline in birth rates may warrant additional management efforts to address the concern.

Comment (15): One commenter noted that, although the Navy petitioned the Service to delist the island night lizard and conducted most of the studies that have helped support delisting, the studies were likely unbiased and provided legitimate information for removing the species from the List.

Our Response: We appreciate the commenter's acknowledgement of the Navy's work and commitments to island night lizard conservation. The Navy has worked cooperatively with us to reduce threats (see Summary of Factors Affecting the Species in the proposed rule (78 FR 7908)) to the island night lizard on San Clemente and San Nicolas

islands, and we expect to continue coordinating with them throughout the post-delisting monitoring process to conduct monitoring efforts as identified in the Final Post-delisting Monitoring Plan and through implementation of their INRMPs.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth procedures for listing species, reclassifying species, or removing species from listed status. ''Species'' is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). A species may be determined to be an endangered or threatened species because of any one or a combination of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or human-made factors affecting its continued existence. A species may be reclassified on the same basis.

Determining whether the status of a species has improved to the point that it can be delisted or downlisted requires consideration of whether the species is endangered or threatened because of the same five categories of threats specified in section 4(a)(1) of the Act. For species that are already listed as endangered or threatened, this analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or downlisting and the removal or reduction of the Act's protections.

A species is an ''endangered species'' for the purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range, and is a ''threatened species'' if it is likely to become endangered in the foreseeable future throughout all or a significant portion of its range. The word ''range'' in the significant portion of its range phrase refers to the range in which the species currently exists at the time of this status review. For the purposes of this analysis, we first evaluate the status of the species throughout all its range, then consider whether the species is in danger of extinction or likely to become so in any significant portion of its range.

Factor A: The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

At the time of listing (42 FR 40682, August 11, 1977), the present or threatened destruction, modification, or curtailment of habitat or range was identified as a factor affecting island night lizards on San Clemente, San Nicolas, and Santa Barbara Islands. Threats attributed to this factor included the introduction of nonnative herbivores and the continuing negative effects of overgrazing on the native vegetation, including those plants identified as island night lizard habitat (42 FR at 40683–40684). The introduction of nonnative plant species was also discussed in the listing rule (42 FR at 40684), although under *Factor E.* Since listing, and as identified in the 2006 5-year review of the island night lizard (Service 2006, pp. 10–24), threats from nonnative plants, land use or development, and fire also were considered potential threats to island night lizard habitat and are discussed under *Factor A.* The 2012 5-year review and the proposed delisting rule addressed the potential threat of erosion to island night lizard habitat or range under *Factor A* (Service 2012a, pp. 26–27; 78 FR 7908, 7918–7927), and thus it is also included in this discussion. Additionally, we include discussion on potential impacts of climate change to habitat under *Factor A* (as well as *Factor E* as it relates to impacts to individuals of the species itself).

Nonnative Animals

At listing, we determined that overgrazing by introduced, nonnative herbivores was a threat to island night lizard habitat on all occupied islands throughout the species' range (42 FR 40682, 40683–40684). Nonnative herbivores were introduced to San Clemente, San Nicolas, and Santa Barbara Islands during the mid-1800s to the mid-1900s, resulting in the degradation of island night lizard habitat (42 FR at 40682–40683; Navy 2002, pp. 3.34–3.35; Navy 2005, p. 7). In both the 2006 and 2012 5-year reviews, as well as the proposed delisting rule, we reported that all nonnative herbivores had been removed from these islands (Service 2006, pp. 11–12; Service 2012a, p. 19; 78 FR 7908, 7919). We also concluded in those documents that habitat destruction or modification from the introduction of nonnative herbivores was no longer a threat to the species now or likely to become a threat in the future, due to ongoing management efforts conducted by the Navy on San Clemente and San Nicolas Islands, and by the NPS on Santa Barbara Island (Service 2006, pp. 11–12; Service 2012a, p. 19; 78 FR at 7919).

No new information indicates that there has been a reintroduction of nonnative animals to San Clemente, San Nicolas, or Santa Barbara Islands, or that nonnative animals have become a threat to island night lizard habitat on the islands since publication of the proposed delisting rule. See the proposed rule to delist the island night lizard for a detailed discussion of the historical land use by nonnative animals on all three islands, ongoing actions to prevent the reintroduction of nonnative animals to the three islands, and ongoing revegetation efforts to restore native habitat on all three islands (78 FR 7908, 7918–7919).

San Clemente Island

The Navy continues to implement management policies to eliminate the possible reintroduction of nonnative animals to San Clemente Island. Additionally, the Navy continues to restore native vegetation, including plant species identified as island night lizard habitat to San Clemente Island. In 2012, the Navy placed 1,124 native plants at three different locations on San Clemente Island (Navy 2013a, p. 17). Of the 1,124 native plants outplanted, 104 consisted of *Artemisia* spp., 37 consisted of *Constancea nevinii,* and 15 consisted of *Eriogonum giganteum,* which provide low- to moderate-quality habitat for the island night lizard (Navy 2013a, pp. 12–13). Therefore, due to ongoing management and restoration efforts conducted by the Navy, we continue to conclude that habitat destruction or modification from the introduction of nonnative herbivores is no longer a threat to island night lizard habitat on San Clemente Island, nor is it likely to become a threat in the future.

San Nicolas Island

The Navy continues to implement management policies to eliminate the possible reintroduction of nonnative animals to San Nicolas Island. Additionally, in 2012, the Navy completed development of a nursery on the island to grow and outplant native plants to restore native habitat and assist in erosion control (Ruane 2013a, pers. comm.). To date, the Navy has placed approximately 1,300 plants on the western side of San Nicolas Island (Vartanian 2013, pers. comm.) where island night lizard habitat is limited. Of the 1,300 native plants species outplanted, there were 780 *Atriplex californica,* 32 *Calystegia macrostegia,*

and 332 *Isocoma menziesii* that provide low- to moderate-quality for the island night lizard (Vartanian 2013, pers. comm.; Navy 2013a, p. 13). Additionally, the Navy has begun to outplant Opuntia spp. on San Nicolas Island, which provides high-quality habitat for the island night lizard (Ruane 2013a, pers. comm.). Therefore, due to ongoing management and restoration efforts conducted by the Navy, we continue to conclude that habitat destruction or modification from the introduction of nonnative herbivores is no longer a threat to island night lizard habitat on San Nicolas Island, nor is it likely to become a threat in the future.

Santa Barbara Island and Sutil Island

Since 2007, the MSRP has conducted native plant restoration projects on Santa Barbara Island (Harvey and Barnes 2009, pp. 15–22) to benefit Xantus's Murrelet (*Synthliboramphus hypoleucus*) and Cassin's Auklet (*Ptychoramphus aleuticus*) (Harvey and Barnes 2009, p. 4). Many of the native plants used in these restoration projects also provide island night lizard habitat, including low- to moderate-quality habitat (*Coreopsis gigantea, Eriogonum giganteum* var. *compactum, Deinandra clementina, Constancea nevinii, Artemisia nesiotica* (sage), and *Baccharis pilularis*) and high-quality habitat (*Lycium californicum*) (Fellers and Drost 1991, p. 34; Fellers *et al.* 1998, pp. 11–12; Harvey and Barnes 2009, p. 7; Mautz 2001a, p. 23; Navy 2005, p. 30). Since 2007, the MSRP has restored approximately 5 ac (2 ha) of native habitat on Santa Barbara Island, consisting of 19,560 native plants (Harvey 2013, pers. comm.).

We expect the amount and distribution of habitat to remain relatively stable in the future, because the major threat to habitat (nonnative herbivores) has been eliminated and the NPS has an active habitat management and restoration program. The NPS also continues to implement management policies to eliminate the possible reintroduction of nonnative animals to Santa Barbara Island. Therefore, we continue to conclude that habitat destruction or modification from the introduction of nonnative herbivores is no longer a threat to island night lizard habitat on Santa Barbara Island, nor is it likely to become a threat in the future.

Nonnative Plants

At listing, the introduction of nonnative plants was noted as having adversely impacted all California Channel Islands (42 FR 40682, 40684, August 11, 1977). While the introduction of nonnative herbivores impacted much of the native vegetation, nonnative plants introduced to the islands have also modified habitat for the island night lizard. In the 2006 5-year review, we noted that nonnative plant species may alter ecosystem dynamics by changing soil nitrogen cycling, and may compete with native plants for space or other resources such as light, water, and nutrients (Service 2006, p. 12). Nonnative plant species can also alter ecological processes such as fire frequency that could otherwise affect the persistence of the island night lizard (Navy 2002, p. 3.114). Low densities of island night lizards observed in some of the nonnative plant communities suggest that modification of the native plant communities can reduce the available resources for this taxon. The 2006 and 2012 5-year reviews and the proposed delisting rule for the island night lizard found that habitat destruction or modification from the introduction of nonnative plants is of potential concern, but due to current management and preventative actions implemented on all occupied islands, is not a substantial threat to the species throughout its range now and in the future (Service 2006, p. 13; Service 2012a, pp. 20–22; 78 FR 7908, 7919–7921).

No new information indicates that nonnative plants have become a threat to island night lizard habitat on San Clemente, San Nicolas, or Santa Barbara Islands. Although nonnative plants will continue to pose a risk to island night lizard habitat, the Navy and NPS have taken steps to curtail the introduction and spread of nonnative plants, and such steps are expected to continue into the future. See the proposed delisting rule for a detailed discussion on nonnative plants and ongoing management actions implemented by the Navy on San Clemente and San Nicolas Islands, and NPS on Santa Barbara Island to prevent the further introduction of nonnative plants (78 FR 7908, 7919–7921).

San Clemente Island

The Navy continues to implement management policies to eliminate the possible reintroduction of nonnative plants and actively manages existing nonnative plant species on San Clemente Island. For example, in 2012, the Navy treated 14,597 nonnative plants (consisting of 13 different nonnative species) throughout the range of the island night lizard on San Clemente Island (Navy 2013a, pp. 22–25). Therefore, we continue to conclude that, given the current and anticipated levels of management, habitat destruction or modification from the introduction of nonnative plants is no longer a threat to island night lizard habitat on San Clemente Island, nor is it likely to become a threat in the future.

San Nicolas Island

The Navy continues to implement management policies to eliminate the possible reintroduction of nonnative plants and actively manages existing nonnative plant species on San Nicolas Island. Since 2012, the Navy has continued the annual treatment and monitoring of select nonnative species on San Nicolas Island, such as *Brassica tournefortii* (Saharan mustard) (Ruane 2013b, pers. comm.). From 2012 to 2013, the Navy conducted reconnaissance efforts to identify *B. tournefortii* on approximately 86 ac (34.8 ha) of San Nicolas Island (Navy 2013a, p. 5), and applied herbicide treatments accordingly. Per our coordination efforts with the Navy, we anticipate they will continue nonnative plant removal treatments into the future. Therefore, we continue to conclude that habitat destruction or modification from the introduction of nonnative plants is not a threat to island night lizard habitat on San Nicolas Island, nor is it likely to become a threat in the future.

Santa Barbara Island and Sutil Island

The NPS continues to propagate native species at their greenhouse, including those found within low- to moderate-quality island night lizard habitat (such as *Coreopsis gigantea, Eriogonum giganteum* var. *compactum, Deinandra clementina, Constancea nevinii, Artemisia nesiotica, Baccharis pilularis*), and high-quality habitat (such as *Lycium californicum*) (Fellers and Drost 1991, p. 34; Fellers *et al.* 1998, pp. 11–12; Mautz 2001a, p. 23, Navy 2005, p. 30). From 2007 to 2012, NPS planted 19,560 native plants on Santa Barbara Island, some of which as discussed above provide habitat for island night lizards (Harvey 2013, pers. comm.; Little 2011, pers. obs.). To date, approximately 5 ac (2 ha) of native habitat have been restored to benefit seabirds, including some which also benefit the island night lizard, on Santa Barbara Island (Little 2011, pers. obs.; Harvey 2013, pers. comm.). Additionally, from 2007 to 2011, the NPS in coordination with the MSRP conducted nonnative plant species removal from Santa Barbara Island on 4.5 ac (1.8 ha) (Harvey 2012, pers. comm.).

The NPS also drafted a General Management Plan for the Channel Islands, which addresses the continuing effort to monitor and restore native vegetation on Santa Barbara Island (NPS 2013, entire). This draft General

Management Plan continues to emphasize the eradication of all nonnative floras from the island (NPS 2013, pp. 50, 83). Although this plan has yet to be finalized, due to current and future management efforts described above, we continue to conclude that habitat destruction or modification from the introduction of nonnative herbivores is no longer a threat to island night lizard habitat on Santa Barbara and Sutil Islands, nor is it likely to become a threat in the future.

Land Use and Development

At listing (42 FR 40682, August 11, 1977), the destruction or modification of habitat from land use and development was not identified as a threat to the island night lizard. While development activities can reduce available habitat for island night lizards, potentially resulting in the direct loss of individuals, the 2006 and 2012 island night lizard 5-year reviews and the proposed delisting rule concluded that land use and development is not a substantial threat to the species or its habitat throughout the species' range (Service 2006, p. 18; Service 2012a, pp. 22–24; 78 FR 7908, 7921–7922).

No new information indicates that land use and development has become a threat to the island night lizard or its habitat on San Clemente, San Nicolas, or Santa Barbara Islands. See the proposed delisting rule for a detailed discussion on the historical and current land use and development practices by the Navy on San Clemente and San Nicolas Islands, and NPS on Santa Barbara Island (78 FR 7908, 7921–7922).

San Clemente Island

While island night lizard habitat loss and disturbance occur on San Clemente Island as a result of military land use and development projects (such as training and testing activities), the Navy continues to conduct adequate management efforts, such as nonnative species removal, native plant growth and outplantings, and erosion control (Navy 2002, pp. 3.115–3.1156; Navy 2013b, pp. 35–54, 113–122; Munson 2013, pers. comm.) to minimize or avoid the effects on the island night lizard and its habitat, and we expect these efforts to continue even with delisting. Therefore, we continue to conclude that habitat destruction or modification from land use and development is not a substantial threat to the island night lizard or its habitat on San Clemente Island, nor is it likely to become a threat in the future.

San Nicolas Island

Like San Clemente Island, island night lizard habitat loss and disturbance occur on San Nicolas Island as a result of military land use and development projects (such as training and testing activities). However, the Navy continues to conduct adequate management efforts to minimize the effects on the island night lizard and its habitat. For example, the Navy has developed a plant nursery on San Nicolas Island and is currently cultivating *Opuntia littoralis* and is in the process of cultivating *Lycium californicum* to outplant surrounding areas affected by the creation of a wind energy project (Ruane 2013a, pers. comm.; Vartanian 2013, pers. comm.). We expect these efforts to continue even with delisting. In addition, high-quality habitat on San Nicolas Island is distributed in areas that are currently not developed or proposed for use or development (Navy 2010, p. D–27; Ruane 2013e, pers. comm.). Therefore, we continue to conclude that land use and development is not a substantial threat to the island night lizard or its habitat on San Nicolas Island, nor is it likely to become a threat in the future.

Santa Barbara Island and Sutil Island

The current status of Santa Barbara Island as a unit of the National Park System protects the island night lizard and its habitat from impacts related to future land use or development. Currently, other than recreational camping, land is little used on Santa Barbara Island, and this land use pattern is not expected to change. As such, we continue to conclude that land use and development are not a substantial threat to the island night lizard or its habitat on Santa Barbara and Sutil Islands, nor are likely to become so in the future.

Fire

At listing (42 FR 40682, August 11, 1977), fire was not identified as a threat to the island night lizard or its habitat. Fire would normally be a rare occurrence on San Clemente, San Nicolas, and Santa Barbara Islands, but human use and occupancy of the islands have increased the incidence of wildfires on all three islands to varying degrees. Where fires do occur, they may destroy island night lizard habitat, which reduces cover that assists with thermoregulation, increases exposure to predators, creates a short-term reduction in prey availability, and potentially harms individuals (Mautz 2001, p. 27; Service 2006, p. 13; 78 FR 7908, 7922).

San Clemente and San Nicolas Islands have an increased potential for fire due to military activities and the presence of nonnative, annual grasses, which increase the amount of flammable fuels (Service 2006, pp. 13–15; Service 2012a, pp. 23–26; 78 FR 7908, 7927). Based on historical records and current land use, high fire frequency on Santa Barbara Island is an unlikely occurrence that would be limited to ignitions caused by human negligence. Although fire is a potential threat on all three islands, ongoing fire management policies, plans, and actions being implemented through the Navy's INRMPs, fire management plans, and NPS's general management policies have helped to avoid or minimize the potential risk of fire. See the proposed delisting rule for a detailed discussion on the historical effects of fire and current fire management practices by the Navy on San Clemente and San Nicolas Islands, and NPS on Santa Barbara Island (78 FR at 7922–7923). No new information indicates that fire has become a threat to the island night lizard or its habitat on San Clemente, San Nicolas, and Santa Barbara Islands since publication of the proposed delisting rule.

San Clemente Island

As mentioned above, fires do occur on San Clemente Island due to military related activities. In 2012, 15 fires burned approximately 3,500 ac (1,416 ha) of land on San Clemente Island (Navy 2012, pp. 27–35). Of these 15 fires, 9 of them burned a total of 1.8 ac (0.7 ha) of moderate- to high-quality island night lizard habitat on the northern end of the island outside of the INLMA (Navy 2012, pp. 27–29). All of the nine fires burned with light to moderate intensity, which indicates that the effects of the fires on the shrubs composing moderate- to high-quality island night lizard habitat were classified as burned to singed, with some to many of these shrubs resprouting and recovering (Navy 2012, pp. 26, 28–29). Five fires burned 1,253 ac (507 ha) of low- to moderate-quality island night lizard habitat outside of the INLMA in the southern portion of the island classified as the Shore Bombardment Area where live-fire training (e.g., artillery and mortars) occurs (Navy 2002, p. 2.4; Navy 2012, pp. 27, 31–35). Four of these five fires burned 1,222 ac (495 ha) lightly to moderately, including both low- and moderate-quality island night lizard grassland habitat, while one fire only singed approximately 31 ac (13 ha) of high-quality island night lizard habitat (Navy 2012, pp. 26–27, 31–35). Effects on shrubs within these five fires varied (from not affected, to singed, to burned) with some to many of these shrubs

resprouting and recovering (Navy 2012, pp. 26–27, 31–35). Effects on herbs and grasses were also noted; within these five fires herbs and grasses were burned to ash with some resprouting (Navy 2012, pp. 26–27, 31–35). The largest fire lightly burned 2,146 ac (869 ha) of low-quality island night lizard grassland habitat outside of the INLMA (Navy 2012, pp. 27, 29).

Although these fires did burn some moderate- to high-quality island night lizard habitat, all of the fires occurred outside of the INLMA where the majority of high-density island night lizard habitat occurs on San Clemente Island. Additionally, none of the moderate- to high-quality habitat burned to ash, and nearly all had signs of resprouting (Navy 2012, pp. 26–35). Therefore, we continue to conclude that fire is not a substantial threat to the island night lizard or its habitat, nor is it likely to become a threat in the future due to current fire management practices implemented through the Navy's INRMP, the amount of moderate- to high-quality island night lizard habitat, and large population of island night lizards on San Clemente Island.

San Nicolas Island

No fires occurred on San Nicolas Island in 2012 (Ruane 2013c, pers. comm.). Due to continued fire management efforts implemented through the Navy's INRMP on San Nicolas Island, we continue to conclude that fire is not a substantial threat to the island night lizard or its habitat on San Nicolas Island, nor is it likely to become a threat in the future.

Santa Barbara Island and Sutil Island

No fires occurred on Santa Barbara Island in 2012 other than permitted campfires (Rodriguez 2013b, pers. comm.), and no fires occurred on Sutil Island. Due to limited human use on the island and fire management efforts implemented through the Channel Islands National Park Fire Management Plan (NPS 2006b) (as described in the proposed delisting rule, 78 FR 7908, 7924), we continue to conclude that fire is not a substantial threat to the island night lizard or its habitat on Santa Barbara and Sutil Islands, nor is it likely to become a threat in the future.

Erosion

Although erosion was not identified as a threat to the island night lizard or its habitat at listing (42 FR 40682, August 11, 1977), the impact from erosion has since been identified as a general threat to the habitats on the Channel Islands, including San Clemente, San Nicolas, and Santa Barbara Islands (Navy 2002, pp. 3.58–3.68; NPS 2006, p. 62; Navy 2010, pp. 3.52–3.54). However, the 2006 and 2012 5-year reviews and the proposed delisting rule concluded that erosion is not a substantial threat to island night lizard habitat on any of the occupied islands (Service 2006, pp. 12, 16; Service 2012a, pp. 28–29; 78 FR 7908, 7924–7925).

No new information indicates that erosion has become a threat to island night lizard habitat on San Clemente, San Nicolas, and Santa Barbara Islands since publication of the proposed delisting rule. Erosion caused by ongoing military activities on San Clemente and San Nicolas Islands currently affects island night lizard habitat; however, impacts are primarily a consequence of the historical introduction of nonnative herbivores (which no longer inhabit any of the islands) and land use operations. Ongoing management efforts are currently implemented by the Navy to minimize, reduce, and restore areas where erosion has occurred through implementation of best management practices and erosion control plans. On Santa Barbara Island, erosion from wind, wave action, and the effects of overgrazing are evident and continue to contribute to alteration of habitat; however, new sources of human-caused erosion on the island, which could exacerbate current conditions, are minimal given the limited amount of human use on the island. See the proposed delisting rule for a more detailed discussion on the historical effects of erosion and current erosion management practices by the Navy on San Clemente and San Nicolas Islands, and NPS on Santa Barbara Island (78 FR 7908, 7924–7925).

San Clemente Island

Since publication of the proposed rule to remove the island night lizard from the List, the Navy finalized an Erosion Control Plan for San Clemente Island (Navy 2013b). Goals of the Erosion Control Plan are to minimize impacts of soil erosion within maneuver areas and to minimize offsite impacts; prevent erosion from adversely affecting sensitive resources such as federally listed or proposed species or their habitats, including the island night lizard; and prevent erosion from significantly impacting other sensitive resources including sensitive plant and wildlife species and their habitat (Navy 2013b, pp. 3, 5). The Erosion Control Plan addresses military operations associated with the Infantry Operation Area, Assault Vehicle Maneuver Areas, Artillery Maneuver Points, and Artillery Firing Points, and provides site-specific erosion control recommendations for these areas encompassing 1,123 (ac) (454 ha), all of which are occupied by the island night lizard (Navy 2013b, pp. 55–112). Erosion management within these areas addresses and includes guidelines for restriction of vehicle maneuvering when soils are wet, operator education, vegetation management, fire management, and methods for gully prevention and restoration (Navy 2013b, pp. 35–54).

Additionally, the Erosion Control Plan includes an adaptive management and monitoring plan, which provides specific measureable objectives for soil movement and plant cover within the maneuver areas; specific methods to monitor these objectives; specific targets to assess success or failure of best management practices to minimize and prevent soil erosion; and a list of potential actions to be taken if these targets are not met (Navy 2013b, pp. 113–122). Methods utilized to monitor these objectives include visual inspections, sediment monitoring, vegetation transects, soil moisture and trafficability, erosion feature mapping, and photopoints (Navy 2013b, pp. 113–120). Therefore, we continue to conclude that erosion is not a substantial threat to island night lizard habitat on San Clemente Island, nor is it likely to become a threat in the future.

San Nicolas Island

The Navy has continued to implement measures to restore areas that have been affected by erosion. In 2012, the Navy completed development of a nursery on the island to grow and outplant native plants to restore native habitat and assist in erosion control on San Nicolas Island (Ruane 2013a, pers. comm.). To date, approximately 1,300 plants have been planted on the western side of San Nicolas Island (Vartanian 2013, pers. comm.). These plants include *Abronia* ssp., *Acmispon argophyllus* var. *argenteus, Distichlis spicata,* and other plants that provide low- to moderate-quality habitat conditions for the island night lizard, such as *Atriplex californica, Calystegia macrostegia,* and *Isocoma menziesii* (Vartanian 2013, pers. comm.). Additionally, the Navy continues to implement BMPs to prevent and minimize erosion on San Nicolas Island. Therefore, based on the best available information, we continue to conclude that erosion is not a substantial threat to island night lizard habitat on San Nicolas Island, nor is it likely to become a substantial threat in the future.

Santa Barbara Island and Sutil Island

Currently, NPS management policies dictate that the NPS will actively preserve soil resources, prevent unnatural erosion, and prevent or minimize potentially irreversible impacts on soil (NPS 2006a, p. 56). Therefore, based on the best available information about current erosion levels and NPS efforts to preserve soil resources, we continue to conclude that erosion is not a substantial threat to island night lizard habitat on Santa Barbara and Sutil Islands, nor is it likely to become a threat in the future.

Climate Change

At the time of listing (42 FR 40682, August 11, 1977), we did not find climate change to be a threat to the island night lizard or its habitat. The 2006 and 2012 5-year reviews and the proposed delisting rule concluded that generally, climate change is predicted to result in warmer air temperatures, lower rainfall amounts, and rising sea levels; however, it is currently unknown how climate change will specifically affect island night lizard habitat on San Clemente, San Nicolas, and Santa Barbara Islands (Service 2006, p. 24; Service 2012a, pp. 38–39; 78 FR 7908, 7925–7926). The island night lizard may be more susceptible to natural catastrophes on San Nicolas and Santa Barbara Islands because of its restricted distribution on those islands, while its greater numbers and distribution on San Clemente Island may indicate the island night lizard is less susceptible to stochastic events on that island. Regardless, we expect that the island night lizard's susceptibility to climate change is somewhat reduced by its ability to use varying habitat types and by its broad generalist diet. See the proposed delisting rule for a more detailed discussion on climate change (78 FR at 7925–7926).

Since publication of the proposed delisting rule (78 FR 7908), no new information indicates that climate change has become a substantial threat to island night lizard habitat on San Clemente, San Nicolas, or Santa Barbara Islands, or that it will become a substantial threat to habitat in the future. Therefore, we continue to conclude that climate change is not a substantial threat to island night lizard habitat throughout the species' range, nor is it likely to become a threat in the future.

Factor A Summary

Since publication of the proposed delisting rule (78 FR 7908), no new information indicates that loss and modification of island night lizard habitat by nonnative herbivores, nonnative plants, land use and development, fire, erosion, and climate change have become a substantial threat to the island night lizard or its habitat on San Clemente, San Nicolas, and Santa Barbara Islands. The Navy on San Clemente and San Nicolas Islands continues to monitor for these concerns and conduct management efforts through implementation of INRMPs and management plans on the two islands to ensure that these concerns do not threaten the island night lizard or its habitat now or in the future, and we expect these efforts to continue in the future. Additionally, the NPS on Santa Barbara Island (and adjacent Sutil Island) continues to monitor for these concerns and conducts management efforts through implementation of the Organic Act and management plans that avoid or minimize these threats to the island night lizard or its habitat now or in the future.

Therefore, we continue to conclude that habitat destruction or modification from introduction of nonnative taxa, land use and development, fire, erosion, and climate change do not pose a substantial threat to the island night lizard or its habitat on San Clemente, San Nicolas, and Santa Barbara Islands (including Sutil Island) now, nor are they likely to become threats in the future.

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

Overutilization for commercial, recreational, scientific, or educational purposes was not identified as a threat to the island night lizard at listing (42 FR 40682, August 11, 1977). The 2006 and 2012 5-year reviews and the proposed delisting rule did not identify overutilization for commercial, recreational, scientific, or educational purposes as a threat to the island night lizard (Service 2006, p. 18; Service 2012a, p. 28; 78 FR 7908, 7927). Currently, island night lizards on San Clemente and San Nicolas Islands are only captured for scientific purposes or for relocation efforts due to Navy projects in accordance with permitted activities covered by a section 10(a)(1)(A) permit under the Act. However, at the Eucalyptus sampling site on San Nicolas Island, all island night lizards have disappeared, and researchers believe their disappearance is due to unpermitted collection of the species (Fellers 2013, pers. comm.; Drost 2013, pers. comm. 2013). While we lack specific evidence indicating these lizards were collected by other persons, the loss of these individuals is of concern and should be further monitored; however, this situation is not a substantial threat to the population as a whole on San Nicolas Island.

Currently, we have issued four active section 10(a)(1)(A) permits for the island night lizard. Research activities may result in impacts to some individuals (use of pitfall traps and toe-clipping); however, they do not constitute a significant threat to the species (Service 2012a, p. 31). The Navy has been notified that collection of the island night lizard might be occurring at one site on San Nicolas Island (Fellers 2013, pers. comm.). Aside from this, capture of island night lizards for commercial or other nonpermitted activities is unlikely to occur on San Clemente or San Nicolas Islands because access to these islands is strictly limited by the Department of Defense. No available information indicates that visitors to Santa Barbara Island are actively collecting island night lizards. Although it is possible that someone visiting or working on any of the islands could collect island night lizards, based on the best available information, we have no indication that such activities are occurring.

Therefore, based on the limited number of active section 10(a)(1)(A) permits and lack of evidence that collection is occurring on either San Clemente or Santa Barbara Island, we find that overutilization for commercial, recreational, scientific, or educational purposes is not currently a substantial threat, nor is it likely to become a substantial threat to the species on San Clemente and Santa Barbara Islands in the future. Additionally, although some lizards appear to have been collected from one site on San Nicolas Island, this is not a substantial threat to the island-wide population, which numbers at approximately 15,300 lizards (Service 2012,a p. 31), and the Navy has been notified of potential unauthorized activity.

Factor C. Disease or Predation

Disease

Disease was not identified as a threat to the island night lizard at listing (42 FR 40682, August 11, 1977), in the 2006 or 2012 5-year reviews, or in the proposed delisting rule (Service 2006, p. 19; Service 2012a, p. 29; 78 FR 7908, 7927). Additionally, no new information indicates that disease has become a threat on San Clemente, San Nicolas, or Santa Barbara Islands. Therefore, we continue to conclude that disease is not a threat to the island night lizard on any

of the islands, nor is it likely to become a threat in the future.

Predation

At the time of listing (42 FR 40682, August 11, 1977), we identified predation of island night lizards as a threat to the species due to the introduction of nonnative feral cats and pigs to San Clemente Island (42 FR at 40683). The listing rule (42 FR at 40684) also indicated that the introduction of the nonnative southern alligator lizard to San Nicolas Island might pose a threat to the island night lizard through depredation or increased competition (42 FR at 40684). Currently, each island has native predators, such as foxes and raptors, but the best commercial and scientific available information does not indicate these predators are a substantial threat to the island night lizard now or in the future.

No new information indicates current native and nonnative predators on San Clemente Island, San Nicolas, and Santa Barbara Islands have become a substantial threat to the island night lizard. See the proposed delisting rule for a detailed discussion of predation and management efforts and policies implemented by the Navy on San Clemente Island and San Nicolas Island, and NPS on Santa Barbara Island, to monitor and eliminate the future introduction of nonnative predators (78 FR 7908, 7927–7928).

San Clemente Island

Since listing, nonnative predators have been identified on San Clemente Island, including feral cats, black rats, and a single gopher snake (*Pituophis catenifer*). The 2006 and 2012 5-year reviews and the proposed delisting rule concluded that predation by feral cats was not a substantial threat due to predator management actions implemented through the Navy's INRMP and the large lizard population on the island (Service 2006, p. 19; Service 2012, p. 32; 78 FR 7908, 7928). Additionally, since the removal of the single gopher snake, no other snakes have been identified on San Clemente Island (Service 2012, p. 32). Despite our review of the best scientific and commercial information available, the information does not indicate whether or how often black rats prey upon island night lizards. Therefore, due to current predator management efforts implemented by the Navy on San Clemente Island that we expect to continue in the future, we continue to conclude that predation is not a substantial threat to the island night lizard, nor is it likely to become a threat in the future.

San Nicolas Island

The 2006 5-year review indicated that the introduction of two nonnative lizards (southern alligator lizard and side-blotched lizard) may impact island night lizards on San Nicolas Island (Service 2006, p. 20). Although the distribution of the southern alligator lizard and island night lizard on San Nicolas Island does overlap, Fellers *et al.* (2009, p. 18) noted that southern alligator lizards primarily occur in different habitats and there is no indication of negative impacts to the island night lizard. The 2012 5-year review and proposed delisting rule concluded that the two nonnative lizards were not a predation threat to the island night lizard (Service 2012a, p. 32; 78 FR 7908, 7928).

In the 2006 5-year review, we concluded that feral cat predation threatened the island night lizard due to the small lizard population and the large feral cat population on San Nicolas Island (Service 2006, p. 20). However, in 2009, the Navy began implementing a feral cat removal program and announced the successful completion of this project in February 2012 (Little 2012, pers. comm.). Based on the successful feral cat eradication efforts, we subsequently concluded in the 2012 5-year review and proposed delisting rule that feral cats were no longer a threat to the island night lizard on San Nicolas Island (Service 2012a, p. 30; 78 FR 7908, 7928). Therefore, due to current management efforts implemented by the Navy on San Nicolas Island that we expect to continue in the future, we continue to conclude that predation is not a substantial threat to the island night lizard on that island, nor is it likely to become a threat in the future.

Santa Barbara and Sutil Island

The 2006 and 2012 5-year reviews and the proposed delisting rule for the island night lizard concluded that Santa Barbara Island does not support any nonnative predators, but does support populations of native predators of the island night lizard, including burrowing owl (*Athene cunicularia*), American kestrel (*Falco sparverius*), and barn owl (*Tyto alba*) (Service 2006, p. 19; Service 2012a, p. 33; 78 FR 7908, 7928). While natural predators may pose a threat to individual island night lizards (Service 2012a, p. 33; 78 FR at 7928), they do not pose a substantial threat to the continued existence of the species on Santa Barbara Island due to the current number of lizards on the island, highly sedentary nature of the lizard, and tendency to remain under shelter such as dense vegetation or rock, which limits their exposure to aerial predators (Service 2006, p. 19; Service 2012a, p. 33; 78 FR at 7928). To prevent future introductions of nonnative predators to Santa Barbara Island, the NPS restricts bringing any animal onto the island (NPS 2012). Therefore, due to current management efforts implemented by the NPS on Santa Barbara Island that we expect to continue in the future, we continue to conclude that predation is not a substantial threat to the island night lizard, nor is it likely to become a threat in the future.

Factor C Summary

At the time of listing (42 FR 40682, August 11, 1977), disease was not considered a threat to the island night lizard and, as discussed in further detail in the 2006 and 2012 5-year reviews as well as the proposed delisting rule (Service 2006, p. 19; Service 2012a, p. 29; 78 FR 7908, 7927), no new information indicates that disease is a threat to the island night lizard. Therefore, we continue to conclude that disease is not a threat to the island night lizard on any of the islands, nor is it likely to become a threat in the future.

At the time of listing (42 FR 40682, August 11, 1977), predation by feral cats and southern alligator lizards was considered a threat, but their impacts were not fully understood. Since listing, we have identified predation by nonnative lizards, feral cats, and black rats as a threat to the species. Recent research indicates that neither the southern alligator lizard nor the more recently introduced nonnative side-blotched lizard negatively impact the island night lizard on San Nicolas Island. Additionally, in 2010, the Navy successfully completed a feral cat removal program on San Nicolas Island. The Navy has also implemented efforts to control black rats and feral cats on San Clemente Island as part of the recovery efforts for the San Clemente loggerhead shrike and San Clemente Island sage sparrow. Though black rats and feral cats may affect individual island night lizards, they do not currently pose a substantial threat to the species on San Clemente Island. Since the identification and removal of a single gopher snake from San Clemente, no other snakes have been identified on any of the occupied islands. No nonnative predators of the island night lizard exist on Santa Barbara Island, and native predators on Santa Barbara Island do not currently pose a threat to the species existence. Also, both the Navy and NPS have policies in place to control the introduction of potential predators, and such efforts are expected

to continue in the future. Therefore, as no new information indicates the predation has become a threat to the island night lizard on any of the islands, we continue to conclude that predation is not a substantial threat to the island night lizard, nor is it likely to become a threat in the future.

Factor D. Inadequacy of Existing Regulatory Mechanisms

The inadequacy of existing regulatory mechanisms was not identified as a threat to the island night lizard at the time of listing, in the 2006 and 2012 5-year reviews, or in the proposed delisting rule. Because all islands are under Federal ownership, there are various laws, regulations, and policies administered by the Federal agencies that provide protective mechanisms for the island night lizard and its habitat that will continue after the species' delisting. Primary Federal laws that provide some benefit for the species and its habitat absent the Act include NEPA, the Sikes Act, the Federal Noxious Weed Act, the Soil Conservation and Domestic Allotment Act, and the NPS Organic Act. Additionally, INRMPs, management plans, and policies implemented by the Navy on San Clemente and San Nicolas Island are important guiding documents that help to integrate the military's mission with natural resource protection. See the proposed delisting rule for a more detailed discussion of the existing regulatory mechanisms absent the Act conducted and implemented by the Navy and NPS that benefit the island night lizard and its habitat (78 FR 7908, 7929–7931).

No new information indicates that inadequacy of existing regulatory mechanisms is a threat to the island night lizard or its habitat on San Clemente, San Nicolas, and Santa Barbara Islands. Therefore, we continue to conclude that existing regulatory mechanisms provide adequate protection to the island night lizard and its habitat on all of the islands now and will continue to provide adequate protection in the future, even with the removal of the protections of the Act.

Factor E. Other Natural or Manmade Factors Affecting the Continued Existence of the Species

The listing rule (42 FR 40682, August 11, 1977) states that island-adapted taxa are often detrimentally affected by accidental or intentional introduction of nonnative species. This threat was the only one attributed to Factor E for any of the seven taxa included in that rule. Because the primary effect of most nonnative taxa was related to habitat or predation, the discussion of introduced, nonnative taxa is now included under Factor A as it relates to habitat and Factor C as it relates to predation.

The restricted distribution of the island night lizard on San Nicolas and Santa Barbara Islands makes these populations susceptible to natural catastrophes such as fires, landslides, or prolonged droughts (Service 2006, p. 24). Potential impacts and management efforts to reduce or control effects of fire and erosion to habitat are discussed under Factor A. The 2012 5-year review and proposed delisting rule discuss the potential threat of climate change and its effects on precipitation, drought, and sea level rise as it relates to the island night lizard (Service 2012a, pp. 39–41; 78 FR 7908, 7925–7926). See the proposed delisting rule for a more detailed discussion of climate change and its effects on the continued existence of island night lizards (78 FR at 7932).

Climate Change

As discussed under Factor A—Climate Change above, climate change poses a potential impact to island night lizards and their habitat based on modeling and climate change projections for southern California from various sources (Intergovernmental Panel on Climate Change 2007, PRBO 2011). Because the best available information for the region that encompasses San Clemente, San Nicolas, and Santa Barbara Islands refers only to the marine environment and not the terrestrial environment occupied by island night lizards (PRBO 2011, p. 4), we are utilizing projections made for the Southwestern California ecoregion in this threat analysis (see *Factor A*—Climate Change section above for additional discussion on available data, climate model predictions for temperature and precipitation, and potential impacts related to island night lizard habitat).

Currently, climate modeling projections for fog (Field *et al.* 1999, pp. 21–22) and precipitation are the subject of uncertainty, with relatively little consensus concerning projections for the Southwestern California ecoregion (PRBO 2011, p. 40). Additionally and as noted above, no specific information is available related to precipitation and temperature projections specific to the terrestrial environment of the California Channel Islands. The best available data indicate that, when daily temperatures increase, lizard species spend more time in burrows or refuges and less time foraging (Sinervo *et al.* 2010, p. 894). This reduced foraging time could possibly impact growth and survival of this already highly sedentary lizard. Drought conditions also reduce the arthropod populations in the spring, reducing a food source and compounding the effects of climate change (Knowlton 1949, p. 45; Schwenkmeyer 1949, pp. 37–40; Bolger *et al.* 2000, p. 1242). Therefore, in the event of a prolonged period of warmer air temperature and lower rainfall, the island night lizard's habitat and food supply could also potentially be reduced. However, island night lizards use a variety of habitat types and have a broad generalist diet, which likely reduces the species' susceptibility to changing climate. Additionally, Sinervo *et al.* (2010, p. 898) investigated climate change impacts on Xantusidae and, though his work focused on the effects of temperature change rather than changes in rainfall, he predicted that the species' extinction risk for this family is zero through 2080. Therefore, we do not consider climate change to be a substantial threat to the island night lizard now or in the future.

Factor E Summary

Although climate change may affect the island night lizard and its habitat on all three islands, we expect that the lizard's susceptibility to climate change is somewhat reduced by its ability to use varying habitat types and by its broad generalist diet. However, the best available information does not allow us to make accurate predictions regarding the effects of climate change on the island night lizard at this time. Therefore, based on the best available information, we continue to conclude that climate change is not a substantial threat to the island night lizard on San Clemente, San Nicolas, and Santa Barbara Islands, nor is it likely to become a threat in the future.

Cumulative Effects

A species may be affected by a combination of threats. Within the preceding review of the five listing factors, we identified multiple threats that may have interrelated impacts on the island night lizard or its habitat. Fire (*Factor A)* may increase in intensity and frequency on all occupied islands if there is an abundance of nonnative plants (grasses) (*Factor A*). Similarly, across all islands occupied by the island night lizard, fire (*Factor A*) may become more frequent if climate change results in hotter and drier environmental conditions (*Factors A and E*). An increase in the frequency of fires (*Factor A*) may potentially lead to an increased risk of predation (*Factor C*) due to loss of vegetative cover for the island night lizard in burned areas. On San Clemente

and San Nicolas Islands, land use and development activities (*Factor A*) conducted by the Navy can prompt an increase in erosion (*Factor A*) and the potential for fire (*Factor A*) in island night lizard habitat. Additionally, effects from climate change, such as rising sea level in conjunction with increased storm frequency and high-tide wave action (*Factor A*), could potentially impact island night lizard habitat by accelerating erosion (*Factor A*) on all islands. Although island night lizard productivity may be reduced because of these threats, either alone or in combination, it is not easy to determine whether a specific threat is the primary threat having the greatest impact on the viability of the species, or whether it is exacerbated by, or functioning in combination with, other threats to result in cumulative or synergistic effects on the species. The Navy and NPS are actively managing for the potential threats described above to minimize impacts to the island night lizard and its habitat. It is anticipated that their continued management of these potential threats will maintain any potential impacts at a level where synergistic effects are not likely to result in a substantial impact to the island night lizard or its habitat. Therefore, we do not consider the cumulative impact of these potential threats to be substantial at this time or in the future.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the island night lizard and its habitat, including information presented in the May 1, 1997, and March 22, 2004, petitions; comments and information received after publication of our 90-day finding (71 FR 48900, August 22, 2006); two 5-year status reviews, information available in our files; comments and information received on the proposed delisting rule, and other available published and unpublished information. We also consulted with recognized experts on the island night lizard and its habitat, and with other Federal agencies. Impacts to the island night lizard and habitat from past threats have been reduced or are being actively managed for by the Navy or NPS.

A species is an ''endangered species'' for purposes of the Act if it is in danger of extinction throughout all or a signification portion of its range (section 3(6) of the Act) and is a ''threatened species'' if it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (section 3(20) of the Act). The Act does not define the term ''foreseeable future.'' For purposes of this determination, we define the ''foreseeable future'' to be the extent to which, given the amount and substance of available data, we can anticipate events or effects or reliably extrapolate threat trends, such that reliable predictions can be made concerning the future as it relates to the status of the island night lizard.

Specifically for the island night lizard, we consider the foreseeable future to extend to 2080, which is generally the latest time period that most climate change emission scenario models use because they lose confidence beyond this point, for the purposes of the discussion below. Additionally, all three occupied islands have been under Federal ownership since the mid-1930s. The Navy will continue to manage and monitor natural resources, including the island night lizard and its habitat after the species is delisted, through implementation of INRMPs which are revised every 5 years pursuant to the Sikes Act Improvement Act of 1997, and numerous management plans and policies that manage for nonnative species, fire, and erosion. We expect future revisions to take into account management of island night lizards and their habitat. The NPS will also continue to manage and monitor all natural resources, including the island night lizard and its habitat after the species is delisted, through implementation of management plans and policies pursuant to the NPS Organic Act. No available information indicates that ownership of any of the three islands will change in the future. Therefore, we will use the 2080 timeframe established for modelling of climate change effects as the foreseeable future for all remaining potential threats.

The reasons for listing the island night lizard as threatened (42 FR 40682, August 11, 1977) were: Habitat loss or modification through the introduction of nonnative herbivores such as feral goats and pigs on San Clemente Island; habitat modification through the introduction of nonnative plants throughout the species' range (San Clemente, San Nicolas, and Santa Barbara Islands); predation by feral cats on San Clemente Island; and competition with the southern alligator lizard on San Nicolas Island.

At the time of listing, several threats related to destruction of habitat were identified for the island night lizard on one or more of the Channel Islands. Since listing, these threats have been addressed by multiple actions through implementation of the Navy's INRMPs and the NPS's management policies. While a variety of threats existed under Factor A, not all threats were present on all three islands.

All nonnative herbivores have been removed from San Clemente, San Nicolas, and Santa Barbara Islands, and the slow process of natural recovery of native habitat is ongoing. Additionally, restoration efforts by the Navy on San Clemente and San Nicolas Islands, and NPS on Santa Barbara Island to outplant native plant species are aiding in the recovery of native habitat and ameliorating impacts from erosion. Management actions to control, remove, or prevent introduction of nonnative plant species are also implemented on all three islands by the Navy and NPS.

Current management efforts on San Clemente and San Nicolas Islands to avoid or minimize impacts from land use and development, fire, and erosion due to military activities have resulted in reduction of threats to the island night lizard or its habitat on those islands. Land use and development is not considered a threat to the lizard or its habitat on Santa Barbara Island. Fire is also not a substantial threat to the lizard or its habitat on Santa Barbara Island due to limited human presence, current fire management policy on the island, and a fire management plan (FMP) for Channel Islands National Park (including Santa Barbara Island). Erosion resulting from historical grazing by nonnative herbivores and historical land use practices is exacerbated by current military activities. Efforts to control these sources of erosion on San Clemente and San Nicolas Islands are currently ongoing, as outlined in the Navy's INRMPs for both islands and Erosion Control Plan on San Clemente Island. As a result of management efforts by the Navy and NPS, we do not consider any of these threats to the island night lizard habitat to be substantial on any of the occupied islands, nor do we expect them to become so in the foreseeable future.

Disease is not a current threat for the island night lizard on any of the islands where it occurs nor do we anticipate it to be in the foreseeable future; however, predation has impacted the species in the past and continues to be a potential impact to individuals on San Clemente Island. We do not consider predation to be a substantial threat currently or in the foreseeable future due to ongoing feral cat removal efforts implemented through the Navy's INRMP. All feral cats have been removed from San Nicolas Island, and predation is not a threat to the lizard on Santa Barbara Island. Finally, research indicates that

the southern alligator lizard is not a threat to the island night lizard on San Nicolas Island.

The overutilization for commercial, recreational, scientific, or educational purposes and inadequacy of regulatory mechanisms are not threats to the island night lizard on any of the occupied islands, nor do we anticipate them to become threats in the foreseeable future.

Climate change has been identified as a potential threat with regard to the present or threatened destruction, modification, or curtailments of its habitat, as well as with regard to other human and manmade factors. However, we cannot precisely determine how climate change will potentially impact the island night lizard and its habitat on San Clemente, San Nicolas, and Santa Barbara Islands. The species' biology indicates that the lizard may be able to withstand some changes in habitat conditions. Therefore, we do not consider climate change to be a substantial threat to the species throughout its range now or in the foreseeable future.

At the time of listing, the number of island night lizards on San Clemente, San Nicolas, and Santa Barbara Islands was unknown. Research conducted since then indicates that approximately 21 million island night lizards occur on San Clemente Island, 15,300 lizards occur on San Nicolas Island, and 17,600 lizards occur on Santa Barbara Island. While no new population numbers are available, new habitat assessments indicate that the amount of quality habitat supporting the island night lizard has increased on each of the islands. It is likely that the number of lizards has increased in association with the increase of quality habitat on all three islands. Currently, the Navy conducts monitoring for management actions that impact threatened or endangered species, including the island night lizard, as required by its INRMP. The NPS also conducts monitoring on Santa Barbara Island to assess impacts of management actions on listed species, including the island night lizard. Once the island night lizard is removed from the Federal List of Endangered or Threatened Wildlife, the Navy and NPS will continue to monitor the lizard and its habitat through post-delisting monitoring efforts to ensure the species is recovering and does not warrant relisting. Additionally, the Navy and NPS implement management plans and policies to reduce impacts to native biological resources, such as the island night lizard and its habitat, that will help ensure the species does not warrant relisting in the foreseeable future.

We conclude that, since the time of listing in 1977, all substantial threats to the island night lizard have been ameliorated. Any remaining potential threats or nonsubstantial threats to the species or its habitat (i.e., the introduction of nonnative plants, fire, and erosion; land use and development on San Clemente and San Nicolas Islands; and predation on Santa Barbara Island) are currently managed to minimize impacts such that they are not of sufficient imminence, intensity, or magnitude to rise to the level of a threatened species (i.e., likely to become an endangered species within the foreseeable future). The one exception is climate change, for which sufficient information does not currently exist for us to make accurate predictions about the timing and degree of potential impacts. However, data suggest that the extinction risk for the family Xantusidae (which includes the island night lizard) is zero through the year 2080 (based on Sinervo *et al.* (2010) evaluation of Xantusidae (see Climate Change section)). Therefore, using 2080 as our frame of reference for determining the foreseeable future for this threat, we concluded that climate change is not likely to become a substantial threat now or in the foreseeable future. We also note that all six primary objectives of the Recovery Plan were, or are in the process of, being fulfilled (see Recovery Plan Implementation section). Additionally, since listing, it was determined that more than 21 million lizards exist in high-quality habitat among the three islands. Based on the current level of threats, we would not anticipate future declines in population numbers.

Therefore, we conclude that the island night lizard is not likely to become endangered in the foreseeable future throughout all of its range because all substantial threats have been ameliorated, potential threats that may cause stress on one or more populations (or portions of a population) are currently managed, and Recovery Plan objectives have been initiated or fulfilled.

Significant Portion of Its Range Analysis

Having examined the status of the island night lizard throughout all of its range, we next examine whether it could be in danger of extinction or likely to become so in a significant portion of its range. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose in analyzing portions of the range that have no reasonable potential to be significant or in analyzing portions of the range in which there is no reasonable potential for the species to be endangered or threatened. To identify only those portions that warrant further consideration, we determine whether substantial information indicates that: (1) The portions may be ''significant'' *and* (2) the species may be in danger of extinction there or likely to become so within the foreseeable future. Depending on the biology of the species, its range, and the threats it faces, it might be more efficient for us to address the significance question first or the status question first. Thus, if we determine that a portion of the range is not ''significant,'' we do not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in a portion of its range, we do not need to determine if that portion is ''significant.'' In practice, a key part of the determination that a species is in danger of extinction in a significant portion of its range is whether the threats are geographically concentrated in some way. If the threats to the species are essentially uniform throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats to the species occurs only in portions of the species' range that clearly would not meet the biologically based definition of ''significant,'' such portions will not warrant further consideration.

We consider the ''range'' of the island night lizard to be San Clemente, San Nicolas, and Santa Barbara Islands (including Sutil Island) of the California Channel Islands.

We considered whether the threats facing the island night lizard and its habitat might be different on San Clemente Island with approximately 99.85 percent of the population compared to San Nicolas and Santa Barbara Islands with, combined, approximately 0.15 percent of the population (Service 2012b, unpublished data). A detailed spatial evaluation of threats showed that the level of threat, and extent of protective measures, is different on San Clemente Island and San Nicolas Island, compared to Santa Barbara Island due to ownership and activities conducted by the Navy (Service 2012b, unpublished data). However, all substantial threats have been ameliorated throughout the species' range, and the remaining potential threats to the island night lizard are actively managed for by the Navy through implementation of

INRMPs, the Federal Noxious Weed Act, and the Soil Conservation and Domestic Allotment Act. On Santa Barbara Island, there are no substantial threats, and the remaining potential threats receive protections provided through the implementation of NPS's management policies and the Channel Islands National Park Wildland FMP in accordance with the Organic Act. It is our conclusion, based on our evaluation of the current potential threats to the island night lizard on San Clemente, San Nicolas, and Santa Barbara Islands (see Summary of Factors Affecting the Species section), that potential threats are neither sufficiently concentrated nor of sufficient magnitude to indicate the species is in danger of extinction or likely to become so on any island and thus it is likely to persist throughout its range.

Future Conservation Measures

Section 4(g)(1) of the Act requires us, in cooperation with the States, to implement a monitoring program for not less than 5 years for all species that have been recovered and delisted. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing. The management practices of, and commitments by, the Department of Defense and NPS under existing laws, regulations, and policies should afford adequate protection to the island night lizard into the foreseeable future upon delisting, as the entire known range of this species occurs within Department of Defense lands on San Clemente and San Nicolas Islands, and NPS lands at Channel Islands National Park.

Post-Delisting Monitoring Plan Overview

The Service has developed a final post-delisting monitoring (PDM) plan for the island night lizard in cooperation with the Navy and NPS. The final PDM plan is designed to verify that the island night lizard remains secure from risk of extinction after removal from the Federal List of Endangered and Threatened Wildlife by detecting changes in its status and habitat throughout its known range.

The final PDM plan outlines five different sampling surveys that will occur over a 9-year period (i.e., years 1, 3, 4, 7, and 9). The draft PDM Plan includes the following measures:

(1) Monitoring the overall health of the island night lizard populations on each island through trap capture rates and recruitment at previously established sampling sites. This monitoring will occur in all habitats for 9 years following delisting. Biologists will conduct density assessments using several methodologies including: pitfall traps, rock-turn surveys, and coverboards arranged in grid arrays or transects. Efforts will be made to sample all sites within each sampling period.

(2) Monitoring high-quality habitat will occur twice throughout post-delisting monitoring to assess abundance and distribution of high-density island night lizard habitats on all islands. Recently completed island-wide habitat maps will be utilized as the baseline assessment to compare with post-delisting monitoring mapping efforts.

(3) Identifying thresholds that would trigger an extension of monitoring, alteration of management approach, or a status review will be established related to island night lizard density, recruitment, and habitat.

Additionally, we are recommending that land managers on each island conduct monitoring in previously unsampled areas on each island consisting of different habitats at least once during PDM with a focus on high-quality habitat. Within these new areas, we recommend using already-established protocols to allow for comparison of newly sampled island night lizard densities and distribution with previously established sites for each island. We also recommend establishing identical protocols for each island to allow for comparison among islands. Additionally, we are recommending that the Navy on San Clemente Island continue to recognize the INLMA and that the Navy on San Nicolas Island establish an INLMA to identify biologically sensitive areas for the island night lizard. Lastly, we recommend that each island continue restoration efforts of high-quality island night lizard habitat to increase distribution and connectivity.

We also expect to monitor the commitments and actions of management plans implemented by the Navy and NPS, which manage potential threats to the island night lizard and its habitat, including the introduction and current persistence of nonnative plants, land use and development, erosion, and fire.

Effects of This Rule

This final rule revises 50 CFR 17.11(h) and removes the island night lizard from the Federal List of Endangered and Threatened Wildlife. Because no critical habitat was designated for this species, this rule would not affect 50 CFR 17.95.

Because this final rule removes this species from the Federal List of Endangered and Threatened Wildlife, the prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9 of the Act, no longer apply. Removal of the island night lizard from the Federal List of Endangered and Threatened Wildlife relieves Federal agencies from the need to consult with us to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of this species.

Required Determinations

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), need not be prepared in connection with removing a species from the Federal List of Endangered or Threatened Wildlife. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In concurrence with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal tribes on a government-to-government basis. We have determined that there are no tribal lands affected by this rule.

References Cited

A complete list of all references cited in this rule is available on the Internet

at *http://www.regulations.gov* or upon request from the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

Author

The primary author of this rule is the Carlsbad Fish and Wildlife Office in Carlsbad, California (see **ADDRESSES**).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—[AMENDED]

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

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

■ 2. Amend § 17.11(h) by removing the entry for ''Lizard, Island night'' under ''Reptiles'' in the Federal List of Endangered and Threatened Wildlife.

Dated: March 10, 2014.

Betsy Hildebrandt,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2014–06576 Filed 3–31–14; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 79, No. 62
Tuesday, April 1, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[AMS–CN–13–0085]

RIN 0581–AD35

User Fees for 2014 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to maintain user fees for cotton producers for 2014 crop cotton classification services under the Cotton Statistics and Estimates Act at the same level as in 2013. These fees are also authorized under the Cotton Standards Act of 1923. The 2013 crop user fee was $2.20 per bale, and AMS proposes to continue the fee for the 2014 cotton crop at that same level. This proposed fee and the existing reserve are sufficient to cover the costs of providing classification services for the 2014 crop, including costs for administration and supervision.

DATES: Comments must be received on or before April 16, 2014.

ADDRESSES: Interested persons may comment on the proposed rule using the following procedures:

- *Internet: http://www.regulations.gov.*
- *Mail:* Comments may be submitted by mail to: Darryl Earnest, Deputy Administrator, Cotton & Tobacco Programs, AMS, USDA, 3275 Appling Road, Room 11, Memphis, TN 38133. Comments should be submitted in triplicate. All comments should reference the docket number and the date and the page of this issue of the **Federal Register**. All comments will be available for public inspection during regular business hours at Cotton & Tobacco Program, AMS, USDA, 3275 Appling Road, Memphis, TN 38133.

FOR FURTHER INFORMATION CONTACT: Darryl Earnest, Deputy Administrator, Cotton & Tobacco Programs, AMS, USDA, 3275 Appling Road, Room 11, Memphis, TN 38133. Telephone (901) 384–3060, facsimile (901) 384–3021, or email *darryl.earnest@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to access all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action has been designated as a ''non-significant regulatory action'' under § 3(f) of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are an estimated 20,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small business entities under the criteria established by the Small Business Administration (13 CFR 121.201). Small business entities that are growers in the U.S. cotton industry are defined as having annual receipts less than $750 thousand. Continuing the user fee at the 2013 crop level as stated will not significantly affect small businesses as defined in the RFA because:

(1) The fee represents a very small portion of the cost per-unit currently borne by those entities utilizing the services. (The 2013 user fee for classification services was $2.20 per bale; the fee for the 2014 crop would be maintained at $2.20 per bale; the 2014 crop is estimated at 13,400,000 bales);

(2) The fee for services will not affect competition in the marketplace;

(3) The use of classification services is voluntary. For the 2013 crop, approximately 12,600,000 bales were produced; and, almost all of these bales were voluntarily submitted by growers for the classification service; and

(4) Based on the average price paid to growers for cotton from the 2012 crop of 0.7477 cents per pound, 500 pound bales of cotton are worth an average of $373.85 each. The proposed user fee for classification services, $2.20 per bale, is a little more than one half percent of the value of an average bale of cotton.

Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501), the information collection requirements contained in the provisions to be amended by this proposed rule are currently approved by OMB and assigned OMB control number 0581–0008, Cotton Classing, Testing, And Standards.

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

This proposed rule would maintain the 2013 user fee of $2.20 per bale as the fee charged producers for the classification of the 2014 cotton crop. The 2014 user fee was set in accordance to requirements in the Cotton Statistics and Estimates Act as amended by the provisions in the 2008 Farm Bill [Food, Conservation, and Energy Act of 2008 (Sec. 14201 3a)]. Amendments based on

Section 14201 of the 2008 Farm Bill provided that: (1) the Secretary shall make available cotton classification services to producers of cotton, and provide for the collection of classification fees from participating producers or agents that voluntarily agree to collect and remit the fees on behalf of the producers; (2) classification fees collected and the proceeds from the sales of samples submitted for classification shall, to the extent practicable, be used to pay the cost of the services provided, including administrative and supervisory costs; (3) the Secretary shall announce a uniform classification fee and any applicable surcharge for classification services not later than June 1 of the year in which the fee applies; and (4) in establishing the amount of fees under this section, the Secretary shall consult with representatives of the United States cotton industry. At pages 313–314, the Joint Explanatory Statement of the committee of conference for section 14201 stated the expectation that the cotton classification fee would continue to be a basic, uniform fee per bale fee as determined necessary to maintain cost-effective cotton classification service. Further, in consulting with the cotton industry, the Secretary should demonstrate the level of fees necessary to maintain effective cotton classification services and provide the Department of Agriculture with an adequate operating reserve, while also working to limit adjustments in the year-to-year fee.

Under the provisions the Cotton Statistics and Estimates Act as amended by the section 14201 of the 2008 Farm Bill, a user fee (dollar amount per bale classed) is proposed for the 2014 cotton crop that, when combined with other sources of revenue, will result in projected revenues sufficient to reasonably cover budgeted costs—adjusted for inflation—and allow for adequate operating reserves to be maintained. Costs considered in this method include salaries, costs of equipment and supplies, and other overhead costs, such as facility costs and costs for administration and supervision. In addition to covering expected costs, the user fee is set such that projected revenues will generate an operating reserve adequate to effectively manage uncertainties related to crop size and cash-flow timing. Furthermore, the operating reserve is expected to meet minimum reserve requirements set by the Agricultural Marketing Service, which require maintenance of a reserve fund amount equal to at least four months of projected operating costs.

The user fee proposed to be charged cotton producers for cotton classification in 2014 is $2.20 per bale, which is the same fee charged for the 2013 crop. This fee is based on the preseason projection that 13,400,000 bales will be classed by the United States Department of Agriculture during the 2014 crop year.

Accordingly, § 28.909, paragraph (b) would reflect the continuation of the cotton classification fee at $2.20 per bale.

As provided for in the 1987 Act, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909(c).

Growers or their designated agents receiving classification data would continue to incur no additional fees if classification data is requested only once. The fee for each additional retrieval of classification data in § 28.910 would remain at 5 cents per bale. The fee in § 28.910(b) for an owner receiving classification data from the National Database would remain at 5 cents per bale, and the minimum charge of $5.00 for services provided per monthly billing period would remain the same. The provisions of § 28.910(c) concerning the fee for new classification memoranda issued from the National Database for the business convenience of an owner without reclassification of the cotton will remain the same at 15 cents per bale or a minimum of $5.00 per sheet.

The fee for review classification in § 28.911 would be maintained at $2.20 per bale.

The fee for returning samples after classification in § 28.911 would remain at 50 cents per sample.

A 15-day comment period is provided for public comments. This period is appropriate because user fees are not changing and it is anticipated that the proposed fees, if adopted, would be made effective for the 2014 cotton crop on July 1, 2014.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and record keeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR part 28 is proposed to be amended to read as follows:

PART 28—[Amended]

■ 1. The authority citation for 7 CFR part 28, Subpart D, continues to read as follows:

Authority: 7 U.S.C. 471–476.

■ 2. In § 28.909, paragraph (b) is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $2.20 per bale.

* * * * *

■ 3. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is $2.20 per bale.

* * * * *

Dated: March 18, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–07015 Filed 3–31–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No.: FAA–2014–0205; Notice No. 14–03]

RIN 2120–AK17

Disclosure of Seat Dimensions to Facilitate Use of Child Safety Seats on Airplanes During Passenger-Carrying Operations

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA Modernization and Reform Act of 2012 requires the Federal Aviation Administration to initiate rulemaking to require air carriers conducting domestic, flag, and supplemental operations to make available on their Web sites information to enable passengers to determine which child safety seats can be used on aircraft in these operations. To fulfill the requirements of the Act, the FAA proposes to require air carriers to make available on their Web sites the width of the widest passenger seat in each class of service for each make, model and series of airplane used in passenger-carrying operations. If finalized as proposed, this rule would provide greater information to caregivers to help them determine whether a particular child restraint system will fit in an airplane seat. This proposal does not affect existing regulations regarding the

use of child restraint systems on board airplanes or a passenger under the age of 2 traveling onboard aircraft with or without the use of a child restraint system.

DATES: Send comments on or before June 30, 2014.

ADDRESSES: Send comments identified by docket number FAA–2014–0205 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations 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.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations 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: For technical questions concerning this action, contact Catherine Burnett, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8166; email *catherine.burnett@faa.gov.*

For legal questions concerning this action, contact Sara L. Mikolop, International Law, Legislation, and Regulations Division, AGC–200; Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073; email *sara.mikolop@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code (49 U.S.C.). Section 106 of Subtitle I 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 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules and 49 U.S.C. 44701(a)(5), which requires the Administrator to promote safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

In addition, section 412 of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95) [1] specifically required the FAA to conduct rulemaking ''[T]o require each air carrier operating under part 121 of title 14, Code of Federal Regulations, to post on the Internet Web site of the air carrier the maximum dimensions of a child safety seat that can be used on each aircraft operated by the air carrier to enable passengers to determine which child safety seats can be used on those aircraft.'' [2] This rulemaking is within the scope of the authority in Public Law 112–95.

I. Overview of Proposed Rule

Current regulations regarding the use of a child restraint system (CRS) on airplanes operating under part 121 are found in Title 14 of the Code of Federal Regulations (14 CFR) § 121.311. Under the provisions in part 121, no certificate holder [3] may prohibit a child from using an approved CRS when the caregiver [4] purchases a ticket for the child.

The FAA strongly encourages the use of an FAA-approved CRS on aircraft.[5] However, in a small number of cases, an approved CRS may not fit in a particular airplane seat because of the size of the CRS. Accordingly, the FAA has issued guidance to facilitate the use of a CRS on aircraft in situations when a caregiver purchased a ticket for the child but the approved CRS that the caregiver wishes to use does not fit in a particular seat on the aircraft.[6] Although the FAA has provided guidance to air carriers regarding how to accommodate a CRS that does not fit in a particular seat, this proposed rulemaking would give caregivers additional information on whether an FAA-approved CRS will fit on the airplane on which they expect to travel.

This rule proposes to require air carriers operating under 14 CFR part 121 that have Web sites to post on their Web sites information regarding aircraft seat dimensions. Specifically, affected air carriers must post the width of the widest passenger seat in each class of service for each airplane make, model and series operated in passenger-carrying operations that the air carrier permits to be used to accommodate a CRS. By requiring air carriers to make this information available, the agency expects caregivers to have more information about whether a specific CRS can be used on the aircraft on which they expect to travel.

The FAA emphasizes that this NPRM proposes an information disclosure requirement only. It does not propose to create any new operational requirements for air carriers or flight attendants. It does not change any existing provisions regarding the use of CRSs on board airplanes or existing regulations regarding passengers under the age of 2 traveling on board airplanes with or without the use of a CRS.

In addition, the FAA notes that this proposal does not require an air carrier to identify the specific airplane that it will use on a given flight. Finally, the FAA notes that while this rule requires air carriers to post certain information to their Web sites, it does not require an air carrier that does not have a Web site to

[1] Codified as a preceding note to 49 U.S.C. 42301, 126 Stat. 89.

[2] Section 412 of Public Law 112–95 uses the term ''child safety seat.'' However, the FAA uses the term ''child restraint system'' to describe an approved seat or device used to restrain children on aircraft. Thus, for consistency with existing FAA regulations, this proposal uses the term child restraint system (CRS), rather than child safety seat.

[3] The FAA notes that Public Law 112–95 uses the term ''air carrier.'' FAA regulations use terms such as ''certificate holders'', ''operators'', and ''air carriers'' to describe a person who undertakes directly by lease, or other arrangement, to engage in air transportation. Thus, for consistency with existing FAA regulations, this proposal uses the term ''air carrier'' to refer to these persons.

[4] Section 121.311 uses the term ''parent, guardian, or designated attendant'' to refer to the person traveling with, and providing care for, the child. For ease of reference the FAA has used ''caregiver'' throughout this document to refer to these persons.

[5] See *http://www.faa.gov/passengers/fly_children/crs/*(visited December 6, 2013).

[6] Advisory Circular (AC) 120–87B, Use of Child Restraint Systems on Aircraft (September 17, 2010) is available at *http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/388616.*

Information For Operators (InFO) 11007 Regulatory Requirements Regarding Accommodation of Child Restraint Systems—Update (March 10, 2011) is available at *http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/info/all_infos/.*

establish a Web site for purposes of this rule.

II. Background

A. Current Regulations

Current requirements regarding the use of CRSs in part 121 operations are found in 14 CFR 121.311. Currently, § 121.311(c)(2) generally states that no air carrier may prohibit a child, if requested by the child's caregiver, from occupying a CRS furnished by the child's caregiver provided that the child holds a ticket for an approved seat or a seat is made available by the air carrier for the child's use, the child is accompanied by a caregiver and the CRS is appropriately labeled and secured. However, § 121.311(c)(3) permits air carriers to determine the most appropriate passenger seat location for a CRS based on safe operating practices. For example, if an approved CRS, for which a ticket has been purchased, does not fit in a particular seat on the airplane, existing § 121.311 permits an air carrier to identify the most appropriate alternate forward-facing passenger seat location, considering safe operating practices.

In assessing the most appropriate location for a CRS, an air carrier must consider a number of factors. For example, the CRS must be installed in a forward-facing aircraft seat in accordance with instructions on the CRS label. This includes placing the CRS in the appropriate forward- or aft-facing direction as indicated on the label for the size of the child. A window seat is the preferred location; however, other locations may be acceptable, provided the CRS does not block the egress of any passenger, including the child's caregiver, to the aisle used to evacuate the airplane.

B. Public Information and Guidance Material

The FAA encourages the use of an approved CRS on aircraft and has committed to educate and inform air carriers, crewmembers and passengers regarding the use of a CRS on aircraft in order to increase CRS use on aircraft. Accordingly, the FAA provides information on its Web site for caregivers traveling with children and the use of a CRS on aircraft. The public information and guidance material is intended to be useful to caregivers in support of the agency's commitment regarding CRS use. The FAA has previously tried to address the issue of ''CRS fit'' in airplane seats. For example, on its Web site, the FAA states that a CRS with a maximum width of 16 inches should fit in most airplane seats.[7]

The FAA has also provided guidance to air carriers regarding CRS use on aircraft and related regulations. Advisory Circular (AC) 120–87B, Use of Child Restraint Systems on Aircraft, is intended to serve as a resource during development, implementation, and revision of an air carrier's standard operating procedures and training programs regarding the use of CRSs. The AC provides information on placement of a CRS on aircraft that may be considered by air carriers as they develop policies based on safe operating practices establishing certain seat locations for a CRS on a specific aircraft. For example, AC 120–87B provides information for air carriers to consider regarding placement of a CRS in an aisle seat or in a seat forward or aft of an emergency exit row.

Further, the agency reiterates in AC 120–87B that no air carrier may prohibit a child from using an approved CRS when a caregiver purchases a ticket for that child. The FAA encourages air carriers to allow the use of an empty seat to accommodate a CRS; however, air carriers are not required to allow unticketed children to occupy an empty passenger seat, even if the child uses a CRS. Prohibiting a ticketed child from using a CRS, when there are seats on the aircraft in which the CRS could be safely used, would be inconsistent with § 121.311.

The FAA also published Information for Operators (InFO) 11007, Regulatory Requirements Regarding Accommodation of Child Restraint Systems—Update, to clarify regulations regarding accommodation of CRSs and to provide information for a CRS with a detachable base. As with AC 120–87B, InFO 11007 provides examples of CRS design variations and lists possible solutions for accommodation. For example, a CRS with a base that is too wide to fit properly in a seat with rigid armrests could be moved to a seat with moveable armrests that can be raised to accommodate the CRS, and an aft-facing CRS that cannot be installed properly, because of minimal pitch (distance between rows of seats), can be moved to a bulkhead seat or a seat in a row with additional pitch.

III. FAA Modernization and Reform Act of 2012

Section 412 of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95) directs the FAA to initiate rulemaking ''[T]o require each air carrier operating under part 121 of title 14, Code of Federal Regulations, to post on the Internet Web site of the air carrier the maximum dimensions of a child safety seat that can be used on each aircraft operated by the air carrier to enable passengers to determine which child safety seats can be used on those aircraft.'' Congress intended this rulemaking to ''facilitate the use of child safety seats on aircraft'' and ''enable passengers to determine which child safety seats can be used on those aircraft.''[8] This proposal is responsive to the requirement for the FAA to initiate a rulemaking in Public Law 112–95.

IV. Discussion of the Proposal

The purpose of this proposal is to make more information available to allow caregivers to make a determination regarding CRS fit prior to a flight. The agency proposes to require air carriers to publish on their Web sites the width of the widest passenger seat in each class of service for aircraft used in passenger-carrying operations. This proposed information disclosure requirement would supplement current regulations that allow the use of an approved CRS and FAA guidance to caregivers regarding CRS fit in airplane seats. This proposed requirement would only apply to part 121 air carriers conducting passenger-carrying operations because all-cargo operations have generally been excluded from part 121 requirements pertaining to passengers.[9]

This proposal also responds to the requirement to initiate rulemaking in section 412 of Public Law 112–95. The FAA considered a number of alternative methods by which to implement the rulemaking requirements of section 412 of Public Law 112–95 and discusses each below. In considering each alternative, the FAA sought to address the intent of Congress, respond to the informational needs of a caregiver traveling with a child using a CRS, and ensure that the proposal does not unintentionally discourage the use of a CRS.

Airplane passenger seat dimensions: Although Public Law 112–95 refers to the maximum dimensions of child safety seats that can be used on each aircraft the operator uses, the FAA has

[7] *http://www.faa.gov/passengers/media/childsafety.pdf* (visited December 6, 2013).

[8] H. R. Rep. No. 112–381 (2012) at 80 and 216 (Conf. Rep.).

[9] Part 121 passenger-carrying operations are defined in § 110.2 to mean ''any aircraft operation carrying any person, unless the only persons on the aircraft are those identified in §§ 121.583(a) or 135.85 of this chapter, as applicable. An aircraft used in a passenger-carrying operation may also carry cargo or mail in addition to passengers.''

proposed an alternate approach in order to implement the statute's goal to enable a passenger to determine which CRS can be used on an aircraft. The FAA does not believe that it is practical for each air carrier to provide the maximum dimensions of one or many CRSs the carrier does not possess or to which the carrier does not have ready access. In contrast, air carriers have ready access to the airplanes they operate and information regarding those aircraft. Therefore, the agency proposes to require air carriers to provide seat dimension data to fulfill the intent of the statutory requirement for rulemaking. Seat dimension data provides information equivalent to CRS dimension data that can be used to assist caregivers in making a determination as to whether a CRS will fit in a passenger seat on the aircraft on which they expect to travel.

Further, the agency notes that information regarding seat dimensions or CRS fit for each individual airplane that an air carrier operates is not necessary or practical. Although some air carriers operate hundreds of airplanes, airplanes of the same make, model and series typically share the same seat dimensions. Given this commonality of aircraft within an air carrier's fleet and the absence of a requirement for air carriers to identify the specific airplane for a specific flight, individual airplane information would not serve to facilitate CRS use. However, seat dimension information for each airplane make, model and series that a certificate holder uses in passenger-carrying operations correlates to the information air carriers currently provide to passengers for a specific flight.

Airplane passenger seat pitch: The FAA believes that the predominant passenger seat dimension that limits CRS use is the width of the passenger seat. In some circumstances, seat pitch (distance between rows of seats) can affect the use of a CRS that must be used in an aft-facing position; however, using pitch to determine CRS fit is complex and minimally effective without additional detail. Air carriers can easily provide the distance between rows of passenger seats or ''pitch''. However, an aft-facing CRS does not have an equivalent measurement to ''pitch'' as it does to ''width''. In order to be installed properly, an aft-facing CRS must be installed in an aircraft seat on an angle. Aft-facing CRSs have installed level indicators (typically a moving ball or needle that must stay between two lines) that indicate when the CRS is properly oriented in the airplane seat. Therefore, although seat pitch can affect whether there is enough room to properly use a rear-facing CRS, it is only part of the triangular equation with several variables and would make it difficult to provide meaningful information to a caregiver.

Additionally, if a rear-facing CRS does not fit in a row because of seat pitch, an air carrier can move the CRS to a seat in a bulkhead row (where pitch is not typically an issue), in that same class of service, to accommodate the aft-facing CRS. Accordingly, the agency is not proposing to require air carriers to provide information regarding seat pitch.

Airplane passenger seat width for each class of service: Given that currently when a CRS does not fit within the seat for which a caregiver has purchased a ticket, the operator must accommodate the CRS use within the same class of service, the agency proposes to require seat dimension disclosure for each class of service (§ 121.311 and AC 120–87). This proposal also specifies that seat width information (the distance between the seat arm rests) must be provided for each class of service due to the potential variation in airplane seat widths among different classes of service and within a single class of service. Further, as discussed above, seat width is the predominant passenger seat dimension that limits CRS fit.

The agency notes, however, that while information regarding an airplane type may be provided to passengers prior to a flight, this proposal does not require an air carrier to identify the specific airplane that it will use on a given flight.

Width of the narrowest seat within each class of service: The FAA considered requiring air carriers to provide the width of the narrowest passenger seat in each class of service for each airplane make, model, and series. The FAA reasoned that if a CRS fits in the narrowest passenger seat in each class of service, then it will fit in any seat in that class of service.

However, the agency is concerned that a requirement to disclose the seat width dimension for only the narrowest seat could create an unintended safety consequence. The agency is concerned that if a caregiver discovers that the CRS they wish to use is wider than the published width of the narrowest passenger seat, that caregiver might choose not to bring the CRS even if, unbeknownst to the caregiver, the airplane has passenger seats installed that are wide enough to accommodate the CRS within the same class of service. Use of a CRS is the safest way for a child to travel on an airplane, and the FAA does not wish to implement a regulation that might have the unintended consequence of causing caregivers to forgo the use of CRSs for child passengers.

For instance, a caregiver purchases a seat for a child and plans to use a CRS for that child. The Web site of the air carrier on which the caregiver and child are traveling states that the minimum width of the seat on the make, model, and series of the airplane on which the caregiver and child are traveling is 14 inches. The CRS the caregiver plans to use on the airplane is 15 inches wide. However, the operator has seats in the same class of service that are 16 inches wide. In actuality, the CRS would fit in the wider seat in the same class of service, but the concern of the FAA is that the caregiver might choose to not bring the CRS for use on the airplane because the caregiver believes that the CRS would not fit. Alternatively, the caregiver might even choose not to purchase a separate seat for the child and might elect to hold the child, provided the child has not reached his or her second birthday, as permitted by existing regulations. The publication of seat dimensions should not discourage the use of CRSs.

Width of the widest seat within each class of service: Based on the foregoing analysis, the FAA proposes to add a paragraph (k) to § 121.311 to require each part 121 air carrier to make available on its Web site the width of the widest passenger seat in each class of service for each airplane make, model, and series used in passenger-carrying operations. The FAA believes that disclosure of the width of the widest seat in each class of service will provide the information necessary for caregivers to better determine if the CRS they provide for their child will fit in the airplane on which they expect to travel and thus may encourage more widespread use of CRSs in air transportation.

If a caregiver knows the width dimension of the widest seat for a particular class of service on an airplane, and if the CRS the caregiver intends to use on the flight fits that dimension, then the caregiver would know that at least one seat in the class of service on the airplane would accommodate the CRS. This would enable caregivers to have more information on which to make a decision as to whether to bring the CRS for that child's use.

Further, the agency expects that information regarding seat width will address the predominant limiting seat dimension. The provision of seat width for the widest seat in each class of

service serves to avoid the unintended consequence of dissuading a caregiver to use a CRS and to limit the instances in which a caregiver expects to use a CRS but cannot, due to fit or the operator's safety determination.

As noted previously, it is the responsibility of the air carrier, and a regulatory requirement, to accommodate the CRS in another seat in the same class of service (§ 121.311(c)(2) and AC 120–87B). While knowing the width of the widest seat is valuable in a caregiver's decision-making process, as it indicates whether the CRS would fit in a single seat, the FAA notes that a CRS that has a base wider than the widest seat may still be accommodated on an airplane by raising armrests or taking other measures where possible.

Web site disclosure: The FAA notes that a number of air carriers currently conducting passenger-carrying operations already provide seat dimension information on their Web sites. For example, some air carriers currently provide both the pitch and width for the passenger seats in each class of service. The agency expects, however, that the information disclosure proposed in this NPRM would increase the instances in which caregivers are able to pre-determine whether a CRS will fit on an airplane make, model, and series on which they expect to travel.

As discussed in the guidance material associated with this rulemaking, the FAA believes that air carriers would use existing information pages on their Web sites that already provide information regarding CRSs to list the width of the widest seats for each class of service on each airplane make, model, and series in their fleet. Based on the FAA's review of aircraft used by affected air carriers, the FAA determined that many air carriers have seats whose dimensions are the same for several airplane makes, models, and series. Further, many air carriers appear to have only one seat size for each class of service for many airplane makes, models, and series. Finally, the FAA notes that if this rule is finalized as proposed, the only time air carriers would need to update their Web sites after initial implementation would be when a new airplane make, model, or series is introduced to an air carrier's fleet, or when an air carrier replaces the widest seats installed on an existing airplane make, model, or series with wider or narrower seats.

Effective Date: The FAA recognizes that different operators will need different lengths of time to comply with this regulation due to variations in information technology systems, variations in the data that is currently published, and the range of numbers of airplane make, model and series in each operator's fleet. Therefore, the FAA is proposing an effective date of 150 days after the date of publication of the final rule in the **Federal Register**. Compliance would be required on the effective date. The FAA seeks comment regarding the proposed effective date.

Miscellaneous: The agency proposes a conforming change to 14 CFR 121.583 to make clear that the requirement applies in passenger-carrying operations only.

Request for comments on proposal and alternatives: The FAA invites commenters to address whether they agree with the approach taken in this NPRM. In particular, the agency seeks comment on the following:

(1) Whether the disclosure requirements proposed in this rule provide the most helpful information for caregivers to ascertain CRS fit on aircraft;

(2) How disclosure of the width of only the narrowest seat in each class of service could facilitate CRS without discouraging caregivers from using a CRS that is larger than the narrowest seat;

(3) Whether disclosure of both the narrowest seat and the widest seat in each class of service would be more effective in achieving the statutory intent of facilitating CRS use; and

(4) Whether disclosure of the width of the widest seat on the aircraft or the narrowest seat on the aircraft, without regard to class of service, would facilitate CRS use due to the potential accommodations (e.g., moving armrests) that can be made to assist with CRS fit. Note: The FAA is not suggesting that it would ever require an operator to move a passenger from one class of service to another to accommodate a CRS.

The agency asks that commenters explain how any alternative approach would satisfy the statutory requirement for rulemaking, provide greater information to caregivers to help them determine whether a particular CRS will fit in an airplane seat, and avoid unintentionally discouraging the use of a CRS. The FAA may incorporate any such recommendations regarding alternative approaches into a final rule.

Part 11 Amendment: The FAA has submitted a request for Office of Management and Budget (OMB) approval for the information collection activities proposed in this rulemaking. Assuming OMB approves the information collection and assigns an OMB control number, the FAA will update the table in § 11.201(b) to display this control number.

V. Guidance Documents

To further implement this NPRM, the FAA is proposing to revise several guidance documents to include the availability of information for air carriers regarding compliance with the proposed rule. Specifically, the FAA is proposing to revise AC 120–87B, Use of Child Restraint Systems on Aircraft, and InFO 11007, Regulatory Requirements Regarding Accommodation of Child Restraint Systems—Update. The draft revised AC and draft revised InFO have been placed in the electronic docket of this rulemaking. Persons wishing to provide comments regarding the draft revised AC and InFO may do so by following the comment process discussed in the **DATES** and **ADDRESSES** sections of this rulemaking.

VI. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation

of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows.

The FAA estimates that children under the age of two represent one percent of all commercial passengers.[10] When travelling by air, caregivers for these children may purchase either one ticket (which requires the child to sit in the caregiver's lap) or two tickets (which allows a child to be securely restrained in a CRS). The agency does not have the exact count of passengers younger than two or whether those passengers arrived at their destination sitting in the lap of a caregiver or secured in an aircraft seat using either a CRS or a lap belt.

For child safety purposes, the FAA encourages (but does not require) caregivers to purchase a separate ticket for each child under the age of two so that the child can be securely restrained in a CRS. This guidance is based on the FAA's analysis that if caregivers are forced to purchase airline seats for children under age 2, the additional cost of an airline ticket will motivate some families to drive to their destination instead of fly. As background, in Section 522 of Public Law 103–305, Congress required the Secretary of Transportation to study the impact of mandating the use of CRSs for children under 2 years old on scheduled air carriers. The Secretary submitted a report of this study to Congress in 1995. The report estimated that, if a child restraint rule were imposed, approximately five infant lives would be saved aboard aircraft, and two major injuries and four minor injuries would be avoided over a 10-year period. The report also cautioned that this improvement would be offset by additional highway fatalities for airline passengers who chose to drive rather than purchase a seat for infants. Even if infant fares were only 25 percent of full fare, the report estimated that there would be diversion to cars and thus a net increase in fatalities over a 10-year period. The concern expressed in the Report to Congress was that mandating CRSs (which require a passenger seat) could increase airline travel costs to families with infants enough to cause a significant number to travel by automobile instead of by air. This, in turn, would expose the entire family to the higher risks of automobile travel and associated highway fatalities and injuries.[11] The FAA updated this report in December, 2011, and confirmed its conclusion.[12]

Currently, air carriers are not required to disclose seat dimension information on their Web sites. It is believed that some caregivers choose not to travel with a CRS due to concern that the seat will not fit the particular equipment being flown. Congress directed the FAA to conduct rulemaking ''[T]o require each air carrier operating under part 121, to post on the Internet Web site of the air carrier the maximum dimensions of a child safety seat that can be used to enable passengers to determine which child safety seats can be used on those aircraft.'' *See* Public Law 95–112. Once implemented, this rule would require each part 121 air carrier that conducts passenger-carrying operations to post seat dimension information to their Web site (air carriers that do not have Web sites are excluded from this rule). This rule will benefit caregivers by making seat dimension information accessible, which in turn will allow them to determine if a particular CRS will fit in a seat of an aircraft. A caregiver may be inclined to purchase a separate ticket for a child knowing that the child can be secured in a CRS during flight.

The FAA considered several alternatives for determining the type of seat dimension information to be posted on air carrier Web sites. One alternative required the width of each seat in each class of service for each individual airplane operated by an air carrier be posted on its Web site. While this alternative would provide the most precise information to caregivers, the FAA believes that maintaining this much detail to be unnecessarily onerous for the air carriers because multiple seats of the same width can be found in each class of service. Further, in order for this information to be useful, there can be no change in a flight's equipment from the time a ticket is purchased to the time of the flight's departure.

Another alternative required air carriers to publish only one dimension—that of the narrowest seat across an air carrier's entire fleet. This alternative, however, would only allow a caregiver to determine if there may be a possibility of a particular CRS fitting a particular airline seat on a particular flight. The FAA believes that providing the dimension of the narrowest seat only across an entire fleet would not facilitate CRS use because a caregiver with a CRS larger than the narrowest seat may be discouraged from using a CRS, even though there may be wider seats available that could accommodate the CRS. Therefore this approach would not meet the intent of Congress when it mandated disclosure of seat dimensions.

After considering the alternatives, the FAA decided that the information to be posted on air carrier Web sites should provide caregivers with data to facilitate CRS use but should not be overly burdensome for the air carriers. Based on these criteria, this rulemaking proposes to require an air carrier to post on its Web site the width of the widest seat for each make, model, and series of aircraft in each class of service in the air carrier's fleet. This level of detail is reasonable given that most air carriers already disclose other airplane-related dimensions on their Web sites, including dimensions for overhead bins, space underneath seats, maximum size of carry-on luggage, and maximum size for pet carriers. Because of the level of detail air carriers are already providing, the FAA believes that the requirements of this rule will be a minimal impact to those part 121 air carriers conducting passenger-carrying operations.

To provide a range of costs to comply with this rule, estimates for a low case and a high case were prepared. In the low case, over a ten-year period the cost to the industry from this rulemaking will be about $208 thousand in 2012 dollars ($152 thousand at seven percent present value). In the high case the cost is estimated to be approximately $357 thousand in 2012 dollars ($260 thousand at seven percent present value). In both the low and high case, this rule is considered to be minimal cost for part 121 operators.

The FAA reports there to be 81 part 121 air carriers; [13] however only 58 [14] of these air carriers are impacted by this rule. Excluded from this rule's analysis are 16 supplemental cargo carriers; 5 air carriers that have not reported any passengers to the DOT Bureau of Transport Statistics (BTS) since at least October 2012 (4 of which primarily fly cargo but are certificated to fly passengers); 1 air carrier that has ceased operations and filed for bankruptcy; and 1 air carrier that does not have an internet Web site (air carriers that do not have Web sites are exempt from this rule). The FAA notes that while Southwest Airlines and AirTran Airways hold a single operating certificate, for purposes of this analysis

[10] Child Passenger Safety Forum, National Transportation Safety Board, December 9, 2010, Summary Report at page 3.

[11] See 70 FR 50266, Aug. 26, 2005. A copy of the Report to Congress has been placed in the docket.

[12] ''Update of Safety Benefits & Tradeoffs Related to Requiring the Use of Child Restraint Systems on Aircraft for Children Less Than Two Years of Age'' December, 2011. *http://www.dot.gov/faac/report/update-safety-benefits-tradeoffs-related.*

[13] FAA data from Q3, FY 2012.

[14] Although only 58 carriers are impacted by this rule, a total of 59 Web sites are affected. While Southwest Airlines and AirTran Airways share a single operating certificate, they continue to maintain separate Web sites for ticket sales.

they will be treated as separate entities since separate Web sites are maintained.

To determine the cost of this rule, hours are estimated for each occupational job series [15] required to complete the task. The estimated hours are then multiplied by the United States Department of Labor Bureau of Labor Statistics (BLS) fully-burdened hourly wage rate for the corresponding occupational job series. Thus, the rule's total cost equals hours worked multiplied by hourly wages, summed across all part 121 air carriers affected by this rule. Additional detail on how this cost estimate is constructed follows.

As the basis for this rulemaking, the FAA used assumptions regarding job skills and labor hours from the regulatory analysis [16] for the DOT's recent ''Enhancing Airline Passenger Protections'' [17] rule. One provision of the DOT's rule required an air carrier to post on its Web site a tarmac delay plan and a customer commitment plan. The FAA believes that the skills and labor hours necessary to post seat dimension information to an air carrier's Web site are similar to those estimated for posting a tarmac delay plan and customer commitment plan. During the first year of the DOT rule's implementation, it was estimated that it would take a computer programmer and a supervisor/manager a total of 8 hours to post the customer commitment plan and tarmac delay plan to an air carrier's Web site. The FAA is using the DOT estimate as the foundation for the time required to perform the work required to comply with the seat dimension disclosure rule, if finalized as proposed.

To show a range of costs that may be incurred by air carriers due to this rulemaking, the FAA prepared a low-case and high-case estimate.[18] The variable that changes between the two cases is the assumption for base staff hours. In the low case it is assumed that a minimum of 8.0 base staff hours are required for an air carrier to comply with the rule whereas the high case assumes a minimum of 16.0 base staff hours. The assumption for wages is held constant and does not vary between the low case and high case. It is important to note that even in the high case, the rule is still expected to be minimal cost.

Estimation of Hours—Year 1

It is assumed that the time required for an air carrier to revise its Web site to include seat dimension information is most labor intensive during the first year of the rule's implementation. The estimated hours to comply with this rule for year 1 are allocated between work performed by staff versus work performed by management.

Staff Hours: Staff hours are comprised of two components: base hours and variable hours. Base hours are dependent upon whether an air carrier has (or does not have) a Web site link to fleet information at the time the rule goes into effect. Variable hours fluctuate according to the count of make, model, and series of aircraft in an air carrier's fleet.

Base Hours: Base hours are dependent upon whether an air carrier does or does not have a link to fleet information at the time the rule is implemented. In the low case, it is assumed that 8.0 base hours are required to bring a Web site into compliance for those air carriers that already have a link to fleet information at the time the rule goes into effect. For air carriers that do not have a link to fleet information at the time the rule is implemented it is assumed that base hours will total 16.0.

For the high case, the base hours required for an air carrier to comply with the rule is assumed to be twice that of the low case. Thus, in the high case, base hours for air carriers that already have a link to fleet information are assumed to be 16.0; for those air carriers without a link to fleet information at the time of the rule's implementation base hours are assumed to total 32.0.

Variable Hours: Variable hours fluctuate according to the count of different make, model, and series of aircraft each air carrier has in its fleet. (For example, for an A319–100, the make is Airbus; the model is 319; the series is 100.) It is assumed an additional 0.5 hours of staff time beyond the base hour component is required for gathering and analyzing seat dimension information for each make, model, and series of aircraft in an air carrier's fleet. The rationale for the variable hour component is that it builds in additional time (and thus costs) for air carriers that have multiple aircraft types compared to air carriers that may operate only one make, model, and series of aircraft. Unlike base hours, which have separate assumptions for the low and high case, variable hours are fixed for each air carrier and will remain the same for both the low and high case.

Next, for illustrative purposes, an example is provided to show the calculation of the low-case estimate for a single air carrier's staff hours during the initial year the rule is in effect. This example is based on the following two assumptions: 1) the air carrier already has a link to fleet information on its Web site; 2) the air carrier operates a fleet of 15 different make, model, and series of aircraft. Based on these assumptions, the estimated staff hours total 15.5. The 15.5 hours is composed of 8 base hours (because the air carrier already has a link to fleet information) plus 7.5 variable hours (0.5 hours * 15 different make/model/series of aircraft). If the first assumption in the example is changed to assume that the air carrier does not already have a Web site link to its fleet information, the estimated hours would total 23.5 (16 base hours plus 7.5 variable hours).

Of the 59 Web sites [19] included in this analysis, 53 have a dedicated link to information regarding fleet specifications and 6 (3 belonging to scheduled air carriers and 3 belonging to nonscheduled air carriers) do not. The count of make, model, and series of aircraft operated by any one air carrier ranges from one to seventeen.

Management Hours: Management oversight is required by each air carrier to verify that the update to the Web site has been completed. In terms of hours, it is assumed that each of the 59 Web sites will require two hours of management review time to verify accuracy of data. This assumption is the same for both the low and high case.

Estimation of Hours—Years 2 Through 10

For years 2 through 10 of this rule it is assumed that through the ordinary course of business less time is required, relative to year 1, to maintain the accuracy of seat dimension information posted to an air carrier's Web site. During this timeframe, it is established that air carriers with Web sites have already posted seat dimension information; thus air carriers may only need to revise the data periodically.

Staff Hours: There is only one component for staff hours in the low and high case during the follow-on years of the rulemaking. For the low case, it is estimated that each of the air carriers will require 4 staff hours annually for posting revised data. In the high case, the estimated hours for the low case are doubled, for a total of 8 staff hours per year.

[15] Based on United States Department of Labor, Bureau of Labor Statistics Occupational Codes.

[16] Final Regulatory Analysis, Consumer Rulemaking: Enhancing Airline Passenger Protections II at p. 43. This document can be found in Docket No. DOT–OST–2010–0140 or at *http://www.regulations.gov/#!documentDetail;D=DOT-OST-2010-0140-2046.*

[17] 76 FR 23110, April 25, 2011.

[18] To estimate costs for this rule, labor hours are composed of staff hours and management hours. Staff hours are assumed to be performed by BLS Job Series 15–1140—Database and Systems Administrators and Network Architects. Management hours are performed by BLS Job Series 15–3021—Computer and Information Systems Managers.

[19] See footnote 14.

Management Hours: Management hours required for oversight during years 2 through 10 is estimated to be one hour per year. This estimate is the same for both the low and high case.

TABLE 1—ASSUMPTIONS

[Hours required per air carrier to implement and update web site]

Year	Does the air carrier's pre-mandate web layout have a link to fleet?	Staff hours				Mgmt. hours
		Low case		High case		
		Base	Variable	Base	Variable	
1	Yes	8	0.5	16	0.5	2
	No	16		32		
2–10	Not Applicable	4	N/A	8	N/A	1

The FAA seeks comment on its assumption of hours required for an air carrier to post seat dimension information to its Web site.

Staff and Management Wages—Years 1 Through 10

The total cost to air carriers for compliance with this rule is the sum of compensation [20] to staff and management for hours worked. To determine compensation for performance of this work, BLS data are used. Based on BLS job titles,[21] it is assumed that staff work is performed by Database and System Administrators and Network Architects (BLS Job Series 15–1140), and manager oversight is performed by Computer and Information Systems Managers (BLS Job Series 11–3021).

Of the 59 Web sites included in this analysis, 41 of the Web sites belong to air carriers engaged in scheduled operations and 18 Web sites belong to air carriers engaged in nonscheduled operations. It is necessary to calculate hours for scheduled carriers independently of nonscheduled carriers since labor costs vary between the two.

The following table shows fully-burdened rates for these two job series for scheduled versus nonscheduled air carriers.

TABLE 2—ASSUMPTIONS

[Hourly wage and benefits compensation*]

NAICS**	Job series	Job category	Job title	Hourly wage	Benefits***	Total hourly compensation
481100 Scheduled Air Transportation.	15–1140	Staff	Database and System Administrators and Network Architects.	$42.14	$17.80	$59.94
	11–3021	Mgmt.	Computer and Information System Managers.	61.81	26.11	87.92
481200 Nonscheduled Air Transportation.	15–1140	Staff	Database and System Administrators and Network Architects.	33.94	14.34	48.28
	11–3021	Mgmt.	Computer and Information System Managers.	48.65	20.55	69.20

* Source: U.S. Department of Labor, Bureau of Labor Statistics April 2012 Occupational Employment Statistics Survey (released in May 2013) (*http:/stat.bls.gov/oes/home.htm*).

** North American Industry Classification System—U.S. Census Bureau.

*** Source: U.S. Department of Labor, Bureau of Labor Statistics News Release dated June 12, 2013 ''Employer Costs for Employee Compensation—March 2013'' Page 3—Table A. Hourly wage rates are 70.3 percent of total hourly compensation. (*http://www.bls.gov/news.release/archives/ecec_06122013.pdf*).

For the low case, multiplying hours required annually for each carrier to comply with this rule by the fully-burdened hourly wage rate over a ten-year period totals a cost of approximately $208 thousand in 2012 dollars ($152 thousand at 7 percent present value). For the high case, the rule costs approximately $357 thousand ($260 thousand at 7 percent present value). During calendar year 2012, the operating revenues for 48 of the affected carriers were just over $159 billion (operating revenues for the remaining 10 carriers were not available). Tables 3 and 4 summarize the low and high case costs for years 1 through 10.

[20] Total hourly compensation is the sum of wages plus benefits.

[21] As reported in the April 2012 Occupational Employment Statistics Survey.

Table 3: Costs - Low Case
In Thousands of 2012 Dollars

Year	1	2	3	4	5	6	7	8	9	10	Total Cost
Scheduled Air Carrier											
Staff Compensation	$25.7	$9.8	$9.8	$9.8	$9.8	$9.8	$9.8	$9.8	$9.8	$9.8	$114.1
Management Compensation	7.2	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	39.7
Nonscheduled Air Carrier											
Staff Compensation	$9.1	$3.5	$3.5	$3.5	$3.5	$3.5	$3.5	$3.5	$3.5	$3.5	$40.4
Management Compensation	2.5	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	13.7
Total Costs	$44.4	$18.2	$18.2	$18.2	$18.2	$18.2	$18.2	$18.2	$18.2	$18.2	$207.8
Present Value - 7%	41.5	15.9	14.8	13.9	12.9	12.1	11.3	10.6	9.9	9.2	152.1

Table 4: Costs - High Case
In Thousands of 2012 Dollars

Year	1	2	3	4	5	6	7	8	9	10	Total Cost
Scheduled Air Carrier											
Staff Compensation	$46.8	$19.7	$19.7	$19.7	$19.7	$19.7	$19.7	$19.7	$19.7	$19.7	$223.7
Management Compensation	7.2	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	39.7
Nonscheduled Air Carrier											
Staff Compensation	$17.2	$7.0	$7.0	$7.0	$7.0	$7.0	$7.0	$7.0	$7.0	$7.0	$79.8
Management Compensation	2.5	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	13.7
Total Costs	$73.6	$31.5	$31.5	$31.5	$31.5	$31.5	$31.5	$31.5	$31.5	$31.5	$356.8
Present Value - 7%	68.8	27.5	25.7	24.0	22.4	21.0	19.6	18.3	17.1	16.0	260.4

The FAA considers these costs to be minimal.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The Small Business Administration (SBA) small entity size standard for air carriers is 1,500 employees or less. Of the 58 part 121 air carriers analyzed for this rule, 25 are classified as large entities and 20 as small entities.[22] Employment statistics for the 13 remaining air carriers are not available; however, for purposes of the regulatory flexibility analysis, it is assumed that these 13 air carriers are small entities (for a total of 33 small entities). Since a majority of the air carriers analyzed for this rule are classified as small entities, the rule is expected to impact a substantial number of small entities.

For this regulatory flexibility analysis, calendar year (CY) 2012 operating revenues[23] were compared to the estimated costs during year 1 of the rule. Of the 33 air carriers considered to be small entities, operating revenue data were only available for 23 of them. For the 23 air carriers reporting financial data to BTS, the estimated cost of this rule was no greater than .03 percent of any carrier's CY 2012 operating revenues. The FAA believes a compliance cost of .03 percent relative to annual revenue is not a significant economic impact.

Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $151.0 million in lieu of $100 million. This proposed rule would not contain such a mandate; therefore, the requirements of Title II do not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. According to the Paperwork Reduction Act of 1995 and regulations implementing the Act (5 CFR part 1320), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

This action contains the following proposed new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44

[22] Based on Form 41 Schedule P10 Statistics and air carrier Web sites.

[23] Based on Department of Transportation Statistics Form 41 and 298C Financial Data.

U.S.C. 3507(d)), the FAA has submitted these proposed information collection amendments to OMB for its review.

Summary: The FAA proposes to require air carriers conducting domestic, flag, and supplemental operations to make available on their Web sites the width of the widest passenger seat in each class of service for each airplane make, model, and series, used in passenger-carrying operations. If finalized as proposed, this rule amends 14 CFR 121.311.

Use: This rule is intended to facilitate the use of child restraint systems onboard airplanes. If finalized as proposed, this rule would provide greater information to caregivers to help them determine whether a particular child restraint system will fit on a particular airplane.

Respondents (including number of): Respondents include each affected part 121 scheduled and nonscheduled passenger-carrying air carrier, which are 58.

Frequency: Each affected air carrier must comply with this rule after it is finalized. Once this rule is initially implemented, the only time air carriers would need to update their Web sites would be when a new airplane make, model, or series is introduced or when the widest seat in a class of service in a currently listed make, model, or series of airplane is replaced with a larger or smaller seat.

Annual Burden Estimate: All of the costs accounted for in the economic analysis for this rulemaking relate to the information collection burden. A summary of the annual burden estimate for the low case and the high case expected to result from this proposal for years 1, 2, and 3 by carrier type (scheduled and nonscheduled) is provided in the tables below.

Summary of Total Paperwork Hours and Costs for Years 1, 2 and 3 by Carrier Type (Scheduled vs. Nonscheduled)

HOURS									
	Scheduled Carriers			NonScheduled Carriers			Total Hours		
Hours	Staff	Mgmt	Total	Staff	Mgmt	Total	Staff	Mgmt	Total
Low Case									
Year 1	428	82	510	188	36	224	616	118	734
Year 2-3	164	41	205	72	18	90	236	59	295
High Case									
Year 1	780	82	862	356	36	392	1,136	118	1,254
Year 2-3	328	41	369	144	18	162	472	59	531

COSTS (In 2012 Dollars)										
	Scheduled Carriers			NonScheduled Carriers			Total Costs			
Costs	Staff	Mgmt	Total	Staff	Mgmt	Total	Staff	Mgmt	Total	Present Value (7%)
Low Case										
Year 1	$25,654	$7,209	$32,863	$9,077	$2,491	$11,568	$34,731	$9,700	$44,431	$41,526
Year 2	9,830	3,605	13,435	3,476	1,246	4,722	13,306	4,850	18,157	$15,859
Year 3	9,830	3,605	13,435	3,476	1,246	4,722	13,306	4,850	18,157	$14,822
High Case										
Year 1	$46,753	$7,209	$53,962	$17,188	$2,491	$19,679	$63,941	$9,700	$73,641	$68,826
Year 2	19,660	3,605	23,265	6,952	1,246	8,198	26,613	4,850	31,463	$27,482
Year 3	19,660	3,605	23,265	6,952	1,246	8,198	26,613	4,850	31,463	$25,684

Additional detail regarding the annual burden is provided in the regulatory evaluation discussion provided in this preamble (Section VI. Regulatory Notices and Analyses, A. Regulatory Evaluation) as well as the Supporting Statement for Paperwork Reduction Act Submissions associated with this rulemaking.

The agency is soliciting comments to—

- Evaluate whether the proposed information requirement 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;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of collecting information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information collection-related aspects of this rulemaking to the address listed in the **ADDRESSES** section at the beginning of this preamble by June 30, 2014. Comments also should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for FAA, New Executive Office Building, Room 10202, 725 17th Street NW., Washington, DC 20053.

E. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United

States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that it would have little or no effect on international trade.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

H. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

VII. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

VIII. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

Proprietary or Confidential Business Information: Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

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

2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or

3. Accessing the Government Printing Office's Federal Digital System at *http://www.gpo.gov/fdsys/.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Charter flights, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 121 of title 14, Code of Federal Regulations as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note).

■ 2. Amend § 121.311 by adding a new paragraph (k) to read as follows:

§ 121.311 Seats, safety belts, and shoulder harnesses.

* * * * *

(k) Each air carrier that conducts operations under this part and that has a Web site must make available on its Web site the width of the widest passenger seat in each class of service for each airplane make, model and series operated by that air carrier in passenger-carrying operations.

■ 3. Amend § 121.583 by revising paragraph (a) introductory text to read as follows:

§ 121.583 Carriage of persons without compliance with the passenger-carrying requirements of this part.

(a) When authorized by the certificate holder, the following persons, but no others, may be carried aboard an airplane without complying with the passenger-carrying airplane requirements in §§ 121.309(f), 121.310, 121.311(k), 121.391, 121.571, and 121.587; the passenger-carrying operation requirements in part 117 and §§ 121.157(c) and 121.291; and the requirements pertaining to passengers in §§ 121.285, 121.313(f), 121.317, 121.547, and 121.573:

* * * * *

Issued in Washington, DC, under the authority provided by 49 U.S.C. 106(f), 44701(a), and 49 U.S.C. 42301 preceding note added by Public Law 112–95, sec. 412, 126 Stat. 89 on March 25, 2014.

John S. Duncan,

Director, Flight Standards Service.

[FR Doc. 2014–07172 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM14–2–000]

Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing, as part of a series of orders, to revise its regulations at section 284.12 to better coordinate the scheduling of natural gas and electricity markets in light of increased reliance on natural gas for electric generation, as well as to provide additional flexibility to all shippers on interstate natural gas pipelines. The proposed revisions in this Notice of Proposed Rulemaking deal principally with revision of the operating day and scheduling practices used by interstate pipelines to schedule natural gas transportation service. These proposed revisions affect the business practices of the natural gas industry, which the industry has developed through the North American Energy Standards Board, and which the Commission has incorporated by reference into its regulations. The Commission, therefore, is providing the natural gas and electric industries with six months to reach consensus on standards, consistent with the Commission's guidance, including any revisions or modifications to the proposals provided herein.

DATES: Comments are due November 28, 2014.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov*. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

David Maranville (Legal Information), Federal Energy Regulatory Commission, Office of the General Counsel, 888 First Street NE., Washington, DC 20426, 202–502–6351

Anna Fernandez (Legal Information), Federal Energy Regulatory Commission, Office of the General Counsel, 888 First Street NE.,Washington, DC 20426, 202–502–6682

Caroline Daly Wozniak (Technical Information), Federal Energy Regulatory Commission, Office of Energy Policy and Innovation, 888 First Street NE., Washington, DC 20426, 202–502–8931

SUPPLEMENTARY INFORMATION: Federal Energy Regulatory Commission

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1. In this Notice of Proposed Rulemaking (Proposed Rule or NOPR), and in two contemporaneous orders, the Federal Energy Regulatory Commission (Commission) is proposing interrelated actions to address certain natural gas and electric industry coordination challenges that arise, in part, from increased reliance on natural gas for electricity generation. The Commission's proposed actions focus primarily on the scheduling practices of the natural gas transportation and electricity markets. The reforms proposed herein and the two contemporaneous orders build upon the comments made during Commission staff technical conferences and in comments filed in Docket No. AD12–12–000.

2. In this Proposed Rule, the Commission proposes to amend its regulations at section 284.12 relating to the scheduling of transportation service on interstate natural gas pipelines to better coordinate the scheduling practices of the natural gas and electricity industries, as well as to provide additional scheduling flexibility to all shippers on interstate natural gas pipelines. In a separate order, the Commission is instituting a proceeding, under section 206 of the Federal Power Act (FPA),[1] to coordinate the day-ahead scheduling of Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs) with the revised interstate natural gas pipeline schedule.[2] In addition, in a separate order, the Commission is also instituting a proceeding, under section 5 of the Natural Gas Act (NGA),[3] to examine whether interstate natural gas pipelines are providing notice of offers to purchase released pipeline capacity in accordance with section 284.8(d) of the Commission's regulations.[4]

3. The Commission's existing regulations [5] regarding interstate natural gas pipelines' scheduling incorporate by reference the standards of the North American Energy Standards Board (NAESB) Wholesale Gas Quadrant (WGQ), a consensus standards organization representing all segments of the natural gas industry as well as the wholesale electric power industry.[6] Since 1996 these standards have established nationwide timelines that the industry and the Commission have determined most efficiently schedule natural gas transactions across interconnecting pipelines. This standardized nomination timeline has resulted in a complementary standard timeframe in which parties acquire natural gas supplies.

4. The Commission meanwhile has accepted regional variation in the development of scheduling practices in ISO and RTO markets, each of which has established its own timelines for submission of bids and posting of awards.

5. While the nationwide natural gas nomination timeline has proven resilient over the last 17 years, recent developments in electricity markets signal that changes to the gas nomination schedule may be needed. Reliance on natural gas as a fuel for electric generation has steadily increased in recent years.[7] This trend is expected to continue, resulting in greater interdependence between the natural gas and electric industries.[8] Several events over the last few years, such as the Southwest Cold Weather Event,[9] and the recent extreme and sustained cold weather events in the eastern U.S. in January 2014,[10] show the crucial interrelationship between natural gas pipelines and electric transmission operators and underscore

[1] 16 U.S.C. 824e (2012).

[2] *California Independent System Operator Corp., et al.,* Order Initiating Investigation into ISO/RTO Scheduling Practices and Establishing Paper Hearing Procedures, 146 FERC ¶ 61,202 (2014).

[3] 15 U.S.C. 717d.

[4] *Posting of Offers to Purchase Capacity,* 146 FERC ¶ 61,203 (2014). *See also* 18 CFR 284.8(d)(2013).

[5] *See* 18 CFR 284.12(a) and (b) (2013).

[6] NAESB is accredited by the American National Standards Institute (ANSI) as an accredited standards organization, which ensures that NAESB complies with ANSI's requirements that its procedures are open to materially affected parties and that the standards represent a reasonable consensus of the industry without domination by any single interest or interest category.

[7] *See, e.g.,* Energy Information Administration, *Fuel Competition in Power Generation and Elasticities of Substitution* (June 2012); ISO–NE., *Addressing Gas Dependence* at 3 (July 2012) (reliance on natural gas-fired electricity in the region increased from five percent in 1990 to 51 percent in 2011*), http://www.iso-ne.com/committees/comm_wkgrps/strategic_planning_discussion/materials/natural-gas-white-paper-draft-july-2012.pdf.*

[8] *See, e.g.,* North American Electric Reliability Corporation, *2013 Special Reliability Assessment: Accommodating an Increased Dependence on Natural Gas for Electric Power; Phase II: A Vulnerability and Scenario Assessment for the North American Bulk Power System* at 1 (May 2013) (''Over the past decade, natural gas-fired generation rose significantly from 17 percent to 25 percent of U.S. power generation and is now the largest fuel source for generation capacity. Gas use is expected to continue to increase in the future, both in absolute terms and as a share of total power generation and capacity.''); *http://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_PhaseII_FINAL.pdf*; Energy Information Administration, *Annual Energy Outlook 2013 Early Release Overview* (2013) (showing electric generation from natural gas rising from 13 percent in 1993 to 30 percent in 2040); *http://www.eia.gov/forecasts/aeo/er/early_elecgen.cfm*; The New England State Committee on Electricity, *Natural Gas Infrastructure and Electric Generation: A Review of Issues Facing New England* (Dec. 14, 2012), *http://www.nescoe.com/uploads/Phase_I_Report_12-17-2012_Final.pdf.*

[9] *See* FERC/NERC, *Report on Outages and Curtailments During the Southwest Cold Weather Event of February 1–5, 2011* (2011), *available at http://www.ferc.gov/legal/staff-reports/08-16-11-report.pdf.*

[10] The widespread and record low temperatures during January 2014 resulted in coincident record peak demand for natural gas throughout the Midwest, Northeast, Mid-Atlantic, and Southeast regions leading to constrained pipeline capacity and high natural gas prices. In addition, in February 2014, arctic temperatures limited the availability of natural gas to supply New Mexico and Southern California leading CAISO to issue a system alert and a request for consumers to reduce power demand around the system. CAISO invoked increasingly stringent measures throughout the day to move generation off natural gas, reduce demand, and maintain sufficient supply to meet firm load. *See* FERC Staff Presentation ''Recent Weather Impacts on the Bulk Power System'' January 16, 2014, *http://www.ferc.gov/CalendarFiles/20140116102908-A-4-Presentation.pdf.*

the need for improvements in the coordination of natural gas and electric markets. The differences between the nationwide natural gas scheduling timeline and the regional electric scheduling timelines can create complications for interstate pipelines and electric transmission operators in coordinating the scheduling of the two industries.

6. In light of these concerns, the Commission, since early 2012, has engaged in a dialogue with natural gas pipelines, electric transmission operators, and other market participants and stakeholders in both industries regarding natural gas and electric industry coordination.[11] In a report issued on November 15, 2012, Commission staff noted that, among other topics, industry participants highlighted the need for greater alignment of natural gas and electric scheduling practices.[12] At the direction of the Commission, staff conducted a further technical conference in April 2013 to consider natural gas and electric scheduling practices, where participants again discussed, among other matters, whether and how natural gas and electric industry schedules could be harmonized in order to achieve the most efficient scheduling systems for both industries, whether additional nomination opportunities for natural gas transportation can be provided and, if so, under what conditions.[13]

7. During the technical conference, some ISOs and RTOs expressed concern about the potential reliability effects on their systems if gas-fired generators encounter difficulty in acquiring natural gas or are subject to curtailment of natural gas supplies, particularly during periods of high demand on both the interstate pipeline and electric transmission systems. Interstate pipelines expressed similar concern about the effect on their ability to deliver natural gas when electric generators are dispatched and need to burn more natural gas than they have nominated. Generators and transmission operators raised concerns that managing fuel procurement risk can be a challenge because of the different operating days used by the natural gas and electric industries and because the timeframe for nominating natural gas pipeline transportation service is not synchronized with the timeframe during which generators receive confirmation of their bids in the day-ahead electric markets. These differing timelines can cause significant price and/or supply risk for gas-fired generators because, to obtain the best gas price, the generators would need to nominate pipeline transportation service before they know if their electric bid has been confirmed.[14] Generators, including generators in non-RTO markets, raised concerns about the flexibility of the gas scheduling system to accommodate their need to revise nominations in light of weather events or other operational needs. Several conference participants stressed that, due to the difficult policy questions involved, they would need Commission policy guidance before they would be able to move forward on coordination of their existing scheduling practices.

8. Based on the current trend of increased use of natural gas as a fuel for electric generation, and in consideration of the discussions at the 2012–2013 technical conferences and filed comments, the Commission is proposing a set of related actions to address concerns regarding the impacts of divergent interstate natural gas pipeline and electric utility scheduling practices, as well as concerns regarding the flexible and efficient use of pipeline capacity by natural gas-fired generators and other shippers.[15] The Commission has identified three major areas in which revisions to the nationwide natural gas scheduling system seem appropriate. Therefore, in this Proposed Rule, the Commission is proposing to:

a. Start the natural gas operating day (Gas Day) earlier in order to ensure that gas-fired generators are not running short on gas supplies during the morning electric ramp periods. The Commission is proposing to move the start of the Gas Day from 9:00 a.m. Central Clock Time (CCT) to 4:00 a.m. CCT.[16]

b. Start the first day-ahead gas nomination opportunity (Timely Nomination Cycle) for pipeline scheduling later than the current 11:30 a.m. CCT. Due to the fact that the Timely Nomination Cycle is the most liquid of the gas nomination cycles, this change will allow electric utilities to finalize their scheduling before gas-fired generators must make gas purchase arrangements and submit nomination requests for natural gas transportation service to the pipelines. The Commission is proposing to move the Timely Nomination Cycle to 1:00 p.m. CCT.[17]

c. Modify the current intraday nomination timeline to provide four intraday nomination cycles, instead of the existing two, to provide greater flexibility to all pipeline shippers. The Commission is proposing to revise the existing standard intraday nomination cycles, including adding an early morning nomination cycle with a mid-day effective flow time and a new late-afternoon nomination cycle during which firm nominations would have precedence over or be permitted to bump already scheduled interruptible service. However, bumping would not be permitted during the proposed final intraday nomination cycle. In summary, the Commission is proposing to provide four standard intraday nomination cycles to occur at 8:00 a.m. CCT (bump), 10:30 a.m. CCT (bump), 4:00 p.m. CCT (bump) and 7:00 p.m. CCT (no-bump).[18]

9. The Commission also clarifies in this Proposed Rule its policy concerning the ability of a pipeline to permit firm shippers to bump an interruptible shipper's nomination during any enhanced nomination opportunity proposed by the pipeline (beyond the standard nomination opportunities). We also propose to require all interstate pipelines to offer multi-party service agreements, similar to those already offered by some interstate pipelines. Such multi-party service agreements can provide multiple shippers the flexibility to share interstate pipeline capacity to serve complementary needs in an efficient manner.

10. Although we present specific proposed reforms to existing natural gas industry scheduling practices in this Proposed Rule, we continue to recognize that the natural gas and

[11] *See Coordination Between Natural Gas and Electricity Markets,* Docket No. AD12–12–000 (Feb. 15, 2012), *available at http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12893828.*

[12] *Staff Report on Gas-Electric Coordination Technical Conferences,* Docket No. AD12–12–000 (Nov. 15, 2012) (November Staff Report), *available at http://elibrary.ferc.gov/idmws/File_List.asp.*

[13] *Coordination between Natural Gas and Electricity Markets,* Docket No. AD12–12–000 (Mar. 5, 2013) (Notice of Technical Conference), *available at http://elibrary.ferc.gov/idmws/File_list.asp?document_id=14095482.*

[14] November Staff Report at 32.

[15] The Commission has recognized that even the most efficient standards need to be modified to accord with changing realities. *Standards for Business Practices of Interstate Natural Gas Pipelines,* Order No. 587, 61 FR 39053 (July 26, 1996), FERC Stats. & Regs. Regulations Preambles July 1996–December 2000 ¶ 31,038, at 30,060 (1996). *See* American National Standards Institute, *ANSI Essential Requirements: Due Process Requirements for American National Standards* § 4.7.1 (accessed 12/8/13) (requiring periodic updates of standards); Eviatar Zerubavel, *The Standardization of Time: A Sociohistorical Perspective,* 88 American Journal of Sociology 1, 5–7 (July 1982) (uniform standards of time are needed to coordinate industries).

[16] The NAESB WGQ standards refer to Central Clock Time which reflects day-light savings changes.

[17] The Commission is not proposing any changes to the Evening Cycle.

[18] *See* the Appendix for a Table summarizing the Commission's proposed scheduling timeline.

electricity industries are best positioned to work out the details of how changes in scheduling practices can most efficiently be made and implemented, consistent with the policies discussed here. Therefore, we are providing the natural gas and electric industries, through NAESB, with a period of 180 days after publication of the Proposed Rule in the **Federal Register** to reach consensus on any revisions to the Commission's proposals and either file consensus standards with the Commission or notify the Commission of its inability to reach consensus on any revisions to the Commission's proposals. The Commission appreciates the recent work of the Natural Gas Council (NGC), the Desert Southwest Pipeline Stakeholders (DSPS), and others to formulate proposals for Commission consideration. These efforts represent a significant step forward in helping to address the scheduling issues confronting the natural gas and electric industries, and we encourage these parties to continue their work and participate in the NAESB process to formulate a consensus proposal, consistent with the policies discussed herein. In addition, while the proposals in this Proposed Rule focus on natural gas industry regulations, we expect the electric industry (particularly the ISOs and RTOs) to participate in these efforts to help ensure that the resulting consensus reasonably accommodates the interests of both industries.

11. In the event that NAESB is able to reach a consensus on revisions to the Commission's proposals, comments on those consensus standards, as well as comments on the Commission's proposals, are to be filed 240 days after publication of the Proposed Rule in the **Federal Register**. Because NAESB is an ANSI accredited consensus standards organization, the Commission could incorporate by reference in a final rule consensus standards filed by NAESB.[19] In the event that NAESB in unable to reach a consensus on any revisions to the Commission's proposals, comments on the Commission's proposals also are to be filed 240 days after publication of the Proposed Rule in the **Federal Register**. If the Commission adopts regulations that have not been approved by NAESB, it will expect NAESB to integrate the Commission's regulations into its standards within 90 days of the effective date of the final rule and to notify the Commission when the standards have been approved.

I. Background

12. In order to put these related Commission actions in context, we first provide a description of the current interstate natural gas and electric utility scheduling systems and the issues raised during the Commission conferences and in filed comments in Docket No. AD12–12–000.

A. Current Natural Gas and Electric Scheduling Systems

1. Nationwide Scheduling for Natural Gas Interstate Pipeline Transportation

13. The nationwide natural gas standards originated in 1995, when all segments of the natural gas industry agreed to form the Gas Industry Standards Board (GISB) (the precursor to NAESB) as its vehicle to formalize the creation of industry-wide communication standards.[20] Later in 1995, after conducting an industry technical conference, the Commission issued an Advanced Notice of Proposed Rulemaking (ANOPR), requesting the submission of proposals by GISB to standardize business practices across the interstate natural gas pipeline grid.[21] One of the Commission's principal concerns was the standardization of nomination and confirmation schedules.

14. After the issuance of the ANOPR, the industry mobilized under the GISB procedures, with over 500 individuals participating in 45 days of meetings over a period of 53 business days to produce consensus on a comprehensive set of business practice standards covering nominations and confirmations, flowing gas, invoicing, capacity release, and electronic communication.[22] The industry concluded that a nationwide timeline for scheduling and nominating natural gas transportation was needed given the interconnected nature of pipelines. As GISB stated, ''the standard nomination timeline allows a shipper whose transaction spans more than one pipeline the certainty that the transaction will really 'work' as contemplated.'' [23] In Order No. 587, the Commission incorporated these nationwide standards into its regulations, recognizing the need for nationwide, as opposed to regional scheduling, for interstate natural gas pipeline service.[24] Since 1996, the nationwide framework of scheduling timelines has remained in place, with numerous improvements and modifications, such as the addition in 1997 of standardized intraday nomination opportunities.[25]

15. The natural gas scheduling system is based on several underlying principles. First, the Gas Day is standard nationwide, beginning at 9:00 a.m. CCT and ending at 9:00 a.m. CCT the following day. All nominations for transportation service are for a daily quantity to be transported over that 24-hour period. The rate at which a shipper may use its contracted quantity, also known as a flow rate, on a given pipeline is determined by the individual pipeline's tariff and the flexibility of that pipeline to permit non-ratable flows. Except for special services, pipeline services are generally based on the assumption of uniform hourly flows over the Gas Day. While Table 1 below lists the effective times for nominations, changes to these nominations are limited by the remainder of a shipper's daily quantity and the remaining hours of the Gas Day.[26] Second, interstate natural gas pipelines schedule their systems based on the priority of the

[19] Pub L. 104–113, 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997); OMB Circular A–119 (agency ''must use voluntary consensus standards, both domestic and international, in its regulatory'' as well as procurement activities).

[20] Under its charter and by-laws, GISB was open to all members of the gas industry and utilized open and balanced consensus voting procedures to ensure that a standard was acceptable to all industry segments.

[21] *Standards for Business Practices of Interstate Natural Gas Pipelines,* Advanced Notice of Proposed Rulemaking, 73 FERC ¶ 61,104 (1995).

[22] *Standards for Business Practices of Interstate Natural Gas Pipelines,* Notice of Proposed Rulemaking, 61 FR 19211 (May 1, 1996), FERC Stats. & Regs. Proposed-Regulations 1988–1998 ¶ 32,517, at 33,209 (1996).

[23] Order No. 587, FERC Stats. & Regs. ¶ 31,038, at 30,067.

[24] ''An integrated pipeline grid means that an East Coast LDC can nominate gas from a producer located in any time-zone on the North American continent. If an upstream-downstream system or a regional system were used, the LDC would not get confirmation of the first leg of the journey until well after it gets confirmation of the final downstream leg (which is probably well after the close of its business day).'' *Id.* at 30,068.

[25] *See Standards for Business Practices of Interstate Natural Gas Pipelines;* Order No. 587–G, 63 FR 20072 (Apr. 23, 1998), FERC Stats. & Regs. Regulations Preambles July 1996–December 2000 ¶ 31,062 (1998); Order No. 587, FERC Stats. & Regs. ¶ 31,038, at 30,060 (recognizing that standards development requires continuous adaption to changed circumstances: ''standards development is not like a sculptor forever casting his creation in bronze, but like a jazz musician who takes a theme and constantly revises, enhances, and reworks it'').

[26] For example, if a shipper with a contract for 2,400 Dth/day, schedules 1,200 Dth at the Timely Nomination Cycle, and submits an intraday nomination at the Intra-Day 1 cycle, that shipper can increase its scheduled capacity, assuming capacity availability, by no more than 1,600 Dth, bringing its total scheduled quantity to 2,000 Dth/day. This occurs because the shipper has already operated for eight hours based on a daily nomination of 1,200 Dth (50 Dth/hour). (8 hrs * 50 = 400 Dth). This leaves the shipper only 16 hours to increase its flow rate to 100 Dth/hr, bringing its total daily quantity to 2,000 Dth (400 Dth for the first 8 hours + 1,600 for the remaining 16 hours).

transportation contract held by the shipper. Nominations of firm transportation from a primary receipt point to a primary delivery point (primary firm nominations) have the highest priority,[27] followed by secondary–firm, within-the-path [28] nominations, secondary-firm, outside of the path nominations, and finally nominations from shippers holding interruptible transportation capacity.

16. The current NAESB WGQ standards establish four standard nomination periods (i.e., periods during which a shipper can request transportation service under its contract) for a Gas Day. As summarized in the figure below, the first two nomination opportunities occur the day before gas flows, and the second two opportunities occur during the day of gas flow.

TABLE 1—NAESB GAS NOMINATION CYCLES

Nomination cycle	Nomination deadline (CCT)	Notification of schedule (CCT)	Nomination effective (CCT)	Bumping of IT
Timely	11:30 a.m.	4:30 p.m.	9:00 a.m. Next Day	N/A.
Evening	6:00 p.m.	10:00 p.m.	9:00 a.m. Next Day	Yes.
Intra-Day 1	10:00 a.m.	2:00 p.m.	5:00 p.m. Current Day	Yes.
Intra-Day 2	5:00 p.m.	9:00 p.m.	9:00 p.m. Current Day	No.

Before a pipeline schedules a shipper's requested quantity under these standards, the pipeline confirms the shipper's nomination with upstream and downstream parties to make sure the shipper has contracted for sufficient gas with an upstream supplier to fulfill its nomination, and to ensure the downstream entity, such as a Local Distribution Company (LDC), has sufficient capacity to accept that gas.

17. The Timely Nomination Cycle is the most liquid time to acquire both natural gas supply and transportation capacity. During that cycle, all of the pipeline's nomination priorities are in effect: primary-firm nominations have priority over secondary-firm nominations, and secondary-firm nominations have priority over interruptible transportation.[29] In subsequent nomination cycles, firm service scheduled in an earlier cycle cannot be displaced or bumped by another firm nomination for that Gas Day.[30] In addition, firm intraday nominations have priority over, and thus can displace or bump scheduled and flowing interruptible transportation.[31] This policy recognizes that ''firm shippers are paying reservation charges for priority rights and those rights should include the right to have a nomination become effective as early as possible on the Gas Day following the nomination.'' [32] However, the final intraday nomination (Intra-Day 2) cycle is a ''no-bump'' cycle, meaning that interruptible transportation previously arranged for cannot be displaced or bumped by a firm Intra-Day 2 nomination. In approving this arrangement (referred to as the ''No-Bump Rule''), the Commission found that it would create a fair balance between firm and interruptible shippers and provide necessary stability in the nomination system.

18. Individual pipelines may offer additional scheduling opportunities beyond the standard nomination cycles. However, shippers transporting gas over multiple pipeline systems may have limited ability to utilize these additional scheduling opportunities if the upstream or downstream pipelines cannot confirm those scheduling changes. Currently, several pipelines offer additional nomination cycles.[33]

2. Electric Scheduling

19. Scheduling practices in the electric industry vary by region. In terms of processes that are run by the ISOs and RTOs, the practice of scheduling resources generally includes the commitment and dispatch of sufficient, deliverable generation to supply load in a least cost manner, all based on generator availability and the transmission facilities that will be in service that day. These processes for scheduling resources also account for imports and exports, the provision of ancillary services, and contingencies that may limit the availability of certain generation or transmission assets during the operating day.

20. To perform the unit commitment and dispatch processes used to develop daily resource schedules, ISOs and RTOs collect supply offers from generators and expected demand from load serving entities. The ISOs and RTOs then run market algorithms that, accounting for transmission constraints and other operational limitations, determine the least cost set of resources that can be used to serve load. Additionally, each ISO and RTO also performs a reliability unit commitment process to procure resources, in addition to those resources committed to serve the load bid into the day-ahead market, as necessary to meet the ISO's or RTO's own forecast of the next day's load and, in some cases, other system needs. These reliability processes vary in each ISO and RTO—both in name and in details of implementation.

21. In terms of when resource scheduling processes take place, for most electric utilities the 24-hour operating day begins at 12:00 a.m. local time. In ISO and RTO regions, the system operators run the day-ahead unit commitment and dispatch in the day leading up to the operating day. Once these processes are run, they become effective at the beginning of the operating day. Each ISO and RTO establishes its own timing for executing the day-ahead and reliability scheduling processes, including the times of day when bids and offers are due to the system operator, when the market and reliability processes are run, and when the results of the scheduling processes are made available to generators. The individual ISO and RTO day-ahead

[27] A firm shipper's primary receipt and delivery points are listed in its service agreement and define the guaranteed firm transportation service the pipeline has contracted to provide that shipper. The Commission also requires pipelines to permit shippers to use all other points in the rate zones for which they pay on a secondary-firm basis.

[28] Secondary-firm nominations are firm nominations that include at least one secondary point. Within-the-path nominations are nominations where the secondary nomination point is contained wholly within the primary points listed in the shipper's contract.

[29] *See* P 14 *supra.*

[30] *Transwestern Pipeline Company,* 99 FERC ¶ 61,356, at P 12 (2002) (''the Commission's long standing policy on firm service is that once scheduled, whether at primary or alternate points, the service may not be bumped by a nomination by another firm shipper'').

[31] 18 CFR 284.12(b)(1)(i) (2013); Order No. 587–G, FERC Stats. & Regs. ¶ 31,062 at 30,672.

[32] *Id.* at 30,671.

[33] *See, e.g., Texas Gas Transmission LLC,* 137 FERC ¶ 61,093 (2011), *order on compliance,* 138 FERC ¶ 61,176 (2013) *(Texas Gas); Gulf South Pipeline Company LP,* 141 FERC ¶ 61,262 (2012).

schedules are discussed in greater detail below.

In non-ISO and RTO systems, the Commission's *pro forma* OATT specifies that firm interchange schedules need to be submitted by 10:00 a.m. day-ahead or a reasonable time that is generally accepted in the region and is consistently adhered to by the Transmission Provider.[34]

3. Commission Conferences

22. As noted above, the Commission has engaged in an extensive dialogue with industry on gas-electric coordination issues. These efforts were first formalized on February 15, 2012, when the Commission issued a notice in Docket No. AD12–12–000 requesting comments on various aspects of gas-electric interdependence and coordination in response to questions posed by members of the Commission.[35] In order to better understand the interface between the electric and natural gas pipeline industries and identify areas for improved coordination, the questions covered a variety of topics including market structures and rules, scheduling, communications, infrastructure and reliability. In response to the notice, the Commission received comments from 79 entities that raised concerns, including the need for alignment of natural gas and electric scheduling.

23. During August 2012, the Commission convened five regional conferences for the purpose of exploring these issues and obtaining further information from the electric and natural gas industries regarding coordination between the industries. Representatives from a cross-section of both industries attended the regional conferences, with total attendance exceeding 1,200 registrants. As noted above, the November Staff Report following these conferences stated that, among other topics, participants highlighted the need for alignment of natural gas and electric scheduling. Generators participating in the ISO and RTO markets stated that managing fuel procurement risk can be a challenge because the natural gas and electric operating days are not aligned. Many participants voiced concerns related to whether establishing a standard energy day for both industries is warranted, whether and how utilities can most effectively match their scheduling times with the nationwide natural gas scheduling timeline, whether additional nomination opportunities for natural gas can be provided and, if so, under what conditions. Participants also pointed out that changes to natural gas scheduling practices can have national implications given the operational structure of the pipeline system and that whether changes to the scheduling practices of the natural gas or electric industries are necessary to better align these two markets has been a matter of debate among the industries for a number of years.

24. On November 15, 2012, the Commission issued an order directing further technical conferences and reports.[36] In this order, the Commission recognized that questions raised at the conferences, related to scheduling and other issues, were of sufficient importance that they warranted a separate technical conference to focus on the details relating to scheduling.[37] Therefore, the Commission directed, among other things, that Commission staff convene a technical conference to identify areas in which additional Commission guidance or potential regulatory changes could be considered.[38]

25. Pursuant to the November 15 Order, the Commission held a technical conference on April 25, 2013 (April 2013 technical conference) regarding natural gas and electric scheduling practices, and issues related to whether and how natural gas and electric industry schedules could be harmonized in order to achieve the most efficient scheduling systems for both industries.[39] More than 300 persons, representing a cross-section of industry, participated in the April 2013 technical conference, and discussed four major topic areas: natural gas and electric operating day, natural gas nomination cycles, the No-Bump Rule, and electric scheduling and market rules.[40]

26. The participants in these conferences identified a number of specific areas in which the differences between the nationwide natural gas schedule and the regional electric schedules can affect the ability to provide reliable service and may create inefficiencies in scheduling that result in less cost effective use of resources. The major issues identified by the participants were: (1) The discontinuity between the operating days of electric utilities (including ISOs and RTOs) and the standardized operating day of interstate natural gas pipelines; (2) the lack of coordination between the day-ahead process for nominating interstate natural gas pipeline transportation services and the day-ahead process for scheduling electric generators, particularly those of the ISOs and RTOs; and (3) the lack of intraday nomination opportunities on interstate natural gas pipelines, which may limit the ability of gas-fired electric generators, as well as other shippers, to revise their nominations during the operating day.

II. Discussion

A. Overview

27. The growing reliance on natural gas as a fuel for electric generation, combined with differences in business practices between the two industries, has the potential to create challenges for interstate natural gas pipelines, electric transmission operators and electric generators in assuring reliable and efficient operations. This problem is particularly acute for some ISOs and RTOs and those gas-fired generators operating in their markets. At the same time, in areas of the country where bilateral markets are prevalent and storage is minimal, customers are looking for added flexibility. The Commission is proposing in this NOPR, and the related orders, to take actions that provide for better coordination in scheduling between the industries, while respecting the differences between the industries in their operational and business needs. These proposed reforms will help to ensure just and reasonable rates and terms and conditions of service for both wholesale electric generation and transmission and natural gas transportation.

28. Scheduling practices on the interstate natural gas pipeline system

[34] *Pro forma* OATT § 13.8. Schedules for Non-Firm Point-To-Point Transmission Service must be submitted to the Transmission Provider no later than 2:00 p.m. of the day prior to commencement of such service. *Pro forma* OATT § 14.6.

[35] *Coordination Between Natural Gas and Electricity Markets,* Docket No. AD12–12–000 (Feb. 15, 2012) (Notice Assigning Docket No. and Requesting Comments), *available at http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12893828. See also* Commissioner Philip D. Moeller, *Request for Comments of Commissioner Moeller on Coordination between the Natural Gas and Electricity Markets* (Feb. 3, 2012), *available at http://www.ferc.gov/about/com-mem/moeller/moellergaselectricletter.pdf;* Commissioner Cheryl A. LaFleur, *Statement regarding Standards for Business Practices for Interstate Natural Gas Pipelines* (Feb. 16, 2012, *available at http://www.ferc.gov/media/statements-speeches/lafleur/2012/02-16-12-lafleur-G-1.asp.*

[36] *Coordination Between Natural Gas and Electricity Markets,* 141 FERC ¶ 61,125 (2012) (November 15 Order).

[37] *Id.* P 6.

[38] *Id.* P 8.

[39] *Coordination Between Natural Gas and Electricity Markets,* Docket No. AD12–12–000 (Mar. 5, 2013) (Notice Of Technical Conference), *available at http://elibrary.ferc.gov/idmws/File_list.asp?document_id=14095482.*

[40] *Supplemental Notice of Technical Conference,* Docket No. AD12–12–000, at 4–7 (Apr. 3, 2013) (Supplemental Notice of Technical Conference), *available at http://elibrary.ferc.gov:0/idmws/doc_info.asp?document_id=14104023.*

and electric transmission systems are similar in some respects. For both systems, planning and scheduling take place one day ahead of the operating day based on weather forecasts and other factors affecting demand. In addition, scheduling on both systems needs to be adjusted during the operating day as energy supply and demand factors change. However, physical and operational differences exist between the systems. Due in part to limited electric storage, electric transmission operators continuously and near instantaneously need to balance supply and demand to ensure the system remains in equilibrium. Natural gas, on the other hand, moves at a much slower rate than electricity.[41] Pipelines maintain balance between supply and demand through the use of linepack and operational storage, and allow for variations in customer deliveries from equal hourly flow rates on an as available or best-efforts basis.[42] As a result, an interstate pipeline must plan in advance so that it has sufficient linepack and/or storage to satisfy variations in expected hourly demand on the system. Such advance planning is particularly important for serving gas-fired generators, because electric generators can draw significant volumes of natural gas off a pipeline, sometimes as much as industrial users or a small city. Accordingly, increased use of natural gas by the electric industry can have a significant impact on the delivery capabilities of interstate natural gas pipelines.[43] Consequently, improvements in the coordination of the electric and natural gas nomination and scheduling practices could provide greater opportunities for gas-fired generators to obtain needed natural gas supplies and for pipelines to plan for their expected demands. Providing these opportunities will be beneficial for both industries in helping to ensure reliable and efficient operations.

29. The Commission has identified specific areas of concern with respect to the lack of coordination between the scheduling practices of the industries. In most ISO or RTO markets, a natural gas-fired generator does not know if it is going to be dispatched until after the ISO or RTO processes day-ahead or real-time market bids and determines which resources are economical to run on a particular day or hour. Because day-ahead electric generation commitments generally occur after the natural gas transportation Timely Nomination Cycle, a natural gas-fired generator must either submit its nomination for natural gas transportation services before it knows when and how much electricity it will be committed to produce the next day, or it must wait until it receives its day-ahead commitment to nominate natural gas transportation services, with the risk that during some periods transportation capacity may not be available or economical, given the day-ahead market clearing price.[44] A generator that opts to see if it is scheduled before acquiring natural gas and pipeline transportation therefore will not be able to obtain natural gas and transportation during the time period when these markets are the most liquid.[45] While during many periods of the year interstate natural gas pipelines may have available capacity to provide service to gas-fired generators, during periods when the pipeline is constrained, the ability of generators to arrange transportation service when the market is most liquid may be critical to that gas-fired generators' ability to provide service.

30. Even in areas outside of the ISOs and RTOs, gas-fired generators have concerns regarding their ability to revise their pipeline nominations during the operating day to respond to changing weather conditions and other operational needs when capacity becomes constrained. Some natural gas-fired generators have sought to ensure reliability by subscribing to firm pipeline service, but have found that the standard, nationwide nomination opportunities for interstate natural gas pipeline transportation service may not provide them with sufficient opportunities to reschedule gas supplies for unanticipated weather events after the Timely Nomination Cycle.

31. The Commission concludes that these concerns, and other issues identified during our dialogues with industry, warrant further action in this proceeding and the two related proceedings we are instituting concurrently with this Proposed Rule. These concerns generally fall into two categories.

32. First, the Commission is concerned about the potential impact on the reliable and efficient operation of electric transmission systems and interstate natural gas pipelines of divergences between the start times of the natural gas and electric operating days, and mismatches in the timelines for scheduling interstate natural gas pipeline transportation service and scheduling wholesale electric sales made by gas-fired generators for the next day. In particular, the Commission is concerned that

(1) the current 9:00 a.m. Central Clock Time (CCT) start of the Gas Day occurs in the middle of the morning electric load ramp in some regions, creating a situation where electric load is increasing at the same time natural gas-fired generators may be running out of their daily nomination of natural gas, resulting in the gas-fired generator being unable to meet its obligations under the terms of their electric offers; and

(2) in most ISO and RTO regions, the timelines for announcing the results of the day-ahead energy market process and committing generating units to run the next operating day occur after the deadline for the Timely Nomination Cycle (11:30 a.m. CCT), meaning gas-fired generators are not certain they will be called upon to operate until after the period when pipeline capacity is most available and natural gas supply markets are most liquid.

33. Second, the Commission is concerned that existing interstate natural gas pipeline scheduling practices and the application of some of the Commission's regulations by pipelines may not provide sufficient flexibility to meet the needs of natural gas-fired generators, and could be limiting the efficient use of existing pipeline infrastructure, thereby making less capacity available to shippers (including natural gas-fired generators). Specifically, the limited number of standard intraday nomination cycles for

[41] *See* American Gas Association, ''How Does the Natural Gas Delivery System Work?'' at *http://www.aga.org/KC/ABOUTNATURALGAS/CONSUMERINFO/Pages/NGDeliverySystem.aspx (last visited Dec. 17, 2013)* (''Natural gas moves through the transmission system at up to 30 miles per hour, so it takes several days for gas from Texas to arrive at a utility receipt point in the Northeast''). While most pipelines schedule service based on an assumption of same day deliverability of natural gas from receipt to delivery point, this ability is provided through the pipeline's ability to plan for nominated service by increasing line pack to support expected loads.

[42] During much of the year, most interstate natural gas pipelines can accommodate significant variations in hourly flow rates. However, during high demand periods when pipeline capabilities are being fully utilized to provide firm transportation services, a constrained pipeline may announce a critical notice period, where shippers are expected to stay in balance. Some pipelines also offer enhanced services that permit shippers to subscribe to services providing more variable hourly flow rates.

[43] *See* North American Electric Reliability Corp., *Special Reliability Assessment: A Primer of the Natural Gas and Electric Power Interdependency in the United States,* at 85–86 (Dec. 2011) (''the electric utility loads are as large, or larger, than many of the LDC loads and, in some cases, can exceed the capabilities of the smaller diameter pipelines'').

[44] A natural gas-fired generator also faces different risks depending on whether it enters into long-term natural gas purchase arrangements or relies on short-term spot market natural gas purchases.

[45] Currently, only NYISO provides the results of its day-ahead market clearing process to generators before the deadline for submitting natural gas transportation nominations for the Timely Nomination Cycle. *See* Table 2, below.

interstate natural gas pipeline transportation may not be sufficient to meet the needs of gas-fired generators to obtain capacity to deliver additional natural gas supplies during the electric operating day. In addition, even where interstate natural gas pipelines provide additional intraday opportunities to obtain transportation service, there appears to be a lack of clarity as to how the Commission's regulations regarding the ''bumping'' of interruptible customers should be applied to those additional nomination cycles. Finally, while some pipelines currently permit multiple shippers, including natural gas-fired generators, the flexibility to share pipeline capacity under a single firm transportation contract, the Commission's regulations do not require all pipelines to offer shippers this option.

34. We recognize that making modifications to the nationwide natural gas scheduling system and instituting the other reforms proposed in these three proceedings will not, and cannot, resolve all of the concerns that may arise with increased utilization of natural gas by electric generators. However, we conclude that the adjustments to the Gas Day and interstate natural gas pipeline nomination timeline proposed herein promise to provide significant assistance in helping to improve coordination of the natural gas and electric nomination and scheduling systems, while maintaining the substantial efficiencies gained through standardization of the natural gas scheduling system. The Commission intends that these reforms, along with the additional actions we propose in Docket Nos. EL14–22–000, et al. and RP14–442–000, will serve to better ensure the reliable and efficient operation of both interstate natural gas pipeline and electricity systems.

35. While we are putting forth specific proposals (described in more detail below) in these areas, we continue to recognize that the natural gas and electricity industries are best positioned to work out the details of how changes in scheduling practices can most efficiently be made and implemented, consistent with the policies discussed here. For this reason, as noted above, we are providing time for the two industries to reach consensus on standards in these areas, including standards potentially different than the specific proposals herein. Participants in the NAESB process should explore whether consensus can be reached on any changes to the scheduling practices at issue in this Proposed Rule that would address the policy concerns identified herein. We urge both the natural gas and electric industries to once again marshal their resources and jointly consider all proposals and seek reasonable compromise on a broadly supported and comprehensive set of standards that will achieve the needed integration of the natural gas and electric industry scheduling practices.

B. Gas Day

1. Background and Issues

36. As noted, the natural gas and electric operating days are each 24 hours long, but they begin at different times. As a result, each electric operating day currently extends over two Gas Days and a gas-fired generator committed for one electric operating day must manage fuel and transportation arrangements across two Gas Days. Several commenters in the Docket No. AD12–12–000 proceeding have indicated that the current Gas Day start time presents operational challenges because it occurs when gas-fired generation is critically needed to ensure that supply is available to match demand during the morning electric load ramp. As gas-fired generators approach the end of the Gas Day during the morning electric load ramp, they could exhaust either the contractual entitlements of their transportation contracts or their supply of natural gas.[46] In addition, the Gas Day start time straddles a time of peak gas demand for other pipeline shippers, such as LDCs.

37. In support of an earlier start to the Gas Day, ISO–NE and NYISO have expressed concern that gas-fired generators sometimes exhaust their daily gas entitlements before the end of the Gas Day and subsequently may not be able to meet increasing morning electricity demands during the last hours of the Gas Day. When this occurs, ISO–NE and NYISO assert that they must search for alternative available generating units while electric load is ramping up and approaching its morning peak. ISO–NE and NYISO commented that shifting the start of the Gas Day earlier would improve gas-electric coordination and, NYISO noted, would also improve reliability.[47] They noted that moving the start of the Gas Day earlier would enable gas-fired resources needed for the peak morning period to timely nominate and schedule supply to support their ability to generate electricity at the start of the morning electrical peak,[48] and would provide generators more flexibility in attaining balancing services to avoid derating their units.[49] NYISO also argued that, as a result of its proposed change, any generator derates that occurred at the end of the Gas Day would occur during the overnight hours, which is a preferable period from an electric reliability perspective.[50]

38. Additional commenters noted support for or willingness to move the Gas Day start time earlier. In particular, INGAA and NGSA indicated willingness to consider moving the Gas Day earlier, but provided no specific suggestions on a new start time.[51] However, NGSA expressed concerns that an earlier start to the Gas Day may introduce safety risks associated with manual field operations for field crews.[52] For example, NGSA stated that currently a producer may need to divert gas from one pipeline connected to a field to another pipeline, because of price changes, market demand, or pipeline maintenance. NGSA stated that starting the gas operating day when it is still dark raises safety concerns for employees making these adjustments. According to NGSA, these concerns will result in either: (1) Increased costs to light all production areas to avoid potential safety issues, or (2) a reduced ability to use more than one interconnected pipeline.[53] In addition, INGAA asserts that the Commission must ensure that producers are able to physically deliver natural gas into a pipeline if the Gas Day is moved to an earlier time; otherwise INGAA states that an earlier start may not be workable. PJM stated that moving the start of the Gas Day to 5:00 a.m. CCT could potentially be helpful because the peak electric period would no longer split the Gas Day.[54] While MISO stated it is not experiencing issues related to natural gas-fired unit derates, MISO indicated that it would support moving the start of the Gas Day earlier if it minimizes the uncertainty surrounding fuel procurement for gas-fired generators, as long as the nomination

[46] Natural gas transportation contracts are based on volumetric entitlements over a single Gas Day.

[47] NYISO Comments, Docket No. AD12–12–000, at 5 (filed June 25, 2013); ISO–NE Comments, Docket No. AD12–12–000, at 9 (filed July 5, 2013).

[48] ISO–NE Comments, Docket No. AD12–12–000, at 9–10 (filed July 5, 2013).

[49] NYISO Comments, Docket No. AD12–12–000, at 5 (filed June 25, 2013); ISO–NE Comments, Docket No. AD12–12–000, at 9–10 (filed July 5, 2013).

[50] NYISO Comments, Docket No. AD12–12–000, at 5–6 (filed June 25, 2013).

[51] INGAA Comments, Docket No. AD12–12–000, at 7 (filed June 26, 2013); NGSA Comments, Docket No. AD12–12–000, at 9 (filed July 16, 2013).

[52] NGSA Comments, Docket No. AD12–12–000, at 9 (filed July 16, 2013).

[53] *Id.* n.7.

[54] PJM Comments, Docket No. AD12–12–000, at 5 (filed July 3, 2013).

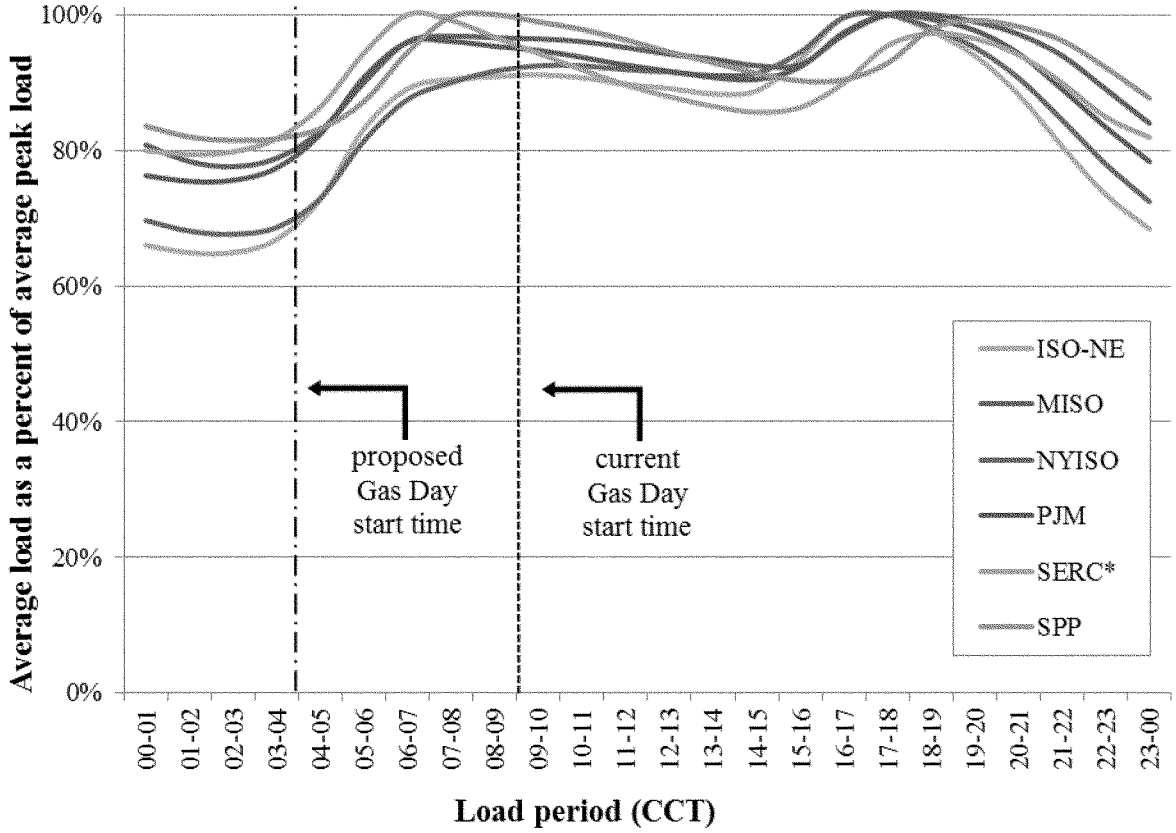
schedule did not also move to an earlier time.[55]

2. Commission Proposal

39. To alleviate some of the problems resulting from the misalignment of the gas and electric operating day, the Commission proposes to move the start of the Gas Day to earlier than its current 9:00 a.m. CCT time to better accommodate the load increase during the morning for both the electric and natural gas systems, which, in some time zones, begins prior to the 9:00 a.m. CCT start of the Gas Day. Moving the start of the Gas Day earlier should address instances in which gas-fired generators find that they are running out of scheduled natural gas capacity during the morning ramp period, and have to wait until 9:00 a.m. CCT before being able to rely on their next day gas nomination. As a consequence, gas-fired generators should be less likely either to incur imbalances on pipelines or inform electric transmission operators that they are unavailable.

40. The Commission is proposing to move the start of the Gas Day to 4:00 a.m. CCT. 4:00 a.m. CCT would preserve the nationwide scheduling efficiencies for natural gas, while reasonably accommodating the timing of morning electric ramp periods across all four time zones. As Figures 1 and 2 below show, a 4:00 a.m. CCT Gas Day start time would occur at the beginning of the morning electric ramp in the East, and before the morning electric ramp in other regions of the country. Moving the Gas Day to 4:00 a.m. CCT as compared to 9:00 a.m. CCT would mean that generators in all regions would be able to approach the morning electric peak, as well as most of the morning ramp period, with new daily gas nominations. This should largely eliminate the concern that some gas-fired generators will be unable to run during a substantial part of the morning ramp period, because they have burned through their nominated gas before the start of the next Gas Day.

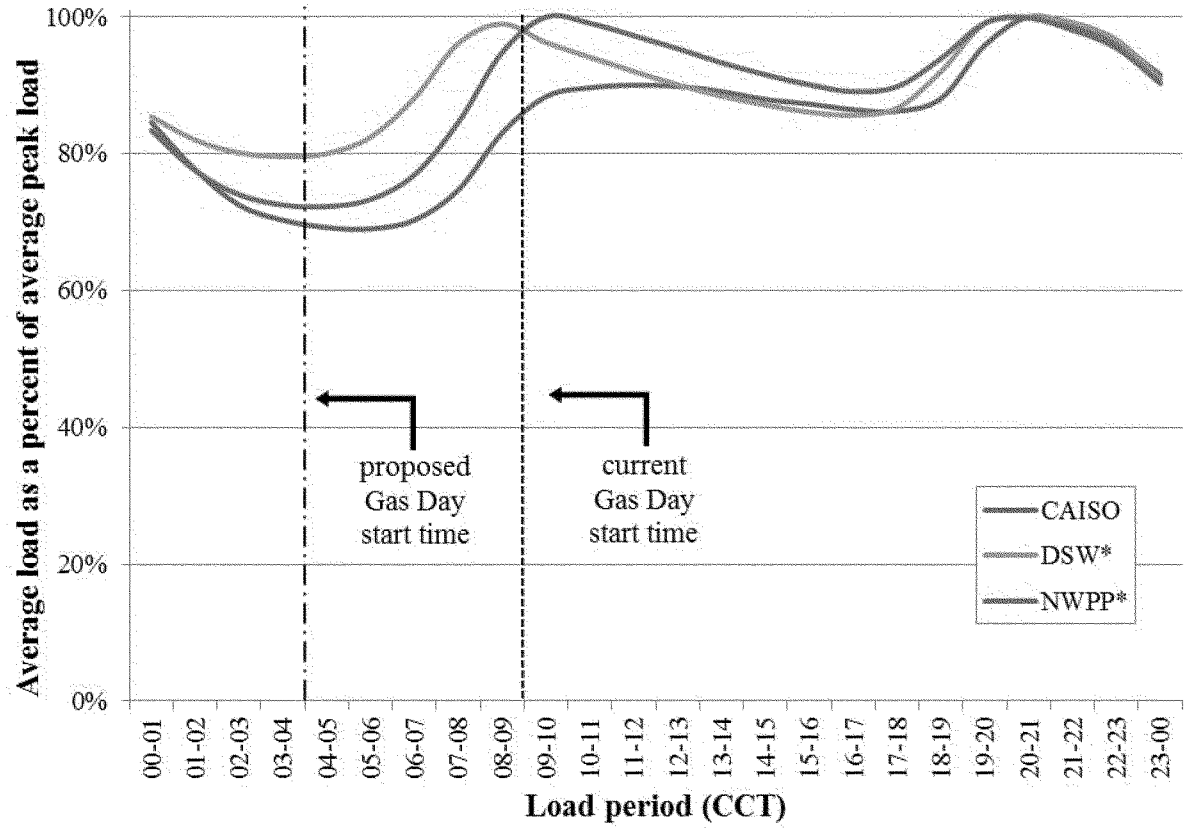
Figure 1 - Recent winter load – Eastern and Central Regions (non-holiday weekdays, Dec.-Feb.)[56]



[55] MISO Comments, Docket No. AD12–12–000, at 4 (filed July 3, 2013).

[56] Source: Velocity Suite. Data covers 2012/13 winter for all regions except SERC, which depicts 2011/12 winter. Figures 1 and 2 were created with data from Ventyx's Energy Velocity software suite, which makes available a dataset of total hourly load for all North American ISOs and RTOs, and total hourly historical demand for certain non-ISO/RTO planning areas. From these datasets, Commission staff isolated data relating to the regions shown above, and focused on a ''winter'' period of December 2012, January 2013, and February 2013 (except where noted by an asterisk). Each line represents the average hourly load during said winter period for non-holiday weekdays and is normalized to the average peak load for that period by dividing by each line's maximum value.

Figure 2 - Recent winter load – Mountain and Pacific Regions (non-holiday weekdays, Dec.-Feb.) [57]



The Commission recognizes that moving the start of the Gas Day to 4:00 a.m. CCT may result in increased costs to mitigate potential safety issues associated with employees conducting manual operations in the dark.[58] However, it is unclear the frequency with which those circumstances occur.[59] On balance, the Commission finds that the overall benefits to both industries of moving the Gas Day earlier so that the morning ramp period for gas-fired generators and other gas consumers is included in a single Gas Day outweigh the potential for increased costs that may be incurred. In addition, as discussed below, we are also proposing changes in the intraday nomination cycles, which should minimize concerns expressed by NGSA and others that an earlier start to the Gas Day may adversely affect the ability of shippers to balance their gas flows by the next Gas Day. Both industries should consider whether modifications to this proposal could reduce overall costs without unduly jeopardizing coordination between the industries.

C. Natural Gas Transportation Timely Nomination Cycle

1. Background and Issues

41. In addition to the industries having different start times to their operating days, the natural gas and electric industries operate on different schedules within those days. As shown in Table 1 above, under the current NAESB WGQ Standard 1.3.2 and the Commission's regulations,[60] natural gas pipelines must offer pipeline shippers a minimum of four nomination opportunities to schedule natural gas transportation. Two of those standard nomination opportunities, the Timely Nomination Cycle and the Evening Nomination Cycle, occur the day before gas flows, while the other two nomination opportunities, Intra-Day 1 and Intra-Day 2, are revising nominations the day of gas flow. The Gas Day starts at 9:00 a.m. CCT and natural gas pipeline customers are required to submit nominations for the Timely Nomination Cycle by 11:30 a.m. CCT.

42. As described above, wholesale electricity markets operated by the ISOs and RTOs also use a day-ahead energy market to set contractual commitments for the next operating day.[61] Market participants place day-ahead offers and bids to sell and purchase, and these participants must make such commitments prior to the close of the market. If the market clearing process accepts these commitments, they become binding for the following day. Additionally, each ISO and RTO also

[57] Source: Velocity Suite. Data covers 2012/13 winter for regions except DSW and NWPP, which depict 2011/12 winter.

[58] NGSA Comments, Docket No. AD12–12–000, at 10 & n.7 (filed July 16, 2013).

[59] While NGSA states that there are situations during the normal course of business in which a producer may need to make manual adjustments to divert gas from one pipeline to another, it does not state how often such adjustments are required or the extent to which those adjustments would need to be performed at the start of the Gas Day. NGSA Comments, Docket No. AD12–12–000, at 10 & n.7 (filed July 16, 2013).

[60] 18 CFR 284.12 (2013).

[61] SPP's Integrated Marketplace, including implementation of a day-two market launched March 1, 2014. *See Southwest Power Pool, Inc.,* 144 FERC ¶ 61,224 (2013). For the purposes of describing SPP's expected operation of its Integrated Marketplace in this order, we will refer to SPP's most recently approved schedules that the Commission accepted effective as of March 2014.

performs a reliability unit commitment process to procure resources, in addition to those resources committed to serve the load bid into the day-ahead market, as necessary to meet the ISO's or RTO's own forecast of the next day's load and, in some cases, other system needs.

43. The following table represents the times that bids must be submitted and that the ISOs and RTOs post successful bids accepted in their respective day-ahead markets. As demonstrated by Table 2, all ISOs and RTOs (with the exception of NYISO) publicize accepted day-ahead dispatch bids after the current 11:30 a.m. CCT nomination deadline for the Timely Nomination Cycle for day-ahead natural gas transportation nominations.

TABLE 2—ELECTRIC COMMITMENT RESULTS PUBLICATION TIMETABLE

ISO/RTO	Time for submission of bids (CCT)	Time for publication of day-ahead commitment bids (CCT)
California Independent System Operator Corporation (CAISO)	12:00 p.m.	3:00 p.m.
ISO New England Inc. (ISO–NE)	9:00 a.m.	12:30 p.m.
PJM Interconnection, LLC (PJM)	11:00 a.m.	3:00 p.m.
Midcontinent Independent System Operator, Inc. (MISO)	10:00 a.m.	2:00 p.m.
New York Independent System Operator, Inc. (NYISO)	4:00 a.m.	10:00 a.m.
Southwest Power Pool, Inc. (SPP)	11:00 a.m.	4:00 p.m.

44. The market for acquiring natural gas supply is most liquid on weekday mornings between 8:00 a.m. and 9:00 a.m. CCT, prior to the Timely Nomination Cycle deadline, and the majority of shippers place nominations for next-day gas transportation service by the Timely Nomination Cycle deadline.[62] Commenters assert that although natural gas supply can be purchased throughout the day through a limited secondary market, there is a premium for natural gas supply and interstate natural gas pipeline transportation capacity services procured after the Timely Nomination Cycle.[63] After the Timely Nomination Cycle, the Evening Nomination Cycle beginning at 6:00 p.m. CCT offers the only standard opportunity to reschedule gas transportation for the next Gas Day.

45. The issue arising from the current timing of the Timely Nomination Cycle is whether the electric markets are better served by notifying gas-fired generators of their dispatch requirements before the deadline for timely nominations or by allowing generators to determine the most current gas prices before they must submit their bids into the electric markets. Some generators prefer bidding into the ISO and RTO markets after the Timely Nomination Cycle deadline so their bids to supply electricity reflect the current natural gas prices, whereas other generators want to know if they have been committed by the ISO or RTO to operate before entering the market to obtain natural gas supply and interstate natural gas pipeline transportation capacity.[64] Some ISOs and RTOs are concerned that when their markets clear after the deadline for submitting nominations in the Timely Nomination Cycle generators may not have procured gas and transportation due to uncertainty with bids being accepted by the ISO/RTO. This fuel uncertainty may result in reliability problems if these generators ultimately cannot run as expected.[65]

46. INGAA filed comments indicating a willingness to move the Timely Nomination Cycle to 1:00 p.m. CCT to accommodate ISO and RTO needs on the condition that the ISOs and RTOs reevaluate their schedules for performing their market processes and committing generators to ensure that generators will learn from their ISO or RTO whether they will be dispatched before nominating for interstate natural gas pipeline transportation service.[66] INGAA contends that the Timely Nomination Cycle, confirmation and scheduling process should occur during normal business hours to ensure the availability of counterparties necessary for the confirmation process. Consistent with these comments, INGAA requests that the Timely Nomination Cycle, including the confirmation and scheduling notification processes, be completed no later than 5:00 p.m. CCT.[67]

47. NGSA similarly commented that any changes to the existing gas operating schedule must provide sufficient time between the Timely Nomination Cycle scheduling notification and the time that nominations are required for the next available cycle.[68] NGSA notes that it is particularly critical that shippers not scheduled during the Timely Nomination Cycle have time to secure alternative gas supply and transportation arrangements during ordinary business hours. NGSA further notes that after nominations are submitted the confirmation process itself may require a series of time consuming communications, and suggests that operators need a minimum of two hours to communicate among all the relevant parties between the close of the Timely Nomination Cycle and the time in which nominations are confirmed, and possibly longer for instances in which interconnecting pipelines have non-conforming nomination cycles. Like INGAA, NGSA stresses that the confirmation deadline for the Timely Nomination Cycle must occur during normal business hours.

2. Commission Proposal

48. The Commission proposes to move the deadline for submitting nominations in the Timely Nomination Cycle later than the current 11:30 a.m. CCT deadline, to 1:00 p.m. CCT, in order to provide sufficient time for

[62] November Staff Report at 31–32.

[63] Natural gas is traded in bilateral markets. Daily transactions are mostly consummated in the morning hours before the Timely Nomination Cycle deadline. The ability to find willing buyers and sellers to act as counterparties of a commodity transaction is greatest during these normal trading periods; the gas market is ''liquid'' during this time of day.

[64] *See, e.g.,* Calpine Corporation Comments, Docket No. AD12–12–000, at 7 (filed Mar. 30, 2012) (''problems may occur when a unit that has not been scheduled for dispatch is called upon after the first day-ahead nomination period has passed.''); Equipower Resources Corp. Comments, Docket No. AD12–12–000, at 3–4 (filed Mar. 30, 2012) (''natural gas-fired generator is forced to purchase and nominate natural gas supplies before it knows whether its output will clear the day-ahead market and be assigned a generation commitment. . . . Consequently, a generator faces substantial risk that it did not purchase the correct volume of natural gas, potentially leaving it with a substantial surplus or deficiency of natural gas'').

[65] PJM Comments, Docket No. AD12–12–000, at 5 (filed July 3, 2013); NYISO Comments, Docket No. AD12–12–000, at 3 (filed June 28, 2013).

[66] INGAA Comments, Docket No. AD12–12–000, at 3 (filed June 26, 2013).

[67] *Id.*

[68] NGSA Comments, Docket No. AD12–12–000, at 7–8 (filed July 16, 2013).

electric utilities to complete their processes for selecting generating resources to operate prior to this first, and most liquid, time in the natural gas supply and interstate natural gas pipeline transportation service markets. It appears that our objective of a later deadline for submitting nominations in the Timely Nomination Cycle can be accomplished without any other changes to the Timely Nomination Cycle or Evening Cycle timelines, including the 4:30 p.m. CCT deadline for the pipeline to provide notice of scheduled quantities. The three and a half hour period from 1:00 p.m. CCT to 4:30 p.m. CCT is consistent with INGAA and NGSA's comments that several hours are needed for pipelines to confirm and provide scheduled quantities to shippers. However, the industry can consider whether any revisions or changes are necessary to accommodate a later Timely Cycle nomination deadline.

49. To make sure that ISO and RTO market clearing processes will sufficiently align with this later proposed nomination deadline for submitting nominations in the Timely Nomination Cycle, the Commission also is instituting a proceeding under section 206 of the Federal Power Act (FPA) [69] (in a contemporaneous order in Docket No. EL14–22–000 et al.) to ensure that the ISOs and RTOs modify their day-ahead market processes and scheduling such that generators will receive dispatch instructions in sufficient time to be able to acquire natural gas and transportation by the start of the Timely Nomination Cycle (as revised in the instant proceeding) and to complete their supplemental reliability dispatch in sufficient time for generators to use the Evening Cycle. In addition, while the comments received by the Commission in Docket No. AD12–12–000 mainly discuss the effect of such a change on the ISO and RTO markets, a later Timely Nomination Cycle deadline also should help ensure that gas-fired generation resources in other regions are able to acquire interstate natural gas pipeline transportation capacity and natural gas supply in time for day-ahead commitments.[70]

50. Under the current scheduling timelines, a gas-fired generator in ISO and RTO markets that completes its scheduling after the Timely Nomination Cycle must decide whether (a) to line-up supply and nominate interstate natural gas pipeline transportation during the Timely Nomination Cycle without knowing whether the gas-fired generator's electric energy bid will subsequently clear the energy market; or (b) to wait to see whether its bid clears the energy market, and then line-up fuel supply and natural gas pipeline transportation in a later nomination cycle. If a generator acquires natural gas and transportation prior to learning whether it is dispatched, it runs the risk of having to dispose of its natural gas supply and interstate natural gas pipeline transportation capacity during the less liquid Evening or Intra-Day nomination periods.[71] However, if the generator first waits to see if its bid clears the day-ahead market, it must try and acquire natural gas and transportation during the less liquid Evening or intraday gas transportation nomination cycles. In this event, the generator runs the risk of potentially not being able to find transportation capacity if the pipeline is fully scheduled.

51. We recognize that gas-fired generators face commercial business decisions that inform whether they prefer to bid into the day-ahead electric markets before or after they have secured their gas supply and transportation needs. There are also differences of opinion as to whether electric scheduling should be completed prior to the submission of interstate natural gas pipeline transportation nominations. Some favor having the pipelines' Timely Nomination Cycle clear prior to submission of bids into ISO/RTO markets, maintaining that gas-fired generators will obtain the most accurate gas prices to inform their energy bids into the organized markets. Others, however, maintain that if electric market schedules clear first, gas-fired generators will know by the Timely Nomination Cycle how much natural gas and interstate natural gas transportation they need to procure and the generators will have less need to obtain transportation and natural gas during less liquid times.

52. Taking these considerations into account, we are proposing that the electric markets clear prior to the pipelines' Timely Nomination Cycle. We conclude that moving the Timely Nomination Cycle later than the current 11:30 a.m. CCT deadline, along with examining whether the ISOs and RTOs should modify their day-ahead market processes, could expand the options available to gas-fired generators. Currently, gas-fired generators in some regions are not provided the opportunity to buy natural gas and arrange natural gas transportation at a time when they know the results of the day-ahead electric market and the natural gas markets are most liquid. Gas-fired generators, therefore, must either procure natural gas supply and transportation prior to knowing whether they were committed or after the close of the Timely Nomination Cycle, when the natural gas supply and transportation markets are less liquid. Under our proposal, gas-fired generators would have the option of arranging natural gas supply and transportation at the Timely Nomination Cycle knowing the results of the day-ahead electric market. In particular, this would forward the objective of minimizing situations in which gas-fired generators, particularly those that opt to procure natural gas supply and transportation after the day-ahead electric market results are posted, are unable to procure sufficient resources to fulfill their electric market commitments and to contribute to reliable system operation.

53. Furthermore, as discussed above, a gas-fired generator's inability to know whether its bid in the day-ahead market has been selected prior to the deadline for the Timely Nomination Cycle may lead to instances in which gas-fired generators must sell off excess natural gas supply, procure more expensive natural gas supply, de-rate, or burn more expensive fuels. We are concerned that any of these scenarios could result in increased electricity costs and a shift away from the least-cost mix of supply resources as determined by the ISO or RTO's day-ahead dispatch and unit commitment. These circumstances could lead to higher costs being passed on to wholesale customers. On the other hand, if gas-fired generators know whether they were committed in the day-ahead electric market prior to the Timely Nomination Cycle, these generators may have a greater opportunity to procure natural gas transportation in the Timely Nomination Cycle—when there is the greatest opportunity to procure pipeline capacity. This, in turn, could reduce the

[69] *California Independent System Operator Corp., et al,* Order Initiating Investigation into ISO/RTO Scheduling Practices and Establishing Paper Hearing Procedures, 146 FERC ¶ 61,202 (2014).

[70] *See Pro Forma* OATT § 13.8 (firm day-ahead schedules must be submitted by 10:00 a.m. local time).

[71] *See, e.g.,* Equipower Resources Corp. Comments, Docket No. AD12–12–000, at 3–4 (filed Mar. 30, 2012) (a generator that purchases capacity and gas during the timely cycle and is not dispatched ''is forced to sell excess volumes or purchase the volume it is short in the intraday market. But the intraday market is highly illiquid and sometimes nonexistent, resulting in the generator (1) being exposed to imbalance penalties on the pipeline if it cannot find a market for excess gas; (2) being unable to operate its generator at expected output; (3) having to purchase additional supplies at a premium; or (4) having to sell excess supply at a discount'').

potential for gas-fired generators to engage in costly actions that raise real-time energy market prices. Thus, electric market outcomes may better reflect expected operating costs if gas-fired generators were provided with day-ahead market results prior to the Timely Nomination Cycle.

54. We understand that moving the Timely Nomination Cycle to later in the day may impose systems and administrative costs on other interstate natural gas pipeline shippers. In balancing all of the interests of the many affected customers, a 1:00 p.m. CCT start time for the Timely Nomination Cycle would appear to provide a reasonable balance of the electric and natural gas industries' concerns: the natural gas industry will have sufficient time to complete the Timely Nomination Cycle during normal business hours, as requested by INGAA and NGSA, while electric transmission operators will be able to complete their scheduling sufficiently prior to the Timely Nomination Cycle to permit gas-fired generators to acquire natural gas and pipeline capacity during the Timely Nomination Cycle. After considering the potential effects of this proposal, the long-term benefits of ensuring a better coordinated natural gas and electric industry appear to warrant this change. The industries, however, should consider whether a different timeline better fits their combined business needs.

D. Modified Intra-Day Nomination Timeline

1. Background and Comments Received

55. In addition to the Timely and Evening Nomination Cycles, pipelines currently must offer shippers at least two opportunities to nominate natural gas during the day that gas is flowing. These nomination opportunities are known as the Intra-Day 1 and Intra-Day 2 nomination cycles. The current nomination deadline for Intra-day 1 is 10:00 a.m. CCT on the current Gas Day, with confirmation at 2:00 p.m. CCT, for gas flow at 5:00 p.m. CCT that same Gas Day, and the deadline for Intra-day 2 nominations is 5:00 p.m. CCT on the current Gas Day with confirmation and flow at 9:00 p.m. CCT that same Gas Day. As with nominations made at the Timely or Evening Cycles, nominations for firm service at the Intra-Day 1 cycle can ''bump'' an already scheduled interruptible nomination. Pursuant to the ''No-Bump Rule,'' however, nominations for firm service made at the Intra-Day 2 cycle cannot ''bump'' scheduled interruptible service.

56. Some pipelines offer additional intraday nomination cycles or other enhanced services.[72] Even if additional nomination cycles are not detailed in the pipeline's tariff, some pipelines' tariffs provide that the pipeline will make best efforts to accommodate such incremental nominations throughout the day on a best efforts basis.[73] These enhanced nomination opportunities are not standardized across the nation, however, and therefore are not available to all shippers. Consequently, for gas transactions that require transportation on more than one pipeline, these additional intraday nomination opportunities may have limited value because the pipelines without enhanced nomination opportunities may not confirm the nominations. Thus, if not all pipelines in the nomination chain offer additional nomination opportunities, a shipper transporting gas on a pipeline that offers such enhanced nominations may not be able to take advantage of that opportunity, and therefore may not be able to schedule its capacity until the next nation-wide nomination cycle.

57. A number of commenters[74] suggested that the standard, nation-wide nomination opportunities that are currently available may not provide gas-fired generators or other shippers with sufficient flexibility to adjust their nominations to respond to real-time changes in their need for natural gas. These commenters requested that additional, standardized intraday nomination opportunities be required on interstate natural gas pipelines.

58. For example, ISO–NE and NYISO suggest that the lack of nomination opportunities impacts their ability to use gas-fired generation capacity to respond to real time events.[75] Specifically, ISO–NE asserts that it is unable to anticipate which or when gas-fired units will be able to respond to real time dispatch requests, and that this uncertainty results in ISO–NE asking multiple units to come online.

59. In addition, APS and the Desert Southwest Pipeline Stakeholders[76] (DSPS) argue that gas-fired generators in their region typically hold firm pipeline transportation capacity but cannot make full use of that capacity to respond to a contingency that occurs during or after their peak load period because of a lack of sufficient opportunities to adjust nominations. According to APS and DSPS, the peak demand for electricity in Arizona typically does not occur until approximately 5:00 p.m. Pacific Time, while the only intraday nomination deadlines are 8:00 a.m. Pacific Time (Intra-Day 1) and the no-bump 3:00 p.m. Pacific Time (Intra-Day 2).[77] APS and DSPS maintain that firm shippers should have superior rights to interruptible shippers and should not be limited to bumping interruptible service only at 8:00 a.m. Pacific Time. APS and DSPS notes that they need to use gas-fired generators to balance Variable Energy Resource production in the Southwest. APS and DSPS state that during the extreme summer months when capacity is often constrained, gas-fired electric utilities in the Southwest routinely have to submit their final flow day nomination for their gas requirements 2 to 9 hours before its system hits its peak with 16 to 23 hours remaining in the current Gas Day. Accordingly, APS suggests that, at a minimum, two additional intraday nomination cycles be added; one bumpable cycle between the current Intra-Day 1 and Intra-Day 2 cycles and another nomination opportunity after Intra-Day 2.[78] NRG also supports the addition of a nomination cycle after Intra-day 2.

60. DSPS also proposes that the current NAESB nomination timeline be modified to add an additional intraday nomination opportunity.[79] DSPS proposes that the Intra-Day 1 cycle would continue to permit bumping and maintain the current nomination deadline of 10:00 a.m. CCT on the current Gas Day, but that Intra-Day 2 would provide an additional bumping opportunity with a nomination deadline of 7:00 p.m. CCT, with confirmation at

[72] *See, e.g., Texas Gas Transmission LLC.,* 137 FERC ¶ 61,093 (2011); *Florida Gas Transmission Co., LLC,* 141 FERC ¶ 61,161 (2012) (order accepting pipeline proposal to add an Intra-day 3 Nomination Cycle to accommodate anticipated flow changes for the final six hours of the gas day).

[73] *See, e.g.,* Tennessee Gas Pipeline Company, LLC's Tariff, GT&C Section IV.2(e).

[74] *See, e.g.,* APS Comments, Docket No. AD12–12–000, at 5 (filed Apr. 19, 2013), NYISO Comments, Docket No., AD12–12–000, at 3–2 (filed June 28, 2013) ISO–NE Comments, Docket No. AD12–12–000, at 6 (filed July 5, 2013), Desert Southwest Pipeline Stakeholders Comments, Docket No. AD12–12–000, at 14 (filed Jan. 31, 2014).

[75] ISO–NE Comments, Docket No. AD12–12–000, at 6–7 (filed July 7, 2013), NYISO Comments, Docket No. AD12–12–000, at 3 (filed June 28, 2013).

[76] The core members of the DSPS include The Arizona Corporation Commission, Arizona Public Service Company, El Paso Electric Company, New Mexico Gas Company, Inc., Public Service Company of New Mexico, Salt River Project Agricultural Improvement and Power District, Southwest Gas Corporation, and Tucson Electric Power Company/UNS Gas, Inc.

[77] APS Comments, Docket No. AD12–12–000, at 4 (filed Apr. 19, 2013).

[78] *Id.* at 5–6.

[79] DSPS Comments, Docket No. AD12–12–000, at 28–29 (filed Jan. 31, 2014).

9:00 p.m. CCT, for gas flow at 10:00 p.m. on the current Gas Day. DSPS also proposes a no-bump Intra-Day 3 cycle with a nomination deadline of 10:00 p.m. CCT, with confirmation at 1:00 a.m. CCT for gas flow at 1:00 a.m. on the current Gas Day. DSPS asserts that its proposal would provide IT shippers with a final no-bump cycle that guarantees that an IT shipper that is scheduled in Intra-Day 2 cannot be bumped in the final cycle of the current Gas Day and would therefore have a minimum of eleven hours of flow.[80]

61. Tennessee Valley Authority (TVA) argues that the Commission's No-Bump Rule creates an artificial barrier to firm service and should be removed.[81] TVA indicated that it has contracted for firm service, including enhanced services for each of its gas-fired generation facilities, but claims those services have limited value when attempting to nominate capacity at an intraday cycle because the No-Bump Rule allows interruptible transmission service to have priority over firm service in the Intra-Day 2 nomination cycle.

62. Several commenters, including INGAA, were open to the creation of additional standard nomination cycles.[82] They noted that, while several pipelines offer services that provide additional flexibility, these services and nomination opportunities are not standardized or available to all shippers. INGAA requests, however, that gas flow for any additional nomination cycles should occur at least eight hours prior to the end of the Gas Day.[83] NGSA commented that it is willing to consider additional intraday nomination cycles provided that (1) the No Bump Rule remains intact for any nomination opportunities after the existing Intra-Day 2 cycle; (2) changes in nominations after business hours are voluntary and mutually agreeable to all parties to the transaction; (3) bumped parties are afforded sufficient time between the pipeline's confirmation deadline and the next nomination deadline to secure alternative supply and transportation arrangements; and (4) consideration is given to upstream gas supply limitations and producers' ability to respond to nomination changes.[84] NGSA also states that it supports individual pipeline efforts to offer enhanced nomination cycles beyond the NAESB standardized schedule.

2. Commission Proposal

63. To address concerns that the current standard, nation-wide intraday nomination opportunities do not provide shippers—especially natural gas-fired generators—with sufficient flexibility, the Commission proposes to modify the current natural gas nomination timeline so that in addition to the Timely and Evening nomination cycles, shippers will have four intraday cycles to reschedule gas rather than the existing two. The additional intraday nomination cycles will maximize shippers' ability to make significant changes in their intraday nominations, as well as provide firm shippers an additional, bumpable late-afternoon nomination cycle. These proposed revisions will provide gas-fired generators as well as other pipeline customers with greater flexibility to revise their nominations to adjust to system conditions and changes to load throughout the Gas Day. The last change to the standardized intraday nomination schedule occurred in 1998, in Order No. 587–G, and with the advancements in computer technology over the last 15 years, pipelines today should be able to provide greater nomination flexibility.[85]

64. The timelines we propose below are based on the proposed adoption of 4:00 a.m. CCT as the start of the Gas Day. The proposed intraday nomination schedules seek to preserve a reasonable number of hours between the intraday nomination periods and the end of the Gas Day.[86] This will provide shippers with reasonable opportunities to reschedule gas based on the amount of contract demand or flow remaining.[87] While we propose nomination times below, we continue to recognize that the natural gas and electricity industries are best positioned to work out the details of how changes in scheduling practices can most efficiently be made and implemented, consistent with the policies discussed here. NAESB may also consider different approaches to providing flexibility.[88] The Commission proposes the following new timeline for intraday nominations:

- *Intra-Day 1.* To accommodate the proposed move of the start of the Gas Day from 9:00 a.m. CCT to 4:00 a.m. CCT, the proposed Intra-Day 1 cycle would provide an early morning opportunity for shippers to nominate gas with nominations submitted by 8:00 a.m. CCT and an effective time of 12:00 p.m. CCT.
- *Intra-Day 2.* The proposed Intra-Day 2 cycle would replace the current Intra-Day 1 mid-morning nomination cycle and would permit bumping. We propose to move the current deadline for shippers to submit gas nominations for delivery the same Gas Day from 10:00 a.m. CCT to 10:30 a.m. CCT. In addition, nominations would become effective at 4:00 p.m. CCT, rather than at 5:00 p.m. under the current standards.
- *Intra-Day 3.* The proposed Intra-Day 3 cycle would provide an additional bumping opportunity for firm shippers, with nominations submitted by 4:00 p.m. CCT, notice to bumped shippers would be provided at 6:00 p.m. CCT, and the nomination would become effective at 7:00 p.m. CCT.
- *Intra-Day 4:* Intra-Day 4 would replace the current no-bump cycle. We propose to move the current nomination deadline from 5:00 p.m. CCT to 7:00 p.m. CCT, which will provide interruptible shippers bumped during the Intra-Day 3 cycle with one hour to reschedule bumped service. The effective flow time for Intra-Day 4 would be at 9:00 p.m. CCT.[89]

65. The Commission's proposal to modify the current intraday nomination timeline to provide four intraday nomination cycles, instead of the existing two, will create additional national nomination opportunities that would be available to all shippers, not just those shipping on interstate pipelines that voluntarily allow more flexible nomination opportunities.

[80] DSPS Comments, Docket No. AD12–12–000, at 29 (filed Jan. 31, 2014).

[81] *See, e.g.,* TVA Response, Docket No. AD12–12–000, at 3–4 (filed July 29, 2013). *See also* APS Comments, Docket No. AD12–12–000, at 7–9 (filed Apr. 19, 2013).

[82] INGAA Comments, Docket No. AD12–12–000, at 5 (filed June 26, 2013).

[83] INGAA Comments, Docket No. AD12–12–000, at 6 & n.6 (filed June 26, 2013) (noting that such timing would be a ''natural extension of the current NAESB nomination standards,'' and reasoning that because the gas flow for the current Intra-Day 1 cycle is one third of the way through the Gas Day, and the gas flow for the Intra-Day 2 cycle is halfway through the Gas Day, that is seems logical for gas flow for a third intraday opportunity to begin two-thirds of the way through the Gas Day).

[84] NGSA Comments, Docket No. AD12–12–000, at 7 (filed July 16, 2013).

[85] Order No. 587–G, FERC Stats. & Regs. ¶ 31,062 at 30,672.

[86] The Appendix indicates the number of hours remaining in the Gas Day for each of the proposed intraday nomination opportunities.

[87] As discussed earlier, *supra* at text accompany n.26, intraday nominations are limited by the remainder of a shipper's daily quantity relative to the remaining hours of the Gas Day. Under the current standard nomination timeline, a 4:00 a.m. CCT start of the Gas Day would have meant that shippers could only revise their nomination at Intra-day 1 for an effective flow time of 5:00 p.m. CCT by less than half of their remaining entitlements. Comparatively, under the Commission's proposed nomination timeline, shippers could revise their nomination at Intra-Day 1 for an effective time of 12:00 p.m. CCT for up to 66 percent of their entitlements.

[88] For example, NAESB could consider whether more frequent nominations could be accommodated if all parties in the confirmation chain scheduled electronically.

[89] The Commission at this time is not proposing specific deadlines for upstream and downstream pipelines to confirm the nominations for the revised intra-day timeline, but leaves such determinations to the industry.

Thus, the proposal would enhance scheduling flexibility for intraday transactions that require transportation on more than one pipeline. Further, the addition of standardized nationwide intraday nomination opportunities should benefit all firm shippers and enhance gas-fired generators' ability to respond to real time events by providing additional opportunities for capacity procurement.

66. The proposed addition of a new Intra-Day 1 early morning cycle is consistent with the proposed change to the start of the Gas Day from 9:00 a.m. CCT to 4:00 a.m. CCT. Currently, gas flow for Intra-Day 1 starts one-third of the way, or eight hours, into the Gas Day.[90] We propose to retain that same time span between the newly proposed start of the Gas Day and the flow of gas for Intra-Day 1 nominations that will flow that same day.

67. We propose to maintain a mid-morning bumpable intraday nomination opportunity for shippers that need to respond to forecasted changes in weather or other events occurring later than the early morning cycle. We propose to move the nomination deadline one half hour later from 10:00 a.m. CCT to 10:30 a.m. CCT and to move the effective or gas flow time one hour earlier from 5:00 p.m. CCT to 4:00 p.m. CCT. The gas flow time for this proposed Intra-Day 2 Cycle will be half way through the proposed 4:00 a.m. to 4:00 a.m. Gas Day, and thus confirmed nominations in our proposed Intra-Day 2 Cycle will flow for 12 hours, as under the existing Intra-Day 2 Cycle.[91] We are proposing that nominations for this intraday cycle be submitted by 10:30 a.m., in order to give pipelines two and a half hours to confirm those nominations before the 1:00 p.m. deadline for day-ahead nominations to be submitted in the Timely Nomination Cycle.

68. The new proposed late-afternoon Intra-Day 3 cycle that permits bumping will provide firm shippers, including gas-fired generators, with greater ability to use the reserved firm service for which they are paying. Under the Commission's current regulations, pipelines must give scheduling priority to an intraday nomination submitted by a firm shipper over nominated and scheduled volumes for interruptible shippers.[92] The ability of firm shippers to make the most use of the service for which they pay a monthly reservation charge is compromised by their inability to bump interruptible service after the current Intra-Day 1 nomination cycle. Over the last fifteen years, pipelines have increasingly held firm shippers to much stricter tolerances on gas flow, so that firm shippers may need additional intraday nomination opportunities to maintain flow rates.[93] Pipelines also have increasingly held gas-fired generators' natural gas transportation nominations to much stricter tolerances.[94] In light of these changes, the additional bumping nomination opportunity will help gas-fired generators with firm service, and other firm shippers, realign their nominations in accord with weather or other operational changes within the Gas Day. West Coast shippers, in particular, are unable under the current standards to use their firm service to adjust to system conditions and load changes by making an intraday nomination after 8:00 a.m. Pacific Time if such nomination would bump scheduled interruptible service. The proposed new Intra-Day 3 cycle, which is a 4:00 p.m. CCT late-afternoon bump cycle, should provide firm shippers, even those on the West Coast, with sufficient time to react to revised weather forecasts and other demand changes and schedule needed quantities. Under this proposal, pipelines would provide notice of bumping to affected shippers at 6:00 p.m. CCT, and the nominations would become effective at 7:00 p.m. CCT.

69. The proposed Intra-Day 4 cycle will provide interruptible shippers with an opportunity to reschedule bumped volumes after notice of bumping in the new proposed Intra-Day 3 cycle.[95] The deadline for submitting nominations in the Intra-Day 4 cycle would be at 7:00 p.m. CCT, one hour after notice of bumping in the Intra-Day 3 cycle. As NGSA maintains, and as the Commission has previously recognized, interruptible shippers need some stability in the nomination system. In Order No. 587–G, the Commission accepted a consensus of the gas industry, including both firm and interruptible shippers, and accepted standards that provide that the last intraday nomination opportunity would not permit bumping of interruptible service. In adopting this standard, the Commission recognized that making the last intraday nomination opportunity no-bump would provide stability to the nomination system.[96] We continue to recognize that such stability is needed, and the proposed intraday nomination schedule we outline here is intended to provide a reasonable balance between the interests of firm and interruptible shippers. Maintaining the No-Bump Rule during the proposed Intra-Day 4 cycle will provide such assurances for interruptible shippers, while allowing bumping during the proposed new Intra-Day 3 cycle will permit firm shippers to utilize the higher priority service for which they are paying.

70. In summary, given the proposed 4:00 a.m. start of the Gas Day, our proposed schedule for four intraday nomination opportunities appears to provide a reasonable balance between the interests of firm and interruptible shippers. The 4:00 p.m. CCT late-afternoon bump cycle should provide firm shippers, even those on the West Coast, with sufficient time to react to revised weather forecasts and other demand changes. Interruptible shippers will be provided with advance notice and an opportunity to reschedule bumped volumes, as is the case under the current standards.[97] However, as indicated above, the industry should consider these proposals and determine if they can reach consensus on revisions that they believe better fit the business practices of the industries.

E. Clarification Regarding the ''No-Bump'' Rule for Pipelines With Enhanced Nomination Services

71. As we have stated before, the NAESB nomination timelines establish only the minimum requirements, and pipelines may propose additional nomination opportunities that better fit

[90] INGAA Comments, Docket No. AD12–12–000, at 6 & n.6 (filed June 26, 2013).

[91] Consistent with INGAA's comments, the Commission proposes to adjust the Intra-Day 1 and Intra-Day 2 nomination cycles so that they remain eight and twelve hours after the start of the proposed gas flow day. *See* INGAA Comments, Docket No. AD12–12–000, at 5 (filed June 26, 2013).

[92] 18 CFR 284.12(b)(1)(i)(A) (2013). Because we are proposing to include in the regulations the standard nomination cycles which specify when interruptible shippers' scheduled quantities can and cannot be reduced, the first sentence of section 284.12(b)(1)(i)(A) to which the text refers is no longer necessary and we propose to remove it.

[93] *See El Paso Natural Gas Co.,* 114 FERC ¶ 61,305, at P 29 (2006).

[94] *See, e.g., Trailblazer Pipeline Co. LLC,* 143 FERC ¶ 61,084 (2013) (Commission approved enhanced nomination service requiring electronic flow measurement and flow control facilities). *See also* Texas Gas Transmission Corp., Docket No. CP82–407–000, 2002 Annual Report of Blanket Certificate Activities, *http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=10463248.*

[95] *See Texas Gas Transmission, LLC,* 137 FERC ¶ 61,093 (2011), *order on compliance,* 138 FERC ¶ 61,176 (2012) (*Texas Gas)* (accepting one hour advance notice to bumped interruptible shippers).

[96] *Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587–G,* (Apr. 23, 1998), FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,062 (1998), *order on rehg,* Order No. 587–I, 63 FR 53565, 53569 (Oct. 6, 1998), FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,067 (1998*).*

[97] *See Texas Gas,* 138 FERC ¶ 61,176 (accepting one hour advance notice to bumped interruptible shippers).

their own system needs.[98] Many pipelines have implemented enhanced nomination services for firm shippers, providing shippers additional nomination opportunities. Some pipelines specifically developed these services to provide gas-fired generation with the ability to effectuate gas deliveries quickly to meet changing demand throughout the Gas Day while managing such things as weather changes and the variable nature of renewable supply sources.[99] Other pipelines provide more than the current four standard nomination times for all shippers.[100]

72. The current NAESB WGQ Standard 1.3.2 provides that bumping is not allowed during the Intraday 2 Nomination Cycle. In *Texas Gas Transmission, LLC,* the Commission accepted an enhanced nomination schedule with eleven additional nominations that permits interruptible shippers to be bumped until the nomination deadline for the Intra-Day 2 cycle (currently 5:00 p.m. CCT), but provided preliminary notice of bumping prior to 5:00 p.m. and permitted any bumped shipper to renominate bumped volumes at the 6:00 p.m. CCT enhanced nomination cycle or any of the subsequent enhanced nomination cycles.[101]

73. Participants at the conferences noted that the interaction of these enhanced nomination services with the No-Bump Rule was not clear. We provide clarification below as to how the Commission policy would be implemented under the proposals in this NOPR. Under the current NAESB WGQ standards and the *Texas Gas* policy, pipelines may propose to bump shippers up to 5:00 p.m. CCT as long as they provide notice and renomination opportunities similar to those accepted in *Texas Gas.* Under the revised intraday nomination timelines proposed here, the Commission believes that pipelines offering enhanced nomination services should be permitted to bump interruptible shippers at least until the time when the bumping notice under the newly proposed Intra-Day 3 schedule is provided (in the Commission's proposal 6:00 p.m. CCT). The proposed Intra-Day 4 nomination cycle would guarantee that any bumped interruptible shipper will have an opportunity to renominate its bumped volumes at 7:00 p.m. If a pipeline proposes enhanced nomination services that permit bumping of interruptible services after 6:00 p.m., the Commission will consider the proposal on a case-by-case basis to determine whether such proposal provides an adequate subsequent opportunity to renominate any bumped volumes.

74. In addition, an issue has arisen with respect to the interaction of enhanced nominations and WGQ Standard 1.3.39, which provides that bumping affecting transactions on pipelines will occur at grid-wide synchronization times only.[102] Some of the pipelines offering enhanced nomination services would have been unable to offer such enhanced nomination services if they could not reduce the gas flow of the bumped interruptible shipper on the same schedule as they increase flow for the firm shippers.[103] These proposals conflicted with Standard 1.3.39 because they would have permitted all interruptible shippers to be bumped at other than grid-wide nomination periods. In these circumstances, the Commission accepted proposals (and granted waivers of Standard 1.3.39) to permit bumping of interruptible shippers at other than grid-wide nomination times when the pipelines have proposed alternative opportunities for interruptible shippers to renominate bumped volumes at the enhanced nomination periods.[104]

75. The Commission finds the continuation of this approach with respect to enhanced nomination proposals by pipelines reasonably balances the interest of firm and interruptible customers by permitting the firm shippers to utilize the rights for which they pay reservation charges and by permitting interruptible shippers to renominate bumped volumes as quickly as possible. NAESB should consider revisions to Standard 1.3.39 and Standard 1.3.41 to reflect these policies to alleviate the need for pipelines to seek waiver or make other filings regarding Standard 1.3.39.[105]

F. Multi-Party Transportation Contracts

76. The Commission is also proposing to revise its regulations to require pipelines to offer multi-party transportation contracts, under which multiple shippers can share interstate natural gas pipeline capacity under a single service agreement. While some pipelines already offer this option, the Commission does not currently require pipelines to do so. Companies have indicated that providing more flexibility to shippers to use their capacity, such as by allowing multiple parties to share transportation service, might permit more efficient and effective use of transportation capacity.

77. The Commission's regulations require that all transfers of firm pipeline capacity from one shipper to another shipper take place pursuant to the capacity release program in section 284.8 of our regulations to assure that such capacity transfers are transparent and not unduly discriminatory.[106] Utilizing capacity release to effectuate sharing of capacity between entities makes sharing of capacity less efficient due to the need to comply with the capacity release posting and bidding requirements as well as the need for the replacement shipper to enter into a contract with the pipeline for each release. In recent years, however, the Commission has accepted several pipeline proposals to offer multiple shippers the option of entering into a single contract for transportation service, with a single agent or asset manager managing the capacity under the contract.[107] As approved by the

[98] *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities,* Order No. 698, FERC Stats. & Regs. ¶ 31,251, at P 69 (2007).

[99] *See Texas Gas,* 138 FERC ¶ 61,176 at P 4.

[100] *See e.g.* Texas Eastern Transmission LP Tariff, *4.1, Scheduling of Storage and Transportation Services, 1.0.0* (flexible intraday nominations), Tennessee Gas Pipeline Tariff, *Fourth Revised Sheet No. 313* (hourly nomination changes).

[101] *Texas Gas,* 137 FERC ¶ 61,093, *order on compliance,* 138 FERC ¶ 61,176; *Gulf South Pipeline Co. LP,* 141 FERC ¶ 61,262 (2012).

[102] Under the current NAESB system, the daily grid-wide synchronization times for scheduled flow are 9:00 a.m. CCT, 5:00 p.m. CCT, and 9:00 p.m. CCT. Standard 1.3.41.

[103] *See Texas Gas,* 137 FERC ¶ 61,093, *order on compliance,* 138 FERC ¶ 61,176; *Gulf South,* 141 FERC ¶ 61,262.

[104] *See ANR Pipeline Co.,* 145 FERC ¶ 61,089 (2013); *Gulf South,* 141 FERC ¶ 61,262 at P 33; *Trans-Union Interstate Pipeline L.P, et al.,* 141 FERC ¶ 61,167, at P 41 (2012) (granting waiver to Texas Gas Transmission LLC).

[105] Until such changes are adopted by the Commission, pipelines intending that firm shippers be able to bump interruptible service during enhanced nomination periods must include in their tariff filings a revision to their incorporation by reference of the NAESB standards indicating that this standard is not incorporated.

[106] *See Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation and Regulation of Natural Gas Pipeline After Partial Wellhead Decontrol,* Order No. 636, FERC Stats. & Regs. ¶ 30,939, at 30,416–20, *order on reh'g,* Order No. 636–A, FERC Stats. & Regs. ¶ 30,950, at 30,554 (1992). *See also Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services,* Order No. 637, FERC Stats. & Regs. ¶ 31,091, at 31,300 (2000).

[107] *Southern Natural Gas Co.,* 124 FERC ¶ 61,145 (2008) (pipeline modified Rate Schedule FT to allow a single contract option for multiple shippers affiliated with a single agent or asset manager); *Florida Gas Transmission Co.,* LLC, 128 FERC ¶ 61,284 (2009), *order on compliance filing,* Docket No. RP09–922–001 (Nov. 17, 2009) (pipeline modified provisions of Rate Schedules FT and IT to allow a single contract option for multiple shippers that have designated a single agent on

Commission, this option permits several shippers to share the subject capacity without the need to use the capacity release program to transfer the capacity among themselves. In order to satisfy the Commission's shipper-must-have-title policy, the pipelines proposed, and the Commission accepted, tariff provisions ensuring that each shipper under a multi-party service agreement agree to be jointly and severally liable for all obligations of all shippers and the agent under the single service agreement.[108] The Commission has permitted multi-party transactions even when the shippers under such an agreement are not affiliated with one another.[109]

78. This contracting flexibility has been utilized by entities to meet their collective load obligations in a more efficient manner. For example, certain affiliated utilities of Southern Company, which have long operated as an integrated public utility electric system through the joint commitment and economic dispatch of their gas-fired generating resources, have entered into a single interstate natural gas pipeline transportation service agreement, with Southern Company Services (their affiliated agent) arranging for the gas supplies used in their generating facilities.[110] Under this single transportation service agreement, on any given day Southern Company Services can use up to its overall contractual entitlement under the service agreement to provide service to any one of its affiliated utilities.

79. The use of shared capacity can make the purchase of firm pipeline capacity more affordable, including for gas-fired generators. For example, a gas-fired generator could decide to defray its pipeline capacity costs by sharing capacity among a number of generators or by sharing capacity with a LDC that has differing peak needs for natural gas transportation service. Similarly, an industrial plant, which has a relatively constant need for gas when its plant is operating but which has the flexibility to reduce its operations and gas usage on relatively short notice, could arrange to share its capacity with another shipper, such as a gas-fired generator, which only needs gas during short intervals and which has less control over when it runs. Permitting such entities to enter into a single contract with the pipeline gives those entities the flexibility to choose contracting partners with complementary needs for pipeline capacity and to enter into an ongoing contractual relationship concerning how they will share the capacity.

80. In order to provide this contracting flexibility to shippers on all interstate pipelines, the Commission proposes to revise Part 284 of its regulations to require interstate natural gas pipelines that offer firm transportation service under subpart B or G of Part 284 to allow multiple shippers associated with a designated agent or asset manager to be jointly and severally liable under a single firm transportation service agreement, subject to reasonable terms and conditions. Consistent with the multi-party contract tariff provisions the Commission has previously approved, such reasonable terms and conditions may include requirements that (1) the shippers and agent demonstrate their agency relationship in writing and (2) the shippers are willing to be treated collectively as one shipper for nomination, allocation, and billing purposes under the contract.

81. The Commission proposes only to require pipelines to offer multi-party service agreements for firm service, because a primary benefit of such service agreements is the fact they permit parties to share firm capacity without the need to engage in capacity releases. However, we recognize that some pipelines currently offer multi-party service agreements to interruptible, as well as firm customers. The Commission requests comment on whether the Commission should require pipelines to offer multi-party service agreements for interruptible transportation service.

III. Notice of Use of Voluntary Consensus Standards

82. Office of Management and Budget Circular A–119 (section 11 (February 10, 1998) provides that federal agencies should publish a request for comment in a NOPR when the agency is proposing to use a government-unique standard in lieu of a voluntary consensus standard, provide a statement which identifies such standards and provides a preliminary explanation for the proposed use of a government-unique standard in lieu of a voluntary consensus standard. While the Commission previously has adopted NAESB standards regarding natural gas and electric utility scheduling, NAESB has thus far been unable to reach consensus on standards coordinating the scheduling between these two industries because these issues involve policy questions more appropriate for resolution by the Commission.[111] In this NOPR, the Commission is proposing, and seeking comment on whether, revisions to the NAESB standards are necessary to provide more efficient coordination between the two industries to reduce costs and to promote the provision of reliable service. However, the Commission is providing NAESB an opportunity, as it has in the past, to consider these policy goals and develop consensus standards that may better fit the business practices of the two industries.

IV. Information Collection Statement

83. The following collections of information contained in this proposed rule are being submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The burden estimates are for one-time implementation of the information collection requirements of this NOPR (including tariff filing, documentation of

their behalf); *Transcontinental Gas Pipe Line Corp.,* Docket No. RP10–1099–000 (Sept. 14, 2010) (delegated letter order) (pipeline modified provisions of Rate Schedules IT, PAL and Pooling, and ICTS to allow a single contract option for multiple shippers that have designated a single agent on their behalf); *Tennessee Gas Pipeline Co., L.L.C.,* 142 FERC ¶ 61,200 (2013) (pipeline modified provisions of Rate Schedules FT, IT and PAL to allow a single contract option for multiple shippers that have designated a single agent on their behalf).

[108] *See, e.g., Southern,* 124 FERC ¶ 61,145 at P 12. As the Commission explained, multi-party agreements must include joint and several liability to comply with the Commission's shipper-must-have-title policy. Without joint and several liability, shippers under the multi-party agreement that are not liable for the total charges under the agreement would be in violation of the Commission's shipper-must-have-title policy to the extent they used capacity in excess of that for which they were liable to pay.

[109] *See, e.g., Florida Gas Transmission Co., LLC,* 126 FERC ¶ 61,055 (2009).

[110] *See, e.g., Southern Natural Gas Co.,* Transmittal, Docket No. RP01–205–016 (May 14, 2009); *Southern,* 124 FERC ¶ 61,145. The affiliates were Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric and Power Company and Southern Power Company.

[111] North American Energy Standards Board, *Gas-Electric Harmonization Committee Report,* at 4 (September 2012) (''although this Committee has identified discrete areas where standards could be considered, the Committee recognizes that the ability of NAESB to reach consensus on certain standards may not be possible absent further policy guidance by regulators or other appropriate public bodies'').

the process and procedures, and IT work), and ongoing burden.

84. The collections of information related to this NOPR fall under FERC–545 (Gas Pipeline Rates: Rate Change (Non-Formal)) [112] and FERC–549C (Standards for Business Practices of Interstate Natural Gas Pipelines).[113] The following estimates of reporting burden are related only to this NOPR and anticipate the costs to pipelines for compliance with the Commission's proposals to (1) move the start of the Natural Gas Operating Day earlier than the current 9:00 a.m. CCT, (2) start the first day-ahead gas nomination opportunity (Timely Nomination Cycle) later than 11:30 a.m. CCT, (3) add additional intraday nominations, and (4) allow multiple shippers to share pipeline capacity under a single firm transportation service agreement. The burden estimates are for one-time tariff filing, implementation, and on-going costs.

Public Reporting Burden

NOPR IN RM14–2

	Number of respondents [114] (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)	Total annual cost ($) [115]
FERC–545 (OMB Control No. 1902–0154)					
Tariff Filing (one-time) [116]	166	1	10	1,660	$138,892
FERC–549C (OMB Control No. 1902–0174)					
Implementation of proposed business standards, including process, procedures, and IT support (one-time) [117]	166	1	240	39,840	$3,071,664
Annual operations, including 2 additional intraday nominations (ongoing) [118]	166	1	365	60,590	$4,268,566
Total one-time (for FERC–545 and FERC–549C)				41,500	$3,210,556
Total ongoing (for FERC–549C)				60,590	$4,268,566

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. We estimate the total costs for all respondents to be:

- Year 1 (including the one-time tariff-filing, and implementation and ongoing costs)): $7,479,122
- Years 2 and 3, each (ongoing costs only): $4,268,566

Title: FERC–545, Gas Pipeline Rates: Rates Change (Non-Formal); and FERC–549C, Standards for Business Practices of Interstate Natural Gas Pipelines.

Action: Proposed revisions to information collections.

OMB Control Nos.: 1902–0154 and 1902–0174.

Respondents: Business or other for profit enterprise (Natural Gas Pipelines).

Frequency of Responses: One-time filing and implementation and ongoing.

Necessity of Information: The proposals in this NOPR would, if implemented, upgrade the industry's current business practices by specifically: (1) Creating or revising standards to start the natural gas operating day earlier than the current 9:00 a.m. CCT; (2) creating or revising standards to delay the start of the first day-ahead gas nomination opportunity for pipeline scheduling until after 11:30 a.m. CCT; (3) creating or revising standards to add two additional intraday nomination cycles in the afternoon and evening, and (4) allow multiple shippers to share pipeline capacity under a single firm transportation service agreement.

The implementation of these standards and regulations will promote additional efficiency and reliability of the gas industry's operations.

Internal Review: The Commission has reviewed the requirements pertaining to business practices of natural gas pipelines and made a preliminary determination that the proposed revisions are necessary to establish more efficient coordination between the natural gas and electric industries. Requiring such information ensures common business practices for participants engaged in the sale of electric energy at wholesale and the

[112] FERC–545 covers rate change filings made by natural gas pipelines, including tariff changes.

[113] FERC–549C covers Standards for Business Practices of Interstate Natural Gas Pipelines.

[114] An estimated 166 natural gas pipelines (Part 284 program) are affected by this NOPR. Although some natural gas pipeline companies may utilize business practices that satisfy parts of the proposals in this NOPR (e.g., provide additional nomination opportunities), the full cost of industry compliance is estimated for the total number of approximately 166 potential respondents.

[115] Wage data is based on the Bureau of Labor Statistics data for 2012 (''May 2012 National Industry-Specific Occupational Employment and Wage Estimates, [for] Sector 22—Utilities'' at *http://bls.gov/oes/current/naics2_22.htm*) and is compiled for the top 10 percent earned. For the estimate of the benefits component, *see http://www.bls.gov/news.release/ecec.nr0.htm.*

[116] The mean hourly cost of tariff filings and implementation for interstate natural gas pipelines is $83.67. This represents the average composite wage (salary and benefits for 2,080 annual work-hours) of the following occupational categories: ''Legal'' ($128.02 per hour), ''Computer Analyst'' ($83.50 per hour), and ''Office and Administrative'' ($39.49 per hour). Wage data is available from the Bureau of Labor Statistics at *http://bls.gov/oes/current/naics2_22.htm* and is compiled for the top 10 percent earned. For the estimate of the benefits component, *see http://www.bls.gov/news.release/ecec.nr0.htm.*

[117] The average hourly cost is $77.10. This represents the average composite wage (salary and benefits for 2,080 annual work-hours) of the following occupational categories: ''Legal'' ($128.02 per hour), ''Computer Analyst'' ($83.50 per hour), ''Gas Plant Operator'' ($57.40) and ''Office and Administrative'' ($39.49 per hour).

[118] For ongoing operations, we estimate 1 hour per calendar day per respondent (or 365 hours annually per respondent). The average hourly cost is $70.45. This represents the average composite wage (salary and benefits for 2,080 annual work-hours) of the following occupational categories: ''Computer Analyst'' ($83.50 per hour), and ''Gas Plant Operator'' ($57.40).

transportation of natural gas. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas pipeline industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

85. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

86. Comments concerning the collections of information and the associated burden estimates, should be sent to the Commission and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, telephone: (202) 395–4638, fax: (202) 395–4718]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include Docket Number RM14–2–000 and OMB Control Numbers 1902–0154 and 1902–0174.

V. Environmental Analysis

87. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[119] The Commission concludes that neither an Environmental Assessment nor an Environmental Impact Statement is required for this NOPR under section 380.4(a)(27) of the Commission's regulations, which provides a categorical exemption for rules that are for the sale, exchange, and transportation of natural gas under sections 4, 5 and 7 of the Natural Gas Act that require no construction of facilities.[120]

VI. Regulatory Flexibility Certification

88. The Regulatory Flexibility Act of 1980 (RFA) [121] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business as matched to North American Industry Classification System Codes (NAICS).[122] The SBA has established a size standard for pipelines transporting natural gas, stating that a firm is a small entity if its annual receipts are less than $25.5 million.[123] Approximately 166 interstate pipeline entities are potential respondents subject to the NOPR reporting requirements. For the year 2012, eleven companies unaffiliated with larger companies had annual revenues of less than $25.5 million (7 percent of 166 potential respondents) and are defined by the SBA as ''small entities.'' The Commission anticipates that the estimated compliance cost of the proposals in this NOPR is $7,479,122 (or $45,055 per entity) in Year 1 (one-time and ongoing costs), and $4,268,566 (or $25,714 per entity) in Years 2 and 3 (ongoing cost), regardless of entity size. The Commission does not consider the estimated impact per company to be significant. Adoption of consensus standards helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of industry participants representing all segments of the industry.

89. Accordingly, pursuant to § 605(b) of the RFA,[124] the regulations proposed herein should not have a significant economic impact on a substantial number of small entities.

VII. Comment Procedures

90. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 28, 2014. As noted above, on this date commenters should submit comments on any consensus proposals that may result from the 180-day period provided to the industries to address these matters and issues through NAESB, as well as comments on the Commission's proposals. Comments must refer to Docket No.RM14–2–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

91. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

92. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

93. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VIII. Document Availability

94. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

95. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

96. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

List of Subjects in 18 CFR Part 284

Natural gas, Reporting and recordkeeping requirements.

[119] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[120] *See* 18 CFR 380.4(a)(27) (2013).

[121] 5 U.S.C. 601–612.

[122] 13 CFR 121.101.

[123] 13 CFR 121.201, subsection 486.

[124] 5 U.S.C. 605(b).

By direction of the Commission. Commissioner Clark is dissenting with a separate statement attached.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 284, Chapter I, Title 18, *Code of Federal Regulations,* as follows.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

■ 1. The authority citation for Part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717z, 3301–3432; 42 U.S.C. 7101–7352; 43 U.S.C. 1331–1356.

■ 2. In § 284.12, paragraph (a)(1)(ii) is revised to read as follows:

(a) * * *

(1) * * *

(ii) Nominations Related Standards (Version 2.0, November 30, 2010, with Minor Corrections Applied Through December 2, 2011), with the exception of Standards 1.3.1, 1.3.2, and 1.3.41;

* * * * *

■ 3. In § 284.12, revise paragraph (b)(1)(i), redesignate paragraph (b)(1)(ii) as paragraph (b)(1)(iv) and add new paragraphs (b)(1)(ii), (b)(1)(iii), and b(1)(v) to read as follows:

(b) * * *

(1) * * *

(i) Standard time for the gas day should be 4 a.m. to 4 a.m. (central clock time or CCT).

(ii) A pipeline must support the following standard nomination cycles (all times are central clock time):

(A) Timely Nomination Cycle. The deadline for shippers to submit gas nominations to a pipeline for delivery the next gas day is 1:00 p.m.; the pipeline must provide notice to shippers of scheduled quantities by 4:30 p.m.; and scheduled quantities for the Timely Nomination Cycle shall be effective for flow at 4:00 a.m. on the next gas day.

(B) Evening Nomination Cycle. The deadline for shippers to submit gas nominations to a pipeline for delivery the next gas day is 6:00 p.m.; the pipeline must provide notice to shippers of scheduled quantities and provide notice to interruptible shippers whose scheduled quantities will be reduced by an Evening Nomination by a firm shipper by 10:00 p.m.; and scheduled quantities for the Evening Nomination Cycle shall be effective for flow at 4:00 a.m. on the next gas day.

(C) Intraday 1. The deadline for shippers to submit gas nominations to a pipeline for delivery the same gas day is 8:00 a.m.; the pipeline must provide notice to shippers of scheduled quantities and provide notice to interruptible shippers whose scheduled quantities will be reduced by an Intraday 1 Nomination by a firm shipper by 11:00 a.m.; and scheduled quantities for the Intraday 1 Nomination Cycle shall become effective for flow at 12:00 p.m. the same gas day.

(D) Intraday 2. The deadline for shippers to submit gas nominations to a pipeline for delivery the same gas day is 10:30 a.m.; the pipeline must provide notice to shippers of scheduled quantities and provide notice to interruptible shippers whose scheduled quantities will be reduced by an Intraday 2 Nomination by a firm shipper by 2:00 p.m.; and scheduled quantities for the Intraday 2 Nomination Cycle shall become effective for flow at 4:00 p.m. the same gas day.

(E) Intraday 3. The deadline for shippers to submit gas nominations to a pipeline for delivery the same gas day is 4:00 p.m.; the pipeline must provide notice to shippers of scheduled quantities and provide notice to interruptible shippers whose scheduled quantities will be reduced by an Intraday 3 Nomination by a firm shipper by 6:00 p.m.; and scheduled quantities for the Intraday 3 Nomination Cycle shall become effective for flow at 7:00 p.m. the same gas day.

(F) Intraday 4. The deadline for shippers to submit gas nominations to a pipeline for delivery the same gas day is 7:00 p.m.; the pipeline must provide notice to shippers of scheduled quantities by 9:00 p.m.; and scheduled quantities for the Intraday 4 Nomination Cycle shall become effective for flow at 9:00 p.m. the same gas day. An interruptible shipper's scheduled quantities cannot be reduced as a result of an Intraday 4 Nomination by a firm shipper.

(iii) When an interruptible shipper's scheduled volumes are to be reduced as a result of an intraday nomination by a firm shipper, the interruptible shipper must be provided with advance notice of such reduction and must be notified whether penalties will apply on the day its volumes are reduced.

* * * * *

(v) A pipeline must allow multiple shippers associated with a designated agent or asset manager to be jointly and severally liable under a single firm transportation service agreement, subject to reasonable terms and conditions.

* * * * *

Note: The following appendix will not appear in the Code of Federal Regulations

APPENDIX

Nomination cycle	*Nomination deadline (CCT)*	*Notification of schedule*	*Nomination effective (CCT)*	*Bumping of IT*	*Hours until end of gas day*	*Maximum % change in nomination*
Timely	1:00 p.m.	4:30 p.m.	4:00 a.m. Next Day	N/A	24	100
Evening	6:00 p.m.	10:00 p.m.	4:00 a.m. Next Day	Yes	24	100
Intra-Day 1	8:00 a.m.	11:00 a.m.	12:00 p.m. Current Day	Yes	16	~66
Intra-Day 2	10:30 a.m.	2:00 p.m.	4:00 p.m. Current Day	Yes	12	50
Intra-Day 3	4:00 p.m.	6:00 p.m.	7:00 p.m. Current Day	Yes	9	37.5
Intra-Day 4	7:00 p.m.	9:00 p.m.	9:00 p.m. Current Day	No	7	~29.2

UNITED STATES OF AMERICA

Federal Energy Regulatory Commission

Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities

Docket No. RM14–2–000

(Issued March 20, 2014)

CLARK, Commissioner, *dissenting:*

My dissent from today's order stems from factors related to both its timing and its process going forward.

For the past several months, a number of groups have been organizing efforts to develop a framework that might ultimately lead to a gas-electric industry consensus proposal. While the success of these efforts is no sure thing, I would have preferred that we give industry more time. A firm deadline of perhaps another 3–4 months should have been sufficient to determine whether these efforts stood any chance of success. The downside risk of giving these groups more time seems small considering that the timeline envisioned in this order still puts the proposed solutions in

place after next winter. Even if industry-led efforts failed, the Commission would still have had enough time to put forward a proposal similar to this in time for the winter of 2015–16. I fear that by releasing this NOPR now, we are doing a disservice to those involved in industry-led efforts, by giving them just enough time to get started, but also ensuring they do not have enough time to complete their work. In retrospect, if the Commission was not fully supportive of giving these groups until the middle of this year to complete discussions, we should have saved everyone the hassle and simply issued a NOPR months ago.

My second concern is related to a concurrent NAESB process the Commission proposes simultaneous to this NOPR. As a consensus-driven organization, NAESB is dependent on all parties having a reason to negotiate and compromise upon sometimes difficult technical issues in which there are vested interests. I worry this effort may be less-than-fruitful now that the Commission has already set out its marker and put its thumb on the scale. Parties that might have had an interest in negotiating in good faith may see little reason to do so if they feel like they will ultimately get from this Commission most of what they wanted in the first place. We have effectively short-circuited any chance for industry to collaborate or compromise in the spirit of true negotiation, perhaps consigning the NAESB process to the same fate we have now given to other consensus-driven efforts.

For these reasons, I respectfully dissent.

Tony Clark

Commissioner

[FR Doc. 2014–06757 Filed 3–31–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–1021]

RIN 1625–AA09

Drawbridge Operation Regulation; Isle of Wight (Sinepuxtent) Bay, Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the US 50 Bridge, over Isle of Wight (Sinepuxent) Bay, mile 0.5, at Ocean City, MD. This proposal would revise the current closure times to accommodate heavy volumes of vehicular traffic following the annual July 4th fireworks show.

DATES: Comments and related material must reach the Coast Guard on or before May 16, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2013–1021 using any one of the following methods:

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

(2) Fax: 202–493–2251.

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mrs. Traci Whitfield, Fifth Coast Guard District Bridge Administration Division, Coast Guard; telephone 757–398–6629, email *traci.g.whitfield@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

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code

A. Public Participation and Request for Comments

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

1. Submitting Comments

If you submit a comment, please include the docket number for this proposed rulemaking (USCG–2013–1021), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2013–1021] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–1021) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor

union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

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

B. Regulatory History and Information

On November 14, 2011 we published a Final rule entitled Drawbridge Operation Regulations; Isle of Wight (Sinepuxent) Bay, Ocean City, MD in the **Federal Register** (76 FR 70346). This rule initially added dates and times that the bridge was allowed to remain in the closed position to accommodate heavy volumes of vehicular traffic due to the annual fireworks show on July 4th or July 5th should inclement weather prevents the event from taking place as planned.

C. Basis and Purpose

The Ocean City Police Department, on behalf of the Maryland Department of Transportation, has requested to change the operating regulation for the US 50 Bridge across Isle of Wight (Sinepuxent) Bay, mile 0.5, at Ocean City, MD. To accommodate the annual Ocean City July 4th fireworks show and the heavy volumes of vehicular traffic that transit across the drawbridge after the show, the Ocean City Police Department requested that the times be changed to remain in the closed position from 9:30 p.m. until 10:30 p.m., to 10:00 p.m. until 11:00 p.m. Since the firework show runs between 9:30 p.m. and 10:00 p.m., there is very little traffic crossing the bridge. However, there remains a high volume of traffic between 10:30 p.m. and 11:00 p.m. This change will better reflect the actual time when the traffic is at its heaviest crossing the bridge. The exact date of the closure will be published locally in the Local Notice to Mariners and Broadcast Notice to Mariners.

The vertical clearance of the bascule bridge is 13 feet above mean high water in the closed position and unlimited in the open position.

D. Discussion of Proposed Rule

The Coast Guard proposes to change § 117.559(c) from the bridge needing not to open from 9:30 p.m. to 10:30 p.m. to needing not to open from 10:00 p.m. to 11:00 p.m. This proposed change in the rule will allow for a more orderly process of transiting heavy volumes of vehicular traffic following the annual July 4th fireworks show.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The changes are expected to have minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the revised scheduled to minimize delays. Additionally, as mariners are familiar with this event because for the past 12 years the Coast Guard has allowed the bridge to remain in the closed position for it, a bridge closure should not be unexpected.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels needing to transit through the bridge from 10:00 p.m. until 11:00 p.m., on July 4th or July 5th of every year. This action will not have a significant economic impact on a substantial number of small entities because the rule adds minimal restrictions to the movement of navigation and mariners who plan their transits in accordance with the scheduled bridge closure can minimize delay. A bridge closure has occurred every year for the past 12 years for this event; therefore, mariners should be familiar with planning their transits accordingly. Vessels that can safely transit under the bridge may do so at any time.

3. Assistance for Small Entities

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

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.559(c) to read as follows:

§ 117.559 Isle of Wight (Sinepuxent) Bay.

* * * * *

(c) On July 4, the draw need not open from 10:00 p.m. until 11:00 p.m. to accommodate the annual July 4th fireworks show. Should inclement weather prevent the fireworks event from taking place as planned, the draw need not open from 10:00 p.m. until 11:00 p.m. on July 5th to accommodate the annual July 4th fireworks show.

Dated: March 20, 2014.

Steven H. Ratti,

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

[FR Doc. 2014–07267 Filed 3–31–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0155]

RIN 1625–AA00

Safety Zone, Atlantic Intracoastal Waterway; Morehead City, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the waters of the Atlantic Intracoastal Waterway at Morehead City, North Carolina. The safety zone is necessary to provide for the safety of mariners on navigable waters during maintenance on the U.S. 70 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 203.7, at Morehead City, North Carolina. The safety zone will temporarily restrict vessel movement within the designated area.

DATES: Comments and related material must be received by the Coast Guard on or before May 1, 2014.

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

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

(2) *Fax:* 202–493–2251.

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

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

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

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Public Participation and Request for Comments

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

1. Submitting Comments

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

To submit your comment online, go to *http://www.regulations.gov*, type the docket number [USCG–2014–0155] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number (USCG–2014–0155) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

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

B. Basis and Purpose

North Carolina Department of Transportation has awarded a contract to FREYSSINET, INC of Sterling, Virginia to perform bridge maintenance on the U.S. 70 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 203.7, at Morehead City, North Carolina. Concrete demolition, repair, shotcreting work and bridge bearing repair is scheduled to commence on July 19, 2014, with a completion date of April 25, 2015. The contractor will utilize a 40 foot by 60 foot barge as a work platform and for equipment staging. This safety zone will provide a safety buffer to transiting vessels as bridge repairs present potential hazards to mariners and property due to reduced horizontal clearance. Due to the need to protect mariners from the hazards associated with the bridge maintenance, vessel traffic will be temporarily restricted from transiting within the area. In addition, during this period the Coast Guard will require a two hour notification to the work supervisor for passage through the U.S. 70 Fixed Bridge along the Atlantic Intracoastal Waterway, mile 203.7, Morehead City, North Carolina. The bridge notification requirement will apply during the maintenance period for vessels requiring a horizontal clearance of greater than 40 feet.

C. Discussion of Proposed Rule

The proposed temporary safety zone will encompass the waters directly under the U.S. 70 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 203.7, at Morehead City, North Carolina (34°43′16″ N, 076°41′37″ W). In the interest of public safety, general navigation within the safety zone will be restricted during the specified date and times. Except for vessels authorized by the Coast Guard Captain of the Port or his representative, no person or vessel may enter or remain in the regulated area. All vessels transiting this section of the waterway requiring a horizontal clearance of greater than 40 feet will be required to make a two hour advance notification to the work supervisor while the safety zone is in effect. This zone will be in effect daily, 11 p.m. until 5 a.m., from July 19, 2014 through April 25, 2015.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule does not restrict traffic from transiting the designated portion of the Atlantic Intracoastal Waterway, it imposes a two hour notification to ensure the waterway is clear of impediment to allow passage to vessels requiring a horizontal clearance of greater than 40 feet.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of commercial tug and barge companies, recreational and commercial fishing vessels intending to transit the specified portion of Atlantic Intracoastal Waterway, 11 p.m. until 5 a.m., from July 19, 2014 through April 25, 2015.

This safety zone would not have a significant economic impact on a

substantial number of small entities for the following reasons. Although the safety zone will apply to this section of the Atlantic Intracoastal Waterway, vessel traffic requiring a horizontal clearance of greater than 40 feet will be able to request passage by providing a two hour advanced notification to the work supervisor. All those requiring less than 40 feet may pass at any time. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

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

3. Assistance for Small Entities

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–0155 to read as follows:

§ 165.T05–0155 Safety Zone, Atlantic Intracoastal Waterway; Morehead City, NC.

(a) Regulated Area. The following area is a safety zone: This zone includes the waters directly under and 100 yards either side of the U.S. 70 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 203.7, at Morehead City, North Carolina (34°43′16″ N, 076°41′37″ W).

(b) Regulations. The general safety zone regulations found in 33 CFR

165.23 apply to the safety zone created by this temporary section, § 165.T05–0155. In addition the following regulations apply:

(1) All vessels requiring greater than 40 feet horizontal clearance to safely transit through the U.S. 70 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 203.7, at Morehead City, North Carolina must contact the work supervisor tender on VHF–FM marine band radio channels 10 and 13 or at (703) 786–7607 two hours in advance of intended transit.

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

(3) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

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

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

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

(3) Work Supervisor means the contractor's on site representative.

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

(e) Enforcement period. This section will be enforced daily 11 p.m. until 5 a.m., from July 19, 2014 through April 25, 2015 unless cancelled earlier by the Captain of the Port.

Dated: March 16, 2014.

S.R. Murtagh,

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

[FR Doc. 2014–07265 Filed 3–31–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2014–0191; FRL–9908–26–Region6]

Approval and Promulgation of Implementation Plans; Texas; Revisions to the Minor New Source Review (NSR) State Implementation Plan (SIP); Types of Standard Permits, State Pollution Control Project Standard Permit and Control Methods for the Permitting of Grandfathered and Electing Electric Generating Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve several revisions to the Texas State Implementation Plan (SIP) related to the Texas Minor New Source Review (NSR) Standard Permits (SP) Program. First, EPA is approving revisions submitted by the Texas Commission on Environmental Quality (TCEQ, or Commission) on January 3, 2000, and March 11, 2011, expanding the Texas SP Program to include the Rule Standard Permit (Rule SP). The EPA is also proposing to approve a revision to the Texas SIP submitted by the TCEQ on February 1, 2006, for a specific Rule SP, the Rule Standard Permit for Pollution Control Projects (Rule SP for PCP) as meeting the requirements for a Minor NSR SIP revision. Finally, because EPA is proposing to approve the Rule SP for PCP, EPA is also proposing to approve a severable portion of the January 3, 2000, submittal concerning the Texas Senate Bill 7 (SB7) permitting program for grandfathered and electing electric generating facilities (EGFs). All of the Texas SB7 EGFs permitting program provisions have been approved as part of the Texas NSR SIP except for this severable portion. This severable portion allowing for the use of the Rule SP for PCP for permitting of collateral emission increases is being proposed for approval as meeting the requirements for a Minor NSR SIP revision. EPA is proposing these actions under section 110 of the Federal Clean Air Act (the Act or CAA) through a direct final rulemaking.

DATES: Written comments should be received on or before May 1, 2014.

ADDRESSES: Comments may be mailed to Ms. Adina Wiley, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Rick Barrett, (214) 665–7227, *barrett.richard@epa.gov.* Adina Wiley, (214) 665–2115, *wiley.adina@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant, adverse comments are received in response to this action no further activity is contemplated. If EPA receives relevant, adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: March 21, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–07128 Filed 3–31–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–HQ–OAR–2012–0233; FRL–9908–80–OAR]

Air Quality Designations for the 2010 Sulfur Dioxide (SO_2) Primary National Ambient Air Quality Standard (NAAQS): Notice of Action Denying Petition for Reconsideration and Stay Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of action denying petition for reconsideration and stay request.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice that it has responded to a petition for reconsideration of a rule published in the **Federal Register** on August 5, 2013, that promulgated the initial air quality designations for the 2010 Primary Sulfur

Dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) for certain areas in the United States. The rule is titled, ''Air Quality Designations for the 2010 SO_2 Primary NAAQS.'' Subsequent to publishing the rule, the EPA received three petitions requesting that the EPA reconsider its designation decisions for certain areas. This document announces the EPA's response to one of those petitions: a petition from U.S. Steel requesting the EPA to reconsider its designation decision for Detroit, Michigan. A subsequent document will announce the EPA's response to the other two petitions. The EPA carefully considered the U.S. Steel's petition and supporting information, along with information contained in the rulemaking docket, in reaching its decision on the petition. The EPA denied the U.S. Steel's petition for reconsideration in a letter to the petitioner dated March 11, 2014. The letter explains the EPA's reasons for the denial. The petitioner also requested that the EPA stay the effectiveness of the designations rule, pending reconsideration. Because the EPA denied the reconsideration request, the EPA also denied the stay request.

DATES: The petition for reconsideration discussed in this document is denied as of April 1, 2014.

FOR FURTHER INFORMATION CONTACT: Rhonda Wright, Air Quality Planning Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539–04, Research Triangle Park, NC 27711; telephone: (919) 541–1087; email: *wright.rhonda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Where can I get copies of this document and other related information?

This **Federal Register** document, the petition for reconsideration and the response letter to the petitioner are available in the EPA's docket established for the rulemaking to promulgate the air quality designations for the 2010 SO_2 Primary NAAQS, under Docket ID No. EPA–HQ–OAR–2012–0233. The table below identifies the petitioner, the date of petition to the EPA, the document identification number of the petition in the docket, the date of the EPA's acknowledgement letter and the document identification number in the docket for the EPA's response.

Petitioner	Date of petition to the EPA	Petition: document No. in docket	Date of the EPA response	The EPA response: document number in docket
Detroit, MI Nonattainment Area				
U.S. Steel Corporation—Great Lakes Works	October 2, 2013	0357	March 11, 2014	−0363

All documents in the docket are listed in the index at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* confidential business information or other information where 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 through *http://www.regulations.gov* or in hard copy at EPA's Docket Center, Public Reading Room, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. This Docket Center 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 Air Docket is (202) 566–1742.

In addition, the EPA has established a Web site for the SO_2 designations rulemaking at *http://www.epa.gov/so2designations.* This **Federal Register** notice, the petition for reconsideration, and the response letter to the petitioner are also available on this Web site along with other information relevant to the designations process.

II. Judicial Review

Section 307(b)(1) of the Clean Air Act indicates which Federal Courts of Appeal have venue for petitions for review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit (i) when the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' In the rule establishing air quality designations for the 2010 SO_2 Primary NAAQS, the EPA determined that the actions are of nationwide scope and effect for the purposes of section 307(b)(1). (*See* 78 FR 47191, 47197 (August 5, 2013).)

The EPA has determined that its action denying the petition for reconsideration also is of nationwide scope and effect because this action directly relates to the SO_2 designations rulemaking that the EPA previously determined is of nationwide scope and effect. Thus, any petition for review of the final letter denying the petition for reconsideration must be filed in the Court of Appeals for the District of Columbia Circuit on or before June 2, 2014.

Dated: March 19, 2014.

Janet McCabe,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2014–06813 Filed 3–31–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 80 and 95

[WT Docket No. 14–36; FCC 14–20]

Maritime Radio Equipment and Related Matters

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) invites comment on issues regarding updating rules and requirements for technologies used to locate and rescue distressed ships and individuals in distress at sea or on land to provide better and more accurate data to rescue personnel. The Commission also invites comments on rules regarding radar equipment, the use of portable marine Very High Frequency (VHF) transmitters by persons on shore;

permitting VHF digital small message service (VDSMS); and allowing assignment or transfer of control of ship station licenses.

These rules will enable the maritime radio services to better protect lives and property at sea, as well as support improved day-to-day operations. New technologies will be used to locate and rescue distressed ships and individuals in distress at sea or on land to provide better and more accurate data to rescue personnel.

DATES: Submit comments on or before June 2, 2014, and reply comments are due on or before June 30, 2014.

ADDRESSES: You may submit comments, identified by WT Docket No. 14–36, FCC 14–20, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: *http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- Mail: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.
- People With Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone 202–418–0530 or TTY: 202–418–0432.

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

FOR FURTHER INFORMATION CONTACT: James Shaffer, *James.Shaffer@FCC.gov,* Wireless Telecommunications Bureau, (202) 418–0687, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* (''*NPRM*'') in WT Docket No. 14–36, FCC 14–20, adopted on February 27, 2014, and released on February 28, 2014. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.* Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

1. In this *NPRM* the Commission invites comment on whether to amend Parts 80 and 95 of our rules to: (1) Require emergency position indicating radio beacons (EPIRBs) to be capable of broadcasting position data when activated, which will improve the ability of rescue personnel to locate distressed ships; (2) update the equipment standards for Personal Locator Beacons (PLBs) to ensure that PLBs meet updated functional and technical parameters; (3) authorize equipment certification and use of Satellite Emergency Notification Devices (SENDs) that comply with RTCM standards, providing for the use of additional technologies for safety of life and rescue scenarios; (4) permit equipment certification and use of Maritime Survivor Locating Devices (MSLDs) that comply with RTCM standards, in order to enhance maritime safety; (5) provide for equipment certification and use of Automatic Identification System Search and Rescue Transmitters (AIS–SARTs) that comply with international standards, which will contribute to maritime safety; (6) clarify the rules regarding radar equipment; (7) permit the use of portable marine VHF radio transmitters by persons on shore; (8) permit VHF digital small message services (VDSMS) on certain maritime VHF channels; (9) allow assignment or transfer of control of ship station licenses, removing a regulatory hurdle to secondary market transactions; and (10) correct certain typographical errors.

I. Procedural Matters

Paperwork Reduction Analysis

2. This *NPRM* does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain a proposed new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Ex Parte Presentations

3. This is a permit-but-disclose notice and comment in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must: (1) List all persons attending or otherwise participating in the meeting at which the ex parte presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Comment Dates and Filing Procedures

4. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before June 2, 2014 and reply comments on or before June 30, 2014. All filings related to the *NPRM* should refer to WT Docket No. 14–36.

5. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), the Federal Government's eRulemaking Portal, or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

6. Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.

7. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the

caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet email. To get filing instructions, filers should send an email to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

8. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

9. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

10. The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

11. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

12. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

13. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via email to *fcc@bcpiweb.com.*

14. *Availability of documents.* The public may view the documents filed in this proceeding during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street SW., Room CY–A257, Washington, DC 20554, and on the Commission's Internet Home Page: <*http://www.fcc.gov*>. Copies of comments and reply comments are also available through the Commission's duplicating contractor: Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160, may be reached by email at *fcc@bcpiweb.com* or via BCPI's Web site at <*WWW.BCPIWEB.COM*>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to <*fcc504@fcc.gov*> or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

II. Initial Regulatory Flexibility Analysis

15. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Notice of Proposed Rulemaking* (*NPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in this *NPRM* The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

16. In the *NPRM,* we seek comment on rule amendments that are intended to enhance maritime safety and promote the efficient use of maritime radio spectrum. We also seek to conform the Commission's part 80 rules with international standards where doing so will not undermine domestic regulatory objectives.

17. In the *NPRM,* we first request comment on whether to require emergency position indicating radio beacons (EPIRBs) be capable of broadcasting GPS data when activated. EPIRBs are carried on board ships to alert others of a distress situation, and to assist search and rescue units in locating those in distress. EPIRBs that transmit GPS coordinates enable search and rescue authorities to determine an accurate location significantly faster than traditional EPIRBs, which rely on satellite Doppler shift to identify the distress location. Second, we invite comments on whether to update the equipment standards for Personal Locator Beacons (PLBs). Like EPIRBs, PLBs send distress signals that are detected by satellite and relayed to search and rescue authorities. Incorporation of the most recent standards will ensure that PLBs meet current functional and technical parameters. Third, we ask commenters to consider whether we should amend the rules to authorize equipment certification and use of Satellite Emergency Notification Devices (SENDs) under Part 95 of the Commission's Rules, or continue to authorize them under Part 25. SENDs also send distress signals, but they typically are subscription services that utilize commercial mobile satellite service systems. Fourth, we ask whether to permit equipment certification and use of Maritime Survivor Locating Devices (MSLDs). MSLDs are intended for use by persons at risk of falling into the water such as mariners and workers on marine installations or docks. Fifth, we ask whether to provide for equipment certification and use of Automatic Identification System Search and Rescue Transmitters (AIS–SARTs) devices that comply with international standards. Like EPIRBs, SARTs are carried on board ships to alert others of a distress situation, and to assist search and rescue units in locating those in distress. Unlike traditional 9 GHz SARTs, AIS–SARTs a unique identification code and GPS coordinates to all AIS-equipped vessels within VHF radio range. Sixth, we solicit comment of clarifying certain radar equipment standards that must be met by voluntary and compulsory vessels. The standards currently incorporated in the rules impose unnecessary burdens on voluntary vessels. Seventh, we ask commenters to consider whether we should permit the use of portable marine VHF radio transmitters by persons on shore. Eighth, we invite comment on whether to permit VHF digital small message service (VDSMS) on certain maritime VHF channels to promote flexibility and efficiency in the use of marine communications. Finally, we request comment of whether to allow applications of assignment or transfer control of ship licenses.

Legal Basis

18. Authority for issuance of this item is contained in sections 4(i), 303(r), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 332(a)(2).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

19. The RFA directs agencies to provide a description of and, where

feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

20. *Marine Radio Services.* Small businesses in the aviation and marine radio services use a marine very high frequency (VHF), medium frequency (MF), or high frequency (HF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, an aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category Wireless Telecommunications Carriers (except satellite),'' which is 1,500 or fewer employees. For this category, census data for 2007 show that there were 11,163 establishments that operated for the entire year. Of this total, 10,791 establishments had employment of 999 or fewer employees and 372 had employment of 1000 employees or more. Thus under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities that may be affected by our proposed action.

21. *Wireless Service Providers.* The proposed rules would affect licensees using VHF Public Coast spectrum. In the *Third Report and Order* in PR Docket No. 92–257, the Commission defined the term ''small entity'' specifically applicable to public coast station licensees as any entity employing less than 1,500 persons, based on the definition under the Small Business Administration rules applicable to radiotelephone service providers. *See* Amendment of the Commission's Rules Concerning Maritime Communications, *Third Report and Order and Memorandum Opinion and Order,* PR Docket No. 92–257, 13 FCC Rcd 19853, 19893 (1998) (citing 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812). Below, we provide the economic census category and data for wireless entities, which encompasses public coast stations.

22. The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

23. *Radio Equipment Manufacturers.* Some of the rules proposed herein may also affect small businesses that manufacture marine radio equipment and radiobeacon equipment designed for distress alerting and location. The Census Bureau does not have a category specific to these equipment manufacturers. The appropriate category is that for wireless communications equipment manufacturers. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is all such firms having 750 or fewer employees. According to Census bureau data for 2007, there were a total of 939 firms in this category that operated that year. Of this total, 912 had fewer than 500 employees and 27 had 500 or more employees. Thus, under this size standard, the majority of firms can be considered small.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

24. We invite interested parties to address the economic impact of these possible rule changes on small vessel operators, small marine radio equipment manufacturers and other small businesses that may be subject to the new requirements. We seek information on whether the compliance costs may outweigh the safety benefits of these rule changes, and whether there are alternative means of securing the safety benefits of these requirements through means that are less burdensome to regulatees. We do not believe any of the matters discussed in the *NPRM* would have a direct, significant economic impact on a substantial number of small entities. We note that most of the proposals would not require the replacement of any equipment. Only EPIRBs (which only commercial vessels are required to carry) and PLBs (which no vessel is required to carry) might be subject to a requirement to stop using existing models after a certain date. The *NPRM* seeks comment on whether, and if so, when, to phase out existing EPIRBs and PLBs. However, any commenters that disagree with that tentative conclusion are asked to explain the basis of that disagreement.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

25. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

26. In the *NPRM,* we ask that commenters provide information on economic impact to manufacturers and consumers if the Commission were to adopt various standards to accommodate VDSMS, MSLDs, SENDs, and AIS–SARTs. The proposed requirements for the equipment generally take the form of performance standards rather than design standards, and therefore confer on smaller entities

the flexibility to select the most economical design that can achieve the required performance. For example, the RTCM standards for VDSMS, MSLDs and SENDs equipment that we propose to incorporate in 47 CFR Parts 80 and 95 mandate certain functionality for the equipment but do not mandate that manufacturers design their equipment in any particular way in order to achieve that functionality.

27. In the *NPRM,* we also seek comment on whether the Commission should require that EPIRBs be capable of broadcasting GPS data when activated. Notwithstanding the important safety benefits that would accrue from imposing such a requirement, we request that interested parties to address the cost to comply with the requirement and whether the costs of such a requirement would outweigh the safety benefits. Commenters are asked to suggest any alternatives or supplementary measures that can be taken to facilitate search and rescue efforts. Commenters are asked to address measures to reduce the compliance burden of such a requirement on small entities.

Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

28. None.

List of Subjects in 47 CFR Parts 1, 80, and 95

Communications equipment, Incorporation by reference, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 80 and 95 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1403, 1404, and 1451.

■ 2. Section 1.948 is amended by revising paragraph (b)(5) to read as follows:

§ 1.948 Assignment of authorization or transfer of control, notification of consummation.

* * * * *

(b) * * *

(5) Licenses, permits, and authorizations for stations in the Amateur, Commercial Operator and Personal Radio Services (except 218–219 MHz Service) may not be assigned or transferred, unless otherwise stated.

* * * * *

PART 80—STATIONS IN THE MARITIME SERVICES

■ 3. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

■ 4. Section 80.7 is amended by:
■ a. Revising paragraphs (b)(28), (d)(5), (d)(8) and (d)(12);
■ b. Removing paragraph (d)(17);
■ c. Re-designating paragraphs (d)(14) through (d)(16) as (d)(15) through (d)(17);
■ d. Adding new paragraph (d)(14);
■ e. Revising paragraphs (f)(2) and (f)(3) and adding paragraph (f)(4);
■ f. Removing paragraph (g).

The additions and revisions to read as follows:

§ 80.7 Incorporation by reference.

* * * * *

(b) * * *

(28) IMO Resolution MSC.246(83), (''IMO Resolution MSC.246(83)'') ''Adoption of Performance Standards for Survival Craft AIS Search and Rescue Transmitters (AIS–SART) for Use in Search and Rescue Operations.'' IBR approved for § 80.233.

* * * * *

(d) * * *

(5) IEC 61097–3:1994 (''IEC 61097–3''), First edition, 1994–06, ''Global maritime distress and safety system (GMDSS)—Part 3: Digital selective calling (DSC) equipment—Operational and performance requirements, methods of testing and required testing results,'' with Annexes, IBR approved for § 80.1101.

* * * * *

(8) IEC 61097–7:1996 (''IEC 61097–7''), First edition, 1996–10, ''Global maritime distress and safety system (GMDSS)—Part 7: Shipborne VHF radiotelephone transmitter and receiver—Operational and performance requirements, methods of testing and required test results,'' IBR approved for § 80.1101.

* * * * *

(12) IEC 61097–12:1996(E) (''IEC 61097–12''), First edition, 1996–11, ''Global maritime distress and safety system (GMDSS)—Part 12: Survival craft portable two-way VHF radiotelephone apparatus—Operational and performance requirements, methods of testing and required test results,'' IBR approved for § 80.1101.

* * * * *

(14) IEC 61097–14 Ed. 1 (''IEC 61097–14''), ''Global maritime distress and safety system (GMDSS)—Part 14: AIS search and rescue transmitter (AIS–SART)—Operational and performance requirements, methods of testing and required test results.'' ED 1.0 (2010–02), IRB approved for § 80.233.

* * * * *

(f) * * *

(2) RTCM Standard 11000.3 (''RTCM 11000''), ''RTCM Standard 11000.3 for 406 MHz Satellite Emergency Position-Indicating Radiobeacons (EPIRBs),'' June 12, 2012, IBR approved for § 80.1061.

(3) RTCM Standard 11020.1 (''RTCM 11020''), ''RTCM Standard 11020.1, Ship Security Alert Systems (SSAS) Using the Cospas-Sarsat System,'' October 9, 2009, IBR approved for § 80.277.

(4) RTCM Standard 12301.1 (''RTCM 12301''), VHF–FM Digital Small Message Services, July 10, 2009, IBR approved for § 80.361.

■ 5. Section 80.157 is revised to read as follows:

§ 80.157 Radio officer defined.

A *radio officer* means a person holding a First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, or Radiotelegraph Operator License issued by the Commission, who is employed to operate a ship radio station in compliance with Part II of Title III of the Communications Act. Such a person is also required to be licensed as a *radio officer* by the U.S. Coast Guard when employed to operate a ship radiotelegraph station.

■ 6. Section 80.159 is amended by revising paragraph (b) as follows:

§ 80.159 Operator requirements of Title III of the Communications Act and the Safety Convention.

* * * * *

(b) Each cargo ship equipped with a radiotelegraph station in accordance with Part II of Title III of the Communications Act and which has a radiotelegraph auto alarm must carry a radio officer holding a First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, or Radiotelegraph Operator License who has had at least six months service as a radio officer on board U.S. ships. If the radiotelegraph station does not have an auto alarm, a second radio officer who holds a First Class

Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, or Radiotelegraph Operator License must be carried.

* * * * *

■ 7. Section 80.203 is amended by adding paragraphs (b)(3)(i) through-(iv) to read as follows:

§ 80.203 Authorization of transmitters for licensing.

* * * * *

(b) * * *

(3) * * *

(i) Internal adjustments of the transmitter;

(ii) Use of controls normally inaccessible to the station operator;

(iii) Use of external devices or equipment modules made available only to service and maintenance personnel through a service company; and

(iv) Copying of a channel selection program directly from another transmitter (cloning) using devices and procedures made available only to service and maintenance personnel through a service company.

* * * * *

■ 8. Section 80.231 is amended by revising paragraph (c) introductory text to read as follows:

§ 80.231 Technical requirements for Class B Automatic Identification System equipment.

* * * * *

(c) Prior to submitting a certification application for a Class B AIS device, the following information must be submitted in duplicate to the Commandant CG–ENG, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126:

* * * * *

■ 9. Section 80.233 is added to read as follows:

§ 80.233 Technical requirements for Automatic Identification System Search and Rescue Transmitters (AIS–SART) equipment.

(a) Automatic Identification System Search and Rescue Transmitter (AIS–SART) equipment must meet the technical requirements of IEC 61097–14 and IMO Resolution MSC.246(83) (incorporated by reference, *see* § 80.7(b)).

(b) Prior to submitting a certification application for an AIS–SART device, the following information must be submitted in duplicate to the Commandant CG–ENG, U.S. Coast Guard Headquarters, 2100 Second Street SW. Stop 7126, Washington, DC 20593–7126:

(1) The name of the manufacturer or grantee and the model number of the AIS–SART device; and

(2) Copies of the test report and test data obtained from the test facility showing that the device complies with the environmental and operational requirements identified in IEC 61097–14.

(c) After reviewing the information described in this paragraph (the U.S. Coast Guard will issue a letter stating whether the AIS–SART device satisfies all of the requirements specified in IEC 61097–14.

(d) A certification application for an AIS–SART device submitted to the Commission must contain a copy of the U.S. Coast Guard letter stating that the device satisfies all of the requirements specified in IEC 61097–14, a copy of the technical test data, and the instruction manual(s).

■ 10. Section 80.273 is amended by removing paragraph (b), re-designating paragraphs (c) and (d) as paragraphs (b) and (c), and revising newly re-designated paragraph (b) to read as follows:

§ 80.273 Radar standards.

* * * * *

(b) For any ship of 10,000 tons gross tonnage and upwards or that is otherwise required to be equipped with two radar systems, each of the two radar systems must be capable of operating independently and must comply with the specifications, standards and general requirements set forth on paragraph (a) of this section. One of the systems must provide a display with an effective diameter of not less than 340 millimeters (13.4 inches), (16-inch cathode ray tube). The other system must provide a display with an effective diameter of not less than 250 millimeters (9.8 inches), (12-inch cathode ray tube).

* * * * *

■ 11. Section 80.277 is amended by revising paragraph (a)(1) to read as follows:

§ 80.277 Ship Security Alert System (SSAS).

(a) * * *

(1) Equipment that complies with RTCM 11020 (incorporated by reference, §§ 80.7); or

* * * * *

■ 12. In part 80, subpart H revise the undesignated center heading to read ''RADIOTELEGRAPHY AND DATA''.

■ 13. Revise § 80.351 to read as follows:

§ 80.351 Scope.

The following sections describe the carrier frequencies and general uses of radiotelegraphy and data transmission with respect to the following:

(a) Distress, urgency, safety, call and reply.

(b) Working.

(c) Digital selective calling (DSC).

(d) Narrow-band direct-printing (NB–DP).

(e) Facsimile.

(f) VHF–FM digital small message services (VDSMS).

■ 14. Section 80.364 is added under the undesignated center heading for ''Radiotelegraphy and Data'' to read as follows:

§ 80.364 Frequencies for VHF digital small message services (VDSMS).

(a) Except as set forth in paragraph (b) of this section, frequencies in the 156–162 MHz band may be used for VHF digital small message services (VDSMS) complying with RTCM 12301 (incorporated by reference, *see* § 80.7).

(b)(1) The following table designates VHF–FM channels not available for digital small message service.

Channel	Frequency (MHz)
06	156.300
67	156.375
70	156.525
13	156.650
15	156.750
75	156.775
16	156.800
76	156.825
17	156.850
22A	157.100
AIS 1/2	161.975/162.025

(2) Unless authorized by the United States Coast Guard, VDSMS is also prohibited in designated U.S. Coast Guard Vessel Traffic Service areas on frequencies reserved for those services under § 80.373(f).

■ 15. Section 80.1005 is revised to read as follows:

§ 80.1005 Inspection of station.

The bridge-to-bridge radiotelephone station will be inspected on vessels subject to regular inspections pursuant to the requirements of Parts II and III of Title III of the Communications Act, the Safety Convention or the Great Lakes Agreement at the time of the regular inspection. If after such inspection, the Commission determines that the Bridge-to-Bridge Act, the rules of the Commission and the station license are met, an endorsement will be made on the appropriate document. The validity of the endorsement will run concurrently with the period of the regular inspection. Each vessel must carry a certificate with a valid endorsement while subject to the Bridge-to-Bridge Act. All other bridge-

to-bridge stations will be inspected from time to time. An inspection of the bridge-to-bridge station on a Great Lakes Agreement vessel must normally be made at the same time as the Great Lakes Agreement inspection is conducted by a technician holding one of the following: a General Radiotelephone Operator License, a GMDSS Radio Maintainer's License, a Radiotelegraph Operator License, a Second Class Radiotelegraph Operator's Certificate, or a First Class Radiotelegraph Operator's Certificate. Additionally, the technician must not be the vessel's owner, operator, master, or an employee of any of them. Ships subject to the Bridge-to-Bridge Act may, in lieu of an endorsed certificate, certify compliance in the station log required by § 80.409(f).

■ 16. Section 80.1053 is revised to read as follows:

§ 80.1053 Prohibition on certification, manufacture, importation, sale or use of Class A, Class B, Class S, and INMARSAT–E EPIRBs.

The manufacture, importation, sale or use of Class A, Class B, Class S, or INMARSAT–E EPIRBs is prohibited. New Class A, Class B, Class S, or INMARSAT–E EPIRBs will no longer be certified by the Commission.

■ 17. Section 80.1061 is amended by revising paragraphs (a), (c) introductory text, (c)(1), and (c)(1)(ii) to read as follows:

§ 80.1061 Special requirements for 406.0–406.1 MHz EPIRB stations.

(a) Notwithstanding the provisions in paragraph (b) of this section, 406.0–406.1 MHz EPIRBs must meet all the technical and performance standards contained in RTCM 11000 (incorporated by reference, *see* § 80.7), and must also comply with the standards specified in § 80.1101(c)(5).

* * * * *

(c) Prior to submitting a certification application for a 406.0–406.1 MHz radiobeacon, the radiobeacon must be certified by a test facility recognized by one of the COSPAS–SARSAT Partners that the equipment satisfies the design characteristics associated with the measurement methods incorporated in RTCM Standard 11000 (incorporated by reference, *see* § 80.7). Additionally, the radiobeacon must be subjected to the environmental and operational tests associated with the test procedures described in Appendix A of RTCM Standard 11000 (incorporated by reference, *see* § 80.7), by a test facility accepted by the U.S. Coast Guard for this purpose. Information regarding accepted test facilities may be obtained from Commandant CG–ENG–4, US Coast Guard Headquarters, 2100 Second Street SW., Stop 7126, Washington, DC 20593–7126, *http://cgmix.uscg.mil/EQLabs/EQLabsSearch.aspx.*

(1) After a 406.0–406.1 MHz EPIRB has been certified by the recognized test facilities the following information must be submitted in duplicate to the Commandant CG–ENG, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Stop 7126, Washington, DC 20593–1726:

* * * * *

(ii) Copies of the certificate and test data obtained from the test facility recognized by a COSPAS/SARSAT Partner showing that the radiobeacon complies with the COSPAS–SARSAT design characteristics associated with the measurement methods described in the COSPAS/SARSAT Standard C/S T.001 and COSPAS–SARSAT Standard C/S T.007, and RTCM 11000 (all incorporated by reference, *see* § 80.7);

* * * * *

■ 18. Section 80.1085 is amended by revising paragraph (a)(3) to read as follows:

§ 80.1085 Ship radio equipment—General.

* * * * *

(a) * * *

(3) A radar transponder capable of operating in the 9 GHz band or an AIS–SART, which must be stowed so that it is easily utilized (this device may be one of those required by § 80.1095(b) for survival craft);

* * * * *

■ 19. Section 80.1095 is amended by revising paragraph (b) to read as follows:

§ 80.1095 Survival craft equipment.

* * * * *

(b) At least one radar transponder (or AIS–SART) must be carried on each side of every passenger ship and every cargo ship of 500 tons gross tonnage and upwards. At least one radar transponder (or AIS–SART) must be carried on every cargo ship of 300 tons gross tonnage and upwards but less than 500 tons gross tonnage. Such radar transponders (or AIS–SARTs) must conform to performance standards as specified in § 80.233 or § 80.1101. The radar transponders (or AIS–SARTs) must be stowed in such locations that they can be rapidly placed in any survival craft other than life rafts required on cargo ships in forward and aft areas (see Regulation III/26.1.4 of the SOLAS Convention). Alternatively, one radar transponder (or AIS–SART) must be stowed in each survival craft other than those required by Regulation III/26.1.4 of the SOLAS Convention. One of these radar transponders (or AIS–SARTs) may be the radar transponder (or AIS–SART) required by § 80.1085(a)(3).

* * * * *

PART 95—PERSONAL RADIO SERVICES

■ 20. The authority citation for part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

■ 21. In part 95, subpart K is amended by revising the subpart heading to read as follows:

Subpart K —Personal Locator Beacons (PLB) and Maritime Survivor Locating Devices (MSLD)

■ 22. Section 95.1400 is revised to read as follows:

§ 95.1400 Basis and purpose.

The rules in this subpart are intended to provide individuals in the water or in remote areas a means to alert others of an emergency situation and to aid search and rescue personnel in locating those in distress.

■ 23. Section 95.1402 is amended by revising paragraph (a) to read as follows:

§ 95.1402 Special requirements for 406 MHz PLBs.

(a) All 406 MHz PLBs must meet all the technical and performance standards contained in the Radio Technical Commission for Maritime (RTCM) Service document ''RTCM Standard 11010.2 for 406 MHz Satellite Personal Locator Beacons (PLBs),'' with Amendment 1, and with Amendment 2, dated June 8, 2012. This RTCM document is incorporated by reference in accordance with 5 U.S.C. 552(a), and 1 CFR part 51. Copies of the document are available and may be obtained from the Radio Technical Commission for Maritime Services, 1611 N. Kent Street, Suite 605, Arlington, Virginia 22209. The document is available for inspection at Commission headquarters at 445 12th Street SW., Washington, DC 20554. Copies may also be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

* * * * *

■ 24. Section 95.1403 is added to read as follows:

§ 95.1043 Special requirements for Maritime Survivor Locating Devices.

(a) Maritime Survivor Locating Devices (MSLDs) are devices intended

to aid in the location of persons in the water. Use on land is not authorized.

(b) Every MSLD sold in the United States after [INSERT DATE ONE YEAR AFTER EFFECTIVE DATE] that provides the functions described in this section, must meet all the technical and performance standards contained in RTCM document ''RTCM Standard 11901.1 for Maritime Survivor Locating Devices (MSLD), dated June 4, 2012.'' This RTCM document is incorporated by reference in accordance with 5 U.S.C. 552(a), and 1 CFR part 51. Copies of the document are available and may be obtained from the Radio Technical Commission for Maritime Services, 1611 N. Kent Street, Suite 605, Arlington, Virginia 22209. The document is available for inspection at Commission headquarters at 445 12th Street SW., Washington, DC 20554. Copies may also be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) All MSLDs must:

(1) Transmit on at least one of the following frequencies: 121.5 MHz, 156.525 MHz, 156.750 MHz, 156.800 MHz, 156.850 MHz, 161.975 MHz, 162.025 MHz; or

(2) Include a function intended to send a distress message directly to the U.S. Coast Guard or any other search and rescue organization.

(d) No device may be marketed or sold in the United States as a ''MSLD'' or ''Maritime Survivor Locating Device'' unless it is compliant with the requirements in this section.

(e) Before an MSLD certification application is submitted to the Commission, the applicant must have obtained test report from a test laboratory which shows that the MSLD complies with the electrical and environmental standards associated with RTCM 11901.1. The test laboratory must be accredited to ISO/IEC 17025 with a scope covering the applicable requirements and test procedures.

[FR Doc. 2014–07140 Filed 3–31–14; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 79, No. 62
Tuesday, April 1, 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

Forest Service

Sanders Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sanders Resource Advisory Committee (RAC) will meet in Thompson Falls, Montana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to discuss and recommend project proposals for approval.

DATES: The meeting will be held on April 17, 2014 at 7:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Thompson Falls Courthouse, 1111 Main Street, Thompson Falls, Montana.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Plains/Thompson Falls Ranger District. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Randy Hojem, Designated Federal Officer, by phone at 406–826–3821 or via email at *rhojem@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or procedings by contacting the person listed above.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/RAC/Sanders+County?OpenDocument.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 1, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Randy Hojem, Designated Federal Officer, P.O. Box 429 Plains, Montana 59859; or by email to *rhojem@fs.fed.us,* or via facsimile to 406–826–4358.

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: March 25, 2014.

Randy R. Hojem,

Designated Federal Official.

[FR Doc. 2014–07277 Filed 3–31–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Agricultural Library

Notice of Intent To Seek Approval To Collect Information

AGENCY: Agricultural Research Service, National Agricultural Library, United States Department of Agriculture.

ACTION: Notice and Request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Library's (NAL) intent to request approval to collect information via an online form. This voluntary form will be used by the Supplemental Nutrition Assistance Program Education (SNAP-Ed) personnel and nutrition education material developers to submit materials for review, and possible inclusion in the SNAP-Ed Connection Resource Finder. The following materials may be submitted: obesity prevention education materials targeting Supplemental Nutrition Assistance Program-eligible persons; materials related to the development, implementation, administration, and evaluation of SNAP-Ed programs; reports or other materials that demonstrate the effectiveness of SNAP-Ed funded programs; other materials developed by SNAP-Ed funded programs. The SNAP-Ed Connection Resource Finder may be used by SNAP-Ed personnel and others to easily search for resources and to learn about the work of other SNAP-Ed programs.

DATES: Comments on this notice must be received by June 2, 2014 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Jennifer Anderson, Acting Team Leader, Food and Nutrition Information Center, National Agricultural Library, 10301 Baltimore Avenue Beltsville, Maryland, 20705–2351, telephone (301) 504–6321 or fax (301) 504–6409. Submit electronic comments to *jennifer.anderson@ars.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: SNAP-Ed Connection Resource Sharing Form

OMB Number: PRA# 0518–0031

Expiration Date: Three years from date of approval

Type of Request: Renewal of existing data collection from SNAP-Ed personnel and nutrition education material developers. The previous data collection was titled the Food Stamp Nutrition Connection Sharing Form.

Abstract: In 2001, the United States Department of Agriculture's Food and Nutrition Service (FNS) established the Food Stamp Nutrition Connection to improve access to Food Stamp Program Education resources. In 2008, the Web site was renamed the SNAP-Ed Connection. The Web site is developed and maintained at the NAL FNIC. The SNAP-Ed Connection is a resource Web site for SNAP-Ed administrators and educators. SNAP-Ed personnel use the SNAP-Ed Connection Web site to locate curricula, participant materials, nutrition research, administrative documents, and information regarding SNAP-Ed program development, implementation, and evaluation. This resource Web site helps SNAP-Ed personnel find the tools and information they need to implement high-quality evidence-based obesity prevention programs.

The SNAP-Ed Connection Resource Finder is an online database of SNAP-Ed-related materials. The SNAP-Ed Connection Resource Sharing Form gives SNAP-Ed personnel, as well as those who develop nutrition education materials, the opportunity to voluntarily share information about resources that can be used to administer, develop, implement, evaluate, or showcase SNAP-Ed programs. Information collected via this form enables the SNAP-Ed Connection staff to review materials for possible inclusion in the SNAP-Ed Connection Resource Finder. SNAP-Ed personnel and other interested parties then search this database via the SNAP-Ed Connection Web site *http://snap.nal.usda.gov* to locate materials of interest. By using this database, SNAP-Ed-funded programs can share resources with each other, reduce duplication of efforts, and improve program quality. SNAP-Ed-funded programs can also learn about useful nutrition education materials created by other organizations.

Individuals may complete the form online or print the form and return it via mail. Respondents will provide contact information, ordering information, and information about the resource they are submitting. If the material is educational in nature, the respondents will be asked to complete additional questions about the resource. Respondents will also have the option of uploading documents and submitting multiple resources at one time.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response.

Respondents: SNAP-Ed personnel and others who develop nutrition education materials

Estimated Number of Respondents: 170 per year.

Estimated Total Annual Burden on Respondents: 132.5 hours

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of Agency functions, 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, including the validity of the methodology, and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: March 14, 2014.

Caird E. Rexroad, Jr.,

Associate Administrator, Agricultural Research Service.

[FR Doc. 2014–07224 Filed 3–31–14; 8:45 am]

BILLING CODE 3410–03–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maine Advisory Committee

Date and Time: Monday, April 14, 2014, 1:00 p.m. [EST].

Place: Via Teleconference. Public Dial-in 1–877–446–3914; Listen Line Code: 9307258.

TDD: Dial Federal Relay Service 1–800–977–8339 give operator the following number: 202–376–7533—or by email at *ero@usccr.gov*.

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 planning meeting of the Maine Advisory Committee to the Commission will convene via conference call. The purpose of the meeting is to plan for a briefing meeting on racial disparities in the Maine criminal justice system.

The meeting will be conducted via conference call. Members of the public, including persons with hearing impairments, who wish to listen to the conference call should contact the Eastern Regional Office (ERO), ten days in advance of the scheduled meeting, so that a sufficient number of lines may be reserved. You may contact the Eastern Regional Office by phone at 202–376–7533. Persons with hearing impairments would first call the Eastern Regional Office at the number listed above. Those contacting ERO will be given instructions on how to listen to the conference call.

Members of the public who call-in 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.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by Monday, May 14, 2014. Comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Melanie Reingardt at *ero@usccr.gov*. Persons who desire additional information may contact the Eastern Regional Office at 202–376–7533.

Records generated from this meeting may be inspected and reproduced at the Eastern 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 Eastern Regional Office at the above phone number, email or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated on March 26, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–07186 Filed 3–31–14; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware 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 planning meeting of the Delaware Advisory Committee to the Commission will convene at 10:30 a.m. (EDT) Thursday, April 24, 2014, at the offices of Young Conaway Stargatt & Taylor, LLP, located at 1000 N. King Street, Wilmington, DE 19801. The purpose of the planning meeting is to discuss and select the topic for the committee's civil rights project.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by Monday, May 26, 2014. Comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at ero@usccr.gov. Persons who desire additional information may contact the Eastern Regional Office at 202–376–7533.

Persons needing accessibility services should contact the Eastern Regional Office at least 10 working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Eastern 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 Eastern Regional Office at the above phone number, email or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated on March 26, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–07255 Filed 3–31–14; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[03/21/2014 through 03/26/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
Gulf States Manufacturers, LLC.	101 Airport Road, Starkville, MS 39759.	3/24/2014	The firm manufacturers metal buildings and components.
BesTech Tool Corp	1605 Corporate Center Drive, West Bend, WI 53095.	3/26/2014	The firm manufactures stamped and machined metal parts along with tooling used in the manufacturing process.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: March 26, 2014.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2014–07280 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–30–2014]

Foreign-Trade Zone 134—Chattanooga, Tennessee; Application for Reorganization/Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Chattanooga Chamber Foundation, grantee of FTZ 134, requesting authority to reorganize and expand the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on March 26, 2014.

FTZ 134 was approved by the FTZ Board on January 30, 1987 (Board Order 339, 52 FR 4370, 2/11/87) and expanded on April 18, 2008 (Board Order 1555, 73 FR 24939–24940, 5/6/2008). On February 22, 2000, the grant of authority was reissued to the Chattanooga Chamber Foundation (Board Order 1075, 65 FR 11548, 03/03/2000).

The current zone includes the following sites: *Site 1* (3 acres)—Cherokee Warehouses, 3318 Amnicola Highway, Chattanooga; *Site 2* (230 acres)—Riverport Industrial Park, Amnicola Highway and Stuart Street, Chattanooga; *Site 3* (3,133 acres) Enterprise South Industrial Park, Highway 58 and South Hickory Valley Road, Chattanooga; *Site 9* (523 acres)—

Nickajack Port and Industrial Park, New Hope; *Site 10* (12 acres)—Hiwassee River Industrial Park, 1590 Lauderdale Memorial Parkway, NW., Charleston; *Site 11* (87 acres)—Cleveland/Bradley Industrial Park, 620 Industrial Drive, Cleveland; *Site 13* (6 acres)—Roper Corporation, 3825 Davy Crockett Drive, Cleveland; *Site 14* (53 acres, expires 12/31/14)—Komatsu America Corporation, 409 Signal Mountain Road, Chattanooga; *Site 15* (7 acres, expires 12/31/14)—VW Group of America Chattanooga Operations, 6170 and 6301 Enterprise Park Drive, Chattanooga; and, *Site 16* (19 acres, expires 12/31/14)—VW Group of America Chattanooga Operations, 5901 Shallowford Road, Chattanooga. (Sites 4, 5, 6, 7, 8 and 12 expired on April 30, 2013).

The grantee's proposed service area under the ASF would be Hamilton, Marion, Grundy, Warren, Sequatchie, Bledsoe, Rhea, Meigs, Bradley, Polk and McMinn Counties, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Chattanooga Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize and expand its existing zone to remove temporary Site 15 and to include existing Sites 1, 2, 3, 9, 10 and 11 as ''magnet'' sites and existing Sites 13, 14 and 16 as usage-driven sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 3 be so exempted.

In accordance with the FTZ Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 2, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 16, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via www.trade.gov/ftz. For further information, contact Kathleen Boyce at Kathleen.Boyce@trade.gov or at (202) 482–1346.

Dated: March 27, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–07260 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity

and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after April 2014, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity To Request A Review: Not later than the last day of April 2014,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in April for the following periods:

	Period of review
Antidumping Duty Proceedings	
India: 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP), A–533–847	4/1/13–3/31/14
Russia: Solid Fertilizer-Grade Ammonium Nitrate, A–821–811	4/1/13–3/31/14
The People's Republic of China:	
1-Hydroxyethylidene-1, 1-Diphosphonic Acid, (HEDP), A–570–934	4/1/13–3/31/14
Activated Carbon, A–570–904	4/1/13–3/31/14
Drawn Stainless Steel Sinks, A–570–983	10/4/12–3/31/14
Frontseating Service Valves, A–570–933	4/1/13–3/31/14
Magnesium Metal, A–570–896	4/1/13–3/31/14
Non-Malleable Cast Iron Pipe Fittings, A–570–875	4/1/13–3/31/14
Steel Threaded Rod, A–570–932	4/1/13–3/31/14
Countervailing Duty Proceedings	
The People's Republic of China: Drawn Stainless Steel Sinks, C–570–984	8/1/6/12–12/31/13

Suspension Agreements

None.

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

Further, as explained in *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013), the Department has clarified its practice with regard to the conditional review of the non-market economy (NME) entity in administrative reviews of antidumping duty orders. The Department will no longer consider the NME entity as an exporter conditionally subject to administrative reviews. Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[3] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

[2] *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/.*

[3] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity).

Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS'') on the IA ACCESS Web site at *http://iaaccess.trade.gov.*[4] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of April 2014. If the Department does not receive, by the last day of April 2014, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

[4] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

Dated: March 10, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–07268 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: *Effective Date:* April 1, 2014.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates. With respect to the antidumping duty orders on Certain Frozen Warmwater Shrimp from India and Thailand, the intiation of the antidumping duty administrative review for these cases will be published in a separate initiation notice.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 60 days of publication of this notice in the **Federal Register.** All submissions must be filed electronically at *http://iaaccess.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (''Q&V'') Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 60 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 60 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than February 28, 2015.

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Antidumping Duty Proceedings	
Brazil: Certain Frozen Warmwater Shrimp A–351–838	2/1/13–1/31/14
Amazonas Industrias Alimenticias (AMASA)	
Pesquera Veraz S.A.	
Procesadora del Rio S.A. (PRORIOSA)	
Brazil: Stainless Steel Bar, A–351–825	2/1/13–1/31/14
Villares Metals S.A.	
France: Low Enriched Uranium, A–427–818	2/1/13–1/31/14
REVA NC	
AREVA NC, Inc.	
Eurodif S.A.	
India: Certain Preserved Mushrooms, A–533–813	2/1/13–1/31/14
Agro Dutch Foods Limited (Agro Dutch Industries Limited)	
Himalya International Ltd.	
Hindustan Lever Ltd. (formerly Ponds India, Ltd.)	
Transchem, Ltd.	
Weikfield Foods Pvt. Ltd.	
India: Stainless Steel Bar, A–533–810	2/1/13–1/31/14
Ambica Steels Limited	
Bhansali Bright Bars Pvt. Ltd.	
Mexico: Large Residential Washers,[4] A–201–842	8/3/12–1/31/14
Electrolux Home Products Corp. NV	
Electrolux Home Products de Mexico, S.A. de C.V.	
Samsung Electronics Mexico S.A. de C.V.	
Republic of Korea: Certain Cut-to-Length Carbon-Quality Steel Plate, A–580–836	2/1/13–1/31/14
Bookuk Steel Co., Ltd.	
Dongkuk Steel Mill Co., Ltd.	
Hyosung International	
Samsung C&T Corporation	
SM Solution Co. Ltd.	
TCC Steel Corporation	
Republic of Korea: Large Residential Washers, A–580–868	8/3/12–1/31/14
Daewoo Electronics Corporation	
LG Electronics, Inc.	
Samsung Electronics Co, Ltd.	
Socialist Republic of Vietnam: Certain Frozen Warmwater Shrimp, A–552–802	2/1/13–1/31/14
Agrex Saigon	
Amanda Foods (Vietnam) Ltd. Ngoc Tri Seafood Company (Amanda's affiliate)	
Amanda Seafood Co., Ltd.	
An Giang Coffee JSC	
Anvifish Joint Stock Co.	
Bac Lieu Fisheries Company Limited	
Bac Lieu Fisheries Company Limited (''Bac Lieu'')	
Bac Lieu Fisheries Company Limited and/or Bac Lieu Fisheries Company Limited (''Bac Lieu'')	
Bac Lieu Fisheries Joint Stock Company	
Bac Lieu Fisheries Limited Company	
Bentre Aquaproduct Import & Export Joint Stock Company	
Ben Tre Forestry and Aquaproduct Import Export Joint Stock Company (''Faquimex'')	
Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (''FAQUIMEX'')	
Bien Dong Seafood Co., Ltd.	
BIM Seafood Joint Stock Company	
Binh An Seafood Joint Stock Company	
C.P. Vietnam Corporation (''C.P. Vietnam'')	
C.P. Vietnam Livestock Company Limited	
C.P. Vietnam Livestock Company Limited (''C.P. Vietnam'')	
C.P. Vietnam Livestock Corporation	
C.P. Vietnam Livestock Corporation (''C.P. Vietnam'')	
Ca Mau Foods and Fishery Export Joint Stock Company	
Ca Mau Seafood Joint Stock Company (''Seaprimexco Vietnam'')	
Ca Mau Seafood Joint Stock Company (''SEAPRIMEXCO'')	
CADOVIMEX Seafood Import Export and Processing Joint Stock Company	
CADOVIMEX II Seafood Import Export and Processing Joint Stock Company	
Cadovimex Seafood Import-Export and Processing Joint-Stock Company (''Cadovimex'')	
Cadovimex Seafood Import-Export and Processing Joint Stock Company (''CADOVIMEX–VIETNAM'')	
Cafatex	
Cafatex Corp	
Cafatex Corporation	
Cafatex Fishery Joint Stock Corporation (''Cafatex Corp.'')	
Cafatex Vietnam	
Cai Doi Vam Seafood Im Ex Co. (''Cadovimex'')	
Cai Doi Vam Seafood Import-Export Company (''Cadovimex'')	
Caidoivam Seafood Company (Cadovimex)	
Camranh Seafoods	
Cam Ranh Seafoods	

	Period to be reviewed
Cam Ranh Seafoods Processing Enterprise Company (''Camranh Seafoods'')	
Cam Ranh Seafoods Processing Enterprise Processing Pte.	
Cam Ranh Seafoods Processing Enterprise Company (''Camranh Seafoods'') and/or Cam Ranh Seafoods Processing Enterprise PTE and/or Camranh Seafoods	
Camau Foods and Fishery Export Joint Stock Company (''Fine Food Company FFC'')	
Camau Frozen Seafood Processing Import Export Corporation (''Camimex'')	
Camau Frozen Seafood Processing Import-Export Corporation (''CAMIMEX'')	
Camau Seafood Factory No. 5	
Camau Seafood Factory No.4	
Camimex	
Camranh Seafoods Processing & Exporting Company Limited and its branch factory, Branch of Camranh Seafoods Processing Enterprise Pte.	
Camranh Seafoods Processing Enterprise Pte.	
Camu Frozen Seafood Processing Import Export Corp. (CAMIMEX–FAC 25)	
Camau Seafood Processing and Service Jointstock Corporation (''CASES'')	
Camau Seafood Processing and Service Joint-Stock Company (''CASES'')	
Can Tho Agricultural and Animal Product Import Export Company (''CATACO'') and/or Can Tho Agricultural and Animal Products Import Export Company (''CATACO'')	
Can Tho Agricultural and Animal Products Imex Company	
Can Tho Agricultural and Animal Products Import Export Company (''CATACO'')	
Can Tho Agricultural Products	
Can Tho Import Export Fishery Limited Company (''CAFISH'')	
Can Tho Import Export Seafood Joint Stock Company (CASEAMEX)	
Can Tho Agricultural and Animal Product Import Export Company (''CATACO'') and/or	
Can Tho Agricultural and Animal Products Import Export Company (''CATACO'')	
Cantho Agricultural & Animal Product Import Export Company (''CATACO'') and/or	
Can Tho Agricultural and Animal Products Import Export Company (''CATACO'')	
Cantho Import Export Fishery Limited Company (''CAFISH'')	
Cantho Import-Export Seafood Joint Stock Company (''CASEAMEX'')	
CATACO	
Cau Tre Enterprise (C.T.E.)	
Cautre Export Goods Processing Joint Stock Company	
Chang Shin Vietnam Co., Ltd.	
CL Fish Co., Ltd. (Cuu Long Fish Company)	
Coastal Fisheries Development Corporation	
Coastal Fisheries Development Corporation (''COFIDEC'')	
Coastal Fishery Development	
COFIDEC	
Cong Ty Tnhh Thong (Thong Thuan)	
Cuu Long Seapro	
Cuu Long Seaproducts Company (''Cuulong Seapro'')	
Cuulong Seapro	
D & N Foods Processing (Danang Company Ltd.)	
Danang Seaproducts Import-Export Corporation	
Danang Seaproducts Import Export Corporation (''Seaprodex Danag'')	
Duy Dai Corporation	
Fimex VN	
Fine Foods Company (''FFC'')	
Frozen Seafoods Factory No. 32	
Gallant Dachan Seafood Co., Ltd.	
Gallant Dachan Seafood Co., Ltd. (''Gallant Dachan'')	
Gallant Ocean (Quang Ngai) Co., Ltd.	
Gallant Ocean (Vietnam) Co., Ltd.	
Gallant Ocean (Vietnam) Co., Ltd. (''Gallant Ocean Vietnan'')	
Gn Foods	
Goldenquality Seafood Corporation	
Hai Thanh Food Company Ltd.	
Hai Viet Corporation (''HAVICO'')	
Hai Vuong Co., Ltd.	
Hoa Phat Aquatic Products Processing and Trading Service Co., Ltd.	
Hoang Hai Company Ltd.	
Hoang Phuong Seafood Factory	
Hua Heong Food Industries Vietnam Co. Ltd.	
Incomfish	
Incomfish Corp.	
Incomfish Corporation	
Interfood Shareholding Co.	
Investment Commerce Fisheries	
Investment Commerce Fisheries Corp.	
Investment Commerce Fisheries Corporation (''Incomfish'')	
Investment Commerce Fisheries Corporation (''Incomfish Corp.'')	
Khanh Loi Seafood Factory	
Kien Long Seafoods Co. Ltd.	
Kim Anh Co., Ltd.	

	Period to be reviewed
Kim Anh Company Ltd. (“Kim Anh”) Kim Anh Company Limited (“Kim Anh”) Luan Vo Fishery Co., Ltd. Lucky Shining Co., Ltd. Minh Chau Imp. Exp. Seafood Processing Co., Ltd. Minh Cuong Seafood Import Export Frozen Processing Joint Stock Company (“Minh Cuong Seafood”) Minh Hai Export Frozen Seafood Processing Joint-Stock Company (“Minh Hai Jostoco”) Minh Hai Export Frozen Seafood Processing Joint-Stock Company (“Minh Hai Jostoco”) and/;or Minh Hai Export Frozen Seafood Processing Joint-Stock Company (“Minh Hai Jostoco”) Minh Hai Joint Stock Seafoods Processing Company Minh Hai Joint-Stock Seafoods Processing Company (“Seaprodex Minh Hai”) Minh Hai Jostoco Minh Hai Sea Products Import Export Company (“Seaprimex”) Minh Phat Seafood Minh Phat Seafood Co., Ltd. Minh Phu—Hau Giang Seafood Processing Company Limited Minh Phu Seafood Corp. Minh Phu Seafood Corporation Minh Phu Seafood Pte Minh Qui Seafood Minh Qui Seafood Co., Ltd. Mp Consol Co., Ltd. My Son Seafoods Factory Nam Hai Foodstuff and Export Company Ltd Ngo Bros Seaproducts Import-Export One Member Company Limited Ngoc Chau Co., Ltd. and/or Ngoc Chau Seafood Processing Company Ngoc Sinh Ngoc Sinh Seafoods Processing and Trading Enterprise Ngoc Sinh Fisheries Ngoc Sinh Private Ngoc Sinh Private Enterprises Ngoc Sinh Seafood Processing Company Ngoc Sinh Seafood Trading & Processing Ngoc Sinh Seafood Trading & Processing Enterprise Ngoc Sinh Seafoods Ngoc Sinh Seafoods (Private Enterprise) Ngoc Sinh Seafoods Processing and Enterprises Ngoc Sinh Seafood Processing and Trading Enterprises Ngoc Tri Seafood Joint Stock Company Nha Trang Fisco Nha Trang Fisheries Joint Stock Company Nha Trang Fisheries Joint Stock Company (“Nha Trang Fisco”) Nha Trang Fisheries, Joint Stock Nha Trang Seafoods Nha Trang Seaproduct Company Nha Trang Seaproducts Company Nha Trang Seafoods Nha Trang Seaproduct Company (“Nha Trang Seafoods”) Nhat Duc Co., Ltd. (“Nhat Duc”) Nhatrang Fisco NhaTrang Seafoods Nha Trang Seafoods-F.89 Joint Stock Company Nhatrang Seafoods-F.89 Joint Stock Company NT Seafoods Corporation NTSF Seafoods Joint Stock Company Phu Cuong Jostoco Corp. Phu Cuong Jostoco Seafood Corporation Phu Cuong Seafood Processing & Import-Export Co., Ltd. (“Phu Cuong Jostoco”) Phuong Nam Co., Ltd. (“Phuong Nam”) Phuong Nam Foodstuff Corp. (“Phuong Nam”) Phuong Nam Foodstuff Corp. Quang Ninh Export Aquatic Products Processing Factory Quang Ninh Seaproducts Factory Quoc Viet Seaproducts Processing Trading and Import-Export Co., Ltd. S.R.V. Freight Services Co., Ltd. Sao Ta Foods Joint Stock Company Sao Ta Foods Joint Stock Company (“Fimex VN”) Sao Ta Foods Joint Stock Company (“Fimex VN”) and/or Sao Ta Foods Joint Stock Company (“FIMEX”) Sao Ta Seafood Factory Sao Ta Seafoods Factory Saota Seafood Factory Sea Minh Hai Seafoods and Foodstuff Factory Seaprimexco	

	Period to be reviewed
Seaprimexco Vietnam	
Seaprodex Danang	
Seaprodex Min Hai	
Seaprodex Minh Hai	
Seaprodex Minh Hai (Minh Hai Joint Stock Seafoods Processing Co.)	
Seaprodex Minh Hai Factory No. 69	
Seaprodex Minh Hai Workshop 1	
Seaprodex Minh Hai-Factory No. 78	
Seavina Joint Stock Company	
Soc Trang Aquatic Products and General Import Export Company	
Soc Trang Aquatic Products and General Import Export Company (''Stapimex'')	
Soc Trang Aquatic Products and General Import Export Company-(Stapimex)	
Soc Trang Seafood Joint Stock Company	
Soc Trang Seafood Joint Stock Company (''Stapimex'')	
Stapimex	
Stapmex	
Sustainable Seafood	
Tacvan Frozen Seafood Processing Export Company (''Tac Van Seafoods Co'')	
Tacvan Seafoods Company (''TACVAN'')	
Tai Kim Anh Seafood Joint Stock Company	
Tan Phong Phu Seafood Co., Ltd.	
Tan Thang Loi Frozen Food Co., Ltd.	
Taydo Seafood Enterprise	
Thanh Doan Seaproducts Import & Export Processing Joint-Stock Company (THADIMEXCO)	
Thanh Hung Frozen Seafood Processing Import Export Co., Ltd.	
Thanh Tri Seafood Processing Co. Ltd.	
The Quang Co.	
The Quang Seafood Processing & Export Company	
Tho Quang	
Tho Quang Seafood Processing and Export Company	
Thong Thuan—Cam Ranh Seafood Joint Stock Company	
Thong Thuan Company Limited	
Thong Thuan Seafood Company Limited	
Thuan Phuoc Seafoods and Trading Corporation	
Tien Tien Garment Joint Stock Company	
Tithi Co., Ltd.	
Trang Corporation	
UTXI	
UTXI Aquatic Products Processing Company	
UTXI Aquatic Products Processing Corporation (''UTXICO'')	
UTXI Co. Ltd.	
Viet Cuong Seafood Processing Import Export	
Viet Cuong Seafood Processing Import Export Joint-Stock Company	
Viet Foods Co., Ltd.	
Viet Foods Co., Ltd. (''Viet Foods'')	
Viet Hai Seafood Co., Ltd.	
Viet I-Mei Frozen Foods Co., Ltd.	
Vietnam Clean Seafood Corporation (VINA Cleanfood)	
Vietnam Clean Seafood Corporation (''VINA Cleanfood'')	
Vietnam Fish-One Co., Ltd.	
Vietnam Fish One Co., Ltd. (''Fish One'')	
Vietnam Northern Viking Technologies Co. Ltd.	
VIMEX	
VIMEXCO	
Vinatex Danang	
Vinh Hoan Corp.	
Vinh Import Export Company (''Vimexco'') and/or Vinh Loi Import Export Company (''VIMEX'')	
Vinh Loi Import Export Company (''Vimexco'')	
Vinh Loi Import Export Company ''(VIMEX'')	
Vinh Loi Import/Export Co.	
Vinh Loi Import-Export Company	
Vinhloi Import Export Company	
Xi Nghiep Che Bien Thuy Suc San Xuat Kau Cantho	
Socialist Republic of Vietnam: Steel Wire Garment Hangers, A–552–812	8/2/12–1/31/14
Acton Co, Ltd.	
Angang Clothes Rack Manufacture Co.	
Asmara Home Vietnam	
B2B Co., Ltd.	
Capco Wai Shing Viet Nam Co. Ltd.	
CTN Limited Company (a/k/a C.T.N. International Ltd. and CTN Co. Ltd)	
City Tnhn Mtv Xnk My Phuoc (a/k/a City Thnh San Xuat My Phuoc Long An Factory)	
Dai Nam Investment JSC (part of Dai Nam Group)	
Diep Son Hangers One Member Co. Ltd. (a/k/a Diep Son Hangers Co. Ltd.)	
Dong Nam A Co. Ltd. (a/k/a Dong Nam A Hamico)	

	Period to be reviewed
Dong Nam A Trading Co.	
Est Glory Industrial Ltd.	
Focus Shipping Corp.	
Godoxa Viet Nam Ltd. (a/k/a Godoxa Vietnam Co. Ltd.)	
HCMC General Import and Export Investment Joint Stock Company (Imexco)	
Hongxiang Business and Product Co., Ltd.	
Infinite Industrial Hanger Limited (a/k/a Infinite Industrial Hanger Co. Ltd.)	
Ju Fu Co. Ltd. (a/k/a Jufu Company, Ltd.)	
Linh Sa Hamico Company, Ltd.	
Long Phung Co. Ltd.	
Lucky Cloud (Vietnam) Hanger Co. Ltd.	
Minh Quang Steel Joint Stock Company (a/k/a Minh Quang Hanger) (Part of the Dai Nam Group)	
Moc Viet Manufacture Co., Ltd.	
Nam A Hamico Export Joint Stock Co. (a/k/a Dong Nam Hamico Joint Stock Company)	
N-Tech Vina Co. Ltd.	
NV Hanger Co., Ltd. (a/k/a Nguyen Haong Vu Co. Ltd.)	
Quoc Ha Production Trading Services Co. Ltd.	
Quyky Group/Quyky Co., Ltd./Quyky-Yangle International Co., Ltd.	
S.I.I.C.	
South East Asia Hamico Exports JSC	
T.J. CO. Ltd.	
Tan Dinh Enterprise (a/k/a Tan Dihn Enterprise)	
Tan Minh Textile Sewing Trading Co., Ltd.	
Thanh Hieu Manufacturing Trading Co. Ltd.	
The Xuong Co. Ltd.	
Thien Ngon Printing Co, Ltd.	
Top Sharp International Trading Limited	
Triloan Hangers, Inc.	
Tri-State Trading (a/k/a Nghia Phuong Nam Production Trading)	
Trung Viet My Joint Stock Company	
Truong Hong Lao—Viet Joint Stock	
Uac Co. Ltd.	
Viet Anh Imp-Exp Joint Stock Co.	
Viet Hanger Investment, LLC (a/k/a Viet Hanger)	
Vietnam Hangers Joint Stock Company (a/k/a Cong Ty Co Phan Moc AO)	
Vietnam Sourcing (a/k/a VNS and VN Sourcing)	
Winwell Industrial Ltd. (Hong Kong)	
Yen Trang Co., Ltd.	
Zownzi Hardware Hanger Factory Ltd.	
Socialist Republic of Vietnam: Utility Scale Wind Towers, A–552–814	2/13/13–1/31/14
CS Wind Corporation	
CS Wind Vientnam Co., Ltd.	
Vina Halla Heavy Industries Ltd.	
UBI Tower Sole Member Company Ltd.	
The People's Republic of China: Certain Frozen Warmwater Shrimp, A–570–893	2/1/13–1/31/14
Asian Seafoods (Zhanjiang) Co., Ltd.	
Beihai Angbang Seafood Co., Ltd.	
Beihai Boston Frozen Food Co., Ltd.	
Dalian Shanhai Seafood Co., Ltd.	
Dalian Taiyang Aquatic Products Co., Ltd.	
Eimskip Logistics (Qingdao) Co., Ltd.	
EZ Logistics Inc.	
EZ Logistics LLC (Qingdao Branch)	
Fujian Chaohui International Trading	
Fujian Rongjiang Import and Export Co., Ltd.	
Fujian Tea Import & Export Co., Ltd.	
Fujian Zhaoan Haili Aquatic Co., Ltd.	
Fuqing Dongwei Aquatic Products Ind.	
Fuqing Minhua Trade Co., Ltd.	
Fuqing Yihua Aquatic Food Co., Ltd.	
Guangdong Foodstuffs Import & Export (Group) Corporation	
Guangdong Gourmet Aquatic Products Co., Ltd.	
Guangdong Jinhang Food Co., Ltd.	
Guangdong Jinhang Foods Co., Ltd.	
Guangdong Wanshida Holding Corp.	
Guangdong Wanya Foods Fty. Co., Ltd.	
Guangzhou Shi Runjin Trading Development Co., Ltd.	
Haida Seafood Co., Ltd.	
HaiLi Aquatic Product Co., Ltd.	
Hainan Brich Aquatic Products Co., Ltd.	
Hua Yang (Dalian) International Transportation Service Co.	
Huazhou XinHai Aquatic Products Co. Ltd.	
Jiazhou Foods Industry Co., Ltd.	
Longhai Gelin Foods Co., Ltd.	

	Period to be reviewed
Longhai Gelin Seafoods Co., Ltd.	
Maoming Xinzhou Seafood Co., Ltd.	
North Seafood Group Co.	
Panwin International Logistics Co., Ltd.	
Pingye Foreign Transportation Corp. Ltd of Shantou, SE.Z.	
Rizhao Smart Foods Company Limited	
Savvy Seafood Inc.	
Shanghai Lingpu Aquatic Products Co., Ltd.	
Shanghai Smiling Food Co., Ltd.	
Shantou Freezing Aquatic Product Foodstuffs Co.	
Shantou Jiazhou Food Industrial Co., Ltd.	
Shantou Jin Cheng Food Co., Ltd.	
Shantou Jintai Aquatic Product Industrial Co., Ltd.	
Shantou Li An Plastic Products Co. Ltd.	
Shantou Longsheng Aquatic Product Foodstuff Co., Ltd.	
Shantou Wanya Foods Fty. Co., Ltd.	
Shantou Yuexing Enterprise Co.	
Thai Royal Frozen Food Zhanjiang Co., Ltd.	
Yangjiang Anyang Food Co., Ltd.	
Yangjiang City Haida Seafood Company Ltd.	
Yangjiang City Hongwai Seafood Company, Ltd.	
Zhangzhou Xinwanya Aquatic Product Co., Ltd.	
Zhangzhou Yanfeng Aquatic Product	
Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd.	
Zhanjiang Fuchang Aquatic Products Co., Ltd.	
Zhanjiang Jinguo Marine Foods Co., Ltd.	
Zhanjiang Longwei Aquatic Products Industry Co., Ltd.	
Zhanjiang Universal Seafood Corp.	
Zhanjiang Newpro Foods Co., Ltd.	
Zhanjiang Regal Integrated Marine Resources Co., Ltd.[5]	
Zhaoan Yangli Aquatic Co., Ltd.	
The People's Republic of China: Certain Preserved Mushrooms, A–570–851	2/1/13–1/31/14
Ayecue (Liaocheng) Foodstuff Co., Ltd.	
Blue Field (Sichuan) Food Industrial Co., Ltd.	
China National Cereals, Oils & Foodstuffs Import & Export Corp.	
China Processed Food Import & Export Co.	
Dalian J&N Foods Co., Ltd.	
Dezhou Kaihang Agricultural Science Technology Co., Ltd.	
Dujiangyan Xingda Foodstuff Co., Ltd.	
Fujian Dongshan Changlong Trade Co., Ltd.	
Fujian Golden Banyan Foodstuffs Industrial Co., Ltd.	
Fujian Haishan Foods Co., Ltd.	
Fujian Pinghe Baofeng Canned Foods	
Fujian Tongfa Foods Group Co., Ltd.	
Fuzhou Sunshine Imp. & Exp. Co., Ltd.	
Fujian Yuxing Fruits and Vegetables Foodstuffs Development Co., Ltd.	
Fujian Zishan Group Co., Ltd.	
Golden Banyan Foodstuffs Co., Ltd.	
Guangxi Eastwing Trading Co., Ltd.	
Guangxi Hengyong Industrial & Commerical Dev. Ltd.	
Guangxi Jisheng Foods, Inc.	
Inter-Foods (Dongshan) Co., Ltd.	
Linyi City Kangfa Foodstuff Drinkable Co., Ltd.	
Longhai Guangfa Food Co., Ltd.	
Longhai Jiasheng Food Co., Ltd.	
Primera Harvest (Xiangfan) Co., Ltd.	
Qingdao Canned Foods Co., Ltd.	
Shandong Fengyu Edible Fungus Corporation Ltd.	
Shandong Jiufa Edible Fungus Corporation, Ltd.	
Shandong Yinfeng Rare Fungus Corporation, Ltd.	
Synehon (Xiamen) Trading Co., Ltd.	
Sun Wave Trading Co., Ltd.	
Xiamen Carre Food Co., Ltd.	
Xiamen Choice Harvest Imp.	
Xiamen Greenland Import & Export Co., Ltd.	
Xiamen Gulong Import & Export Co., Ltd.	
Xiamen Gulong Import Export Co. Ltd.	
Xiamen International Trade & Industrial Co., Ltd.	
Xiamen Jiahua Import & Export Trading Co., Ltd.	
Xiamen Longhuai Import & Export Co., Ltd.	
Xiamen Sungiven Import & Export Co., Ltd.	
Xiamen Yubang Import Export Trading Co. Ltd.	
Zhangzhou Gangchang Canned Foods Co., Ltd. (a/k/a Zhangzhou Gangchang Canned Foods Co., Ltd., Fujian)	
Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd.	

	Period to be reviewed
Zhangzhou Hongda Import & Export Trading Co., Ltd.	
Zhangzhou Lixing Imp. & Exp. Trade Co., Ltd.	
Zhangzhou Long Mountain Foods Co., Ltd.	
Zhangzhou Tan Co., Ltd.	
Zhangzhou Tianbaolong Food Co., Ltd.	
Zhangzhou Tongfa Foods Industry Co., Ltd.	
Zhangzhou Yuxing Imp. & Exp. Trading Co., Ltd.	
Zhangzhou Xiangcheng Rainbow & Greenland Food Co., Ltd.	
Zhejiang Iceman Food Co., Ltd.	
Zhejiang Iceman Group Co., Ltd.	
The People's Republic of China: Small Diameter Electrodes, A–570–929	2/1/13–1/31/14
5-Continent Imp. & Exp. Co., Ltd.	
Acclcarbon Co., Ltd.	
Allied Carbon (China) Co., Limited	
Anssen Metallurgy Group Co., Ltd.	
AMGL	
Apex Maritime (Dalian) Co., Ltd.	
Asahi Fine Carbon (Dalian) Co., Ltd.	
Beijing Fangda Carbon Tech Co., Ltd.	
Beijing Kang Jie Kong Cargo Agent Expeditors (Tianjin Branch)	
Beijing Xinchengze Inc.	
Beijing Xincheng Sci-Tech. Development Inc.	
Brilliant Charter Limited	
Carbon International	
Chang Cheng Chang Electrode Co., Ltd.	
Chengdelh Carbonaceous Elements Factory	
Chengdu Jia Tang Corp.	
Chengdu Rongguang Carbon Co., Ltd.	
China Industrial Mineral & Metals Group	
China Shaanxi Richbond Imp. & Exp. Industrial Corp. Ltd.	
China Xingyong Carbon Co., Ltd.	
CIMM Group Co., Ltd.	
Dalian Carbon & Graphite Corporation	
Dalian Hongrui Carbon Co., Ltd.	
Dalian Honest International Trade Co., Ltd.	
Dalian Horton International Trading Co., Ltd.	
Dalian LST Metallurgy Co., Ltd.	
Dalian Oracle Carbon Co., Ltd.	
Dalian Shuangji Co., Ltd.	
Dalian Thrive Metallurgy Imp. & Exp. Co., Ltd.	
Datong Carbon	
Datong Carbon Plant	
Datong Xincheng Carbon Co., Ltd.	
Dechang Shida Carbon Co., Ltd	
De Well Container Shipping Corp.	
Dewell Group	
Dignity Success Investment Trading Co., Ltd.	
Double Dragon Metals and Mineral Tools Co., Ltd.	
Fangda Carbon New Material Co., Ltd.	
Fangda Carbon New Material and Technology Co., Ltd.	
Fangda Lanzhou Carbon Joint Stock Company Co. Ltd.	
Foset Co., Ltd.	
Fushun Carbon Co., Ltd.	
Fushun Carbon Plant	
Fushun Jinly Petrochemical Carbon Co., Ltd.	
Fushun Jinli Petrochemical Carbon Co., Ltd.	
Fushun Orient Carbon Co., Ltd.	
GES (China) Co., Ltd.	
Grameter Shipping Co., Ltd. (Qingdao Branch)	
Guangdong Highsun Yongye (Group) Co., Ltd.	
Guanghan Shida Carbon Co., Ltd.	
Haimen Shuguang Carbon Industry Co., Ltd.	
Handan Hanbo Material Co., Ltd.	
Hanhong Precision Machinery Co., Ltd.	
Hebei Long Great Wall Electrode Co., Ltd.	
Hefei Carbon Co., Ltd.	
Heico Universal (Shanghai) Distribution Co., Ltd.	
Heilongjiang Xinyuan Carbon Products Co., Ltd.	
Heilongjiang Xinyuan Metacarbon Company Ltd.	
Henan Sanli Carbon Products Co., Ltd.	
Henan Sihai Import and Export Co., Ltd.	
Hopes (Beijing) International Co., Ltd.	
Huanan Carbon Factory	
Hunan Mec Machinery and Electronics Imp. & Exp. Corp.	

	Period to be reviewed
Hunan Yinguang Carbon Factory Co., Ltd. Inner Mongolia QingShan Special Graphite and Carbon Co., Ltd. Inner Mongolia Xinghe County Hongyuan Electrical Carbon Factory Jiang Long Carbon Jiangsu Yafei Carbon Co., Ltd. Jiaozuo Zhongzhou Carbon Products Co., Ltd. Jichun International Trade Co., Ltd. of Jilin Province Jiexiu Juyuan Carbon Co., Ltd. Jiexiu Ju-Yuan & Coaly Co., Ltd. Jilin Carbon Graphite Material Co., Ltd. Jilin Carbon Import and Export Company Jilin Songjiang Carbon Co Ltd. Jinneng Group Co., Ltd. Jinyu Thermo-Electric Material Co., Ltd. JL Group Kaifeng Carbon Company Ltd. KASY Logistics (Tianjin) Co., Ltd. Kimwan New Carbon Technology and Development Co., Ltd. Kingstone Industrial Group Ltd. L & T Group Co., Ltd. Laishui Long Great Wall Electrode Co. Ltd. Lanzhou Carbon Co., Ltd. Lanzhou Carbon Import & Export Corp. Lanzhou Hailong New Material Co. Lanzhou Hailong Technology Lanzhou Ruixin Industrial Material Co., Ltd. LH Carbon Factory of Chengde Lianxing Carbon Qinghai Co., Ltd. Lianxing Carbon Science Institute Lianxing Carbon (Shandong) Co., Ltd. Lianyungang Jinli Carbon Co., Ltd. Lianyungang Jianglida Mineral Co., Ltd. Liaoning Fangda Group Industrial Co., Ltd. Liaoyang Carbon Co. Ltd. Linghai Hongfeng Carbon Products Co., Ltd. Linyi County Lubei Carbon Co., Ltd. Maoming Yongye (Group) Co., Ltd. MBI Beijing International Trade Co., Ltd. Nantong Dongjin New Energy Co., Ltd. Nantong Falter New Energy Co., Ltd. Nantong River-East Carbon Co., Ltd. Nantong River-East Carbon Joint Stock Co., Ltd. Nantong Yangtze Carbon Corp. Ltd. Oracle Carbon Co., Ltd. Orient (Dalian) Carbon Resources Developing Co., Ltd. Orient Star Transport International, Ltd. Peixian Longxiang Foreign Trade Co. Ltd. Pingdingshan Coal Group Pudong Trans USA, Inc. (Dalian Office) Qingdao Grand Graphite Products Co., Ltd. Qingdao Haosheng Metals Imp. & Exp. Co., Ltd. Quingdao Haosheng Metals & Minerals Imp. & Exp. Co., Ltd. Qingdao Liyikun Carbon Development Co., Ltd. Qingdao Likun Graphite Co., Ltd. Qingdao Ruizhen Carbon Co., Ltd. Qingdao Yijia E.T.I. I/E Co., Ltd. Qingdao Youyuan Metallurgy Material Limited Company (China) Ray Group Ltd. Rex International Forwarding Co., Ltd. Rt Carbon Co., Ltd. Ruitong Carbon Co., Ltd. Sea Trade International, Inc. Seamaster Global Forwarding (China) Shandong Basan Carbon Plant Shandong Zibo Continent Carbon Factory Shanghai Carbon International Trade Co., Ltd. Shanghai GC Co., Ltd. Shanghai Jinneng International Trade Co., Ltd. Shanghai P.W. International Ltd. Shanghai Shen-Tech Graphite Material Co., Ltd. Shanghai Topstate International Trading Co., Ltd. Shanxi Datong Energy Development Co., Ltd. Shanxi Foset Carbon Co. Ltd. Shanxi Jiexiu Import and Export Co., Ltd.	

	Period to be reviewed
Shanxi Jinneng Group Co., Ltd.	
Shanxi Yunheng Graphite Electrode Co., Ltd.	
Shenyang Jinli Metals & Minerals Imp. & Exp. Co., Ltd.	
Shida Carbon Group	
Shijaizhuang Carbon Co., Ltd.	
Shijiazhuang Huanan Carbon Factory	
Sichuan 5-Continent Imp & Exp Co., Ltd.	
Sichuan Dechang Shida Carbon Co., Ltd.	
Sichuan Shida Carbon Co., Ltd.	
Sichuan Shida Trading Co., Ltd.	
Sichuan GMT International Inc.	
Sichuan Guanghan Shida Carbon Co., Ltd	
Sinicway International Logistics Ltd.	
Sinosteel Anhui Co., Ltd.	
Sinosteel Corp.	
Sinosteel Jilin Carbon Co., Ltd.	
Sinosteel Jilin Carbon Plant	
Sinosteel Jilin Carbon Imp. & Exp. Co., Ltd.	
Sinosteel Sichuan Co., Ltd.	
SK Carbon	
SMMC Group Co., Ltd.	
Sure Mega (Hong Kong) Ltd.	
Tangshan Kimwan Special Carbon & Graphite Co., Ltd.	
Tengchong Carbon Co., Ltd.	
T.H.I. Global Holdings Corp.	
T.H.I. Group (Shanghai), Ltd.	
Tianjin (Teda) Iron & Steel Trade Co., Ltd.	
Tianjin Kimwan Carbon Technology and Development Co., Ltd.	
Tianjin Yue Yang Industrial & Trading Co., Ltd.	
Tianzhen Jintian Graphite Electrodes Co., Ltd.	
Tielong (Chengdu) Carbon Co., Ltd.	
UK Carbon & Graphite	
United Carbon Ltd.	
United Trade Resources, Inc.	
Weifang Lianxing Carbon Co., Ltd.	
World Trade Metals & Minerals Co., Ltd.	
XC Carbon Group	
Xinghe County Muzi Carbon Co., Ltd.	
Xinghe County Muzi Carbon Plant	
Xinghe Xingyong Carbon Co., Ltd.	
Xinghe Xinyuan Carbon Products Co., Ltd.	
Xinyuan Carbon Co., Ltd.	
Xuanhua Hongli Refractory and Mineral Company	
Xuchang Minmetals & Industry Co., Ltd.	
Xuzhou Carbon Co., Ltd.	
Xuzhou Electrode Factory	
Xuzhou Jianglong Carbon Manufacture Co., Ltd.	
Xuzhou Lianglong Carbon Manufacture Cp., Ltd.	
Yangzhou Qionghua Carbon Trading Ltd.	
Yixing Huaxin Imp & Exp Co. Ltd.	
Youth Industry Co., Ltd.	
Zhengzhou Jinyu Thermo-Electric Material Co., Ltd.	
Zibo Continent Carbon Factory	
Zibo DuoCheng Trading Co., Ltd.	
Zibo Lianxing Carbon Co., Ltd.	
Zibo Wuzhou Tanshun Carbon Co., Ltd.	
The People's Republic of China: Uncovered Innerspring Units, A–570–928	2/1/13–1/31/14
Comfort Coil Technology Sdn Bhd	
Creative Furniture & Bedding Manufacturing	
The People's Republic of China: Utility Scale Wind Towers, A–570–981	2/13/13–1/31/14
Alstom Sizhou Electric Power Equipment Co., Ltd.	
AUSKY (Shandong) Machinery Manufacturing Co., Ltd.	
CATIC International Trade & Economic Development Ltd.	
Chengde Tianbao Machinery Co., Ltd.	
Chengxi Shipyard Co., Ltd.	
China WindPower Group	
CleanTech Innovations Inc.	
CNR Wind Turbine Co., Ltd.	
CS Wind China Co., Ltd.	
CS Wind Corporation	
CS Wind Tech (Shanghai) Co., Ltd.	
Dajin Heavy Industry Corporation	
Greenergy Technology Co., Ltd.	
Guangdong No. 2 Hydropower Engineering Co., Ltd.	

	Period to be reviewed
Guodian United Power Technology Baoding Co., Ltd.	
Harbin Hongguang Boiler Group Co., Ltd.	
Hebei Ningqiang Group	
Hebei Qiangsheng Wind Equipment Co., Ltd.	
Jiangsu Baolong Electromechanical Mfg. Co., Ltd.	
Jiangsu Baolong Tower Tube Manufacture Co., Ltd.	
Jiangsu Taihu Boiler Co., Ltd.	
Jilin Miracle Equipment Manufacturing Engineering Co., Ltd.	
Jilin Tianhe Wind Power Equipment Co., Ltd. (f/k/a Jilin Mingmen Wind Power Equipment Co., Ltd.)	
Jinan Railway Vehicles Equipment Co., Ltd.	
Nanjing Jiangbiao Group Co., Ltd.	
Nantong Dontai New Energy Equipment Co., Ltd.	
Nantong Hongbo Windpower Equipment Co., Ltd.	
Ningxia Electric Power Group	
Ningxia Yinxing Energy Co.	
Ningzxia Yinyi Wind Power Generation Co., Ltd.	
Qingdao GeLinTe Environmental Protection Equipment Co., Ltd.	
Qingdao Ocean Group	
Qingdao Pingcheng Steel Structure Co., Ltd.	
Qingdao Tianneng Electric Power Engineering Machinery Co., Ltd.	
Qingdao Wuxiao Group Co., Ltd.	
Renewable Energy Asia Group Ltd.	
Shandong Endless Wind Turbine Techincal Equpiment Co., Ltd.	
Shandong Zhongkai Wind Power Equipment Manufacturers, Ltd.	
Shanghai Aerotech Trading International	
Shanghai GE Guangdian Co., Ltd.	
Shanghai Tiasheng Wind Power Equipment Co., Ltd.	
Sinovel Wind Group Co., Ltd.	
Suihua Wuxiao Electric Power Equipment Co., Ltd.	
Titan (Lianyungang) Metal Product Co., Ltd.	
Titan Wind Energy Suzhou Co., Ltd.	
Wuxiao Steel Tower Co., Ltd.	
Xinjiang Huitong (Group) Co., Ltd.	
The People's Republic of China: Wooden Bedroom Furniture, [6] A–570–890	1/1/13–12/31/13
Yihua Timber Industry Co., Ltd., Guangdong Yihua Timber Industry Co., Ltd.	
Zhang Zhou Sanlong Wood Product Co., Ltd.	
Zhangjiagang Daye Hotel Furniture Co., Ltd.	
Zhangjiang Sunwin Arts & Crafts Co., Ltd.	
Zhangzhou Guohui Industrial & Trade Co. Ltd.	
Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd./Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd.	
Zhong Shan Fullwin Furniture Co., Ltd.	
Zhongshan Fookyik Furniture Co., Ltd.	
Zhongshan Golden King Furniture Industrial Co., Ltd.	
Zhoushan For-Strong Wood Co., Ltd.	
Countervailing Duty Proceedings	
Republic of Korea: Certain Cut-to-Length Carbon-Quality Steel Plate, C–580–837	1/1/13–12/31/13
Dongkuk Steel Mill Co., Ltd.	
Republic of Korea: Large Residential Washers, C–580–869	6/2/12–12/31/13
Daewoo Electronics Corporation	
Samsung Electronics Co., Ltd.	
Socialist Republic of Vietnam: Steel Wire Garment Hangers, C–552–813	6/4/12–12/31/13
ActOn Co, Ltd.	
Angang Clothes Rack Manufacture Co.	
Asmara Home Vietnam	
B2B Co., Ltd.	
Capco Wai Shing Viet Nam Co. Ltd.	
CTN Limited Company (a/k/a C.T.N. International Ltd. and CTN Co. Ltd)	
City Tnhn Mtv Xnk My Phuoc (a/k/a City Thnh San Xuat My Phuoc Long An Factory)	
Dai Nam Investment JSC (part of Dai Nam Group)	
Diep Son Hangers One Member Co. Ltd. (a/k/a Diep Son Hangers Co. Ltd.)	
Dong Nam A Co. Ltd. (a/k/a Dong Nam A Hamico)	
Dong Nam A Trading Co.	
Est Glory Industrial Ltd.	
Focus Shipping Corp.	
Godoxa Viet Nam Ltd. (a/k/a Godoxa Vietnam Co. Ltd.)	
HCMC General Import and Export Investment Joint Stock Company (Imexco)	
Hongxiang Business and Product Co., Ltd.	
Infinite Industrial Hanger Limited (a/k/a Infinite Industrial Hanger Co. Ltd.)	
Ju Fu Co. Ltd. (a/k/a Jufu Company, Ltd.)	
Linh Sa Hamico Company, Ltd.	
Long Phung Co. Ltd.	
Lucky Cloud (Vietnam) Hanger Co. Ltd.	

	Period to be reviewed
Minh Quang Steel Joint Stock Company (a/k/a Minh Quang Hanger) (Part of the Dai Nam Group)	
Moc Viet Manufacture Co., Ltd.	
Nam A Hamico Export Joint Stock Co. (a/k/a Dong Nam Hamico Joint Stock Company)	
N-Tech Vina Co. Ltd.	
NV Hanger Co., Ltd. (a/k/a Nguyen Haong Vu Co. Ltd.)	
Quoc Ha Production Trading Services Co. Ltd.	
Quyky Group/Quyky Co., Ltd./Quyky-Yangle International Co., Ltd.	
S.I.I.C.	
South East Asia Hamico Exports JSC	
T.J. CO. Ltd.	
Tan Dinh Enterprise (a/k/a Tan Dihn Enterprise)	
Tan Minh Textile Sewing Trading Co., Ltd.	
Thanh Hieu Manufacturing Trading Co. Ltd.	
The Xuong Co. Ltd.	
Thien Ngon Printing Co., Ltd.	
Top Sharp International Trading Limited	
Triloan Hangers, Inc.	
Tri-State Trading (a/k/a Nghia Phuong Nam Production Trading)	
Trung Viet My Joint Stock Company	
Truong Hong Lao—Viet Joint Stock	
Uac Co. Ltd.	
Viet Anh Imp-Exp Joint Stock Co.	
Viet Hanger Investment, LLC (a/k/a Viet Hanger)	
Vietnam Hangers Joint Stock Company (a/k/a Cong Ty Co Phan Moc AO)	
Vietnam Sourcing (a/k/a VNS and VN Sourcing)	
Winwell Industrial Ltd. (Hong Kong)	
Yen Trading Co., Ltd.	
Zownzi Hardware Hanger Factory Ltd.	
The People's Republic of China: Utility Scale Wind Towers, C–570–982	2/13/13–12/31/13
Alstom Sizhou Electric Power Equipment Co., Ltd.	
AUSKY (Shandong) Machinery Manufacturing Co., Ltd.	
Baotou Titan Wind Power Equipment Co., Ltd.	
CATIC International Trade & Economic Development Ltd.	
Chengde Tianbao Machinery Co., Ltd.	
Chengxi Shipyard Co., Ltd.	
China WindPower Group	
CleanTech Innovations Inc.	
CNR Wind Turbine Co., Ltd.	
CS Wind China Co., Ltd.	
CS Wind Corporation	
CS Wind Tech (Shanghai) Co., Ltd.	
Dajin Heavy Industry Corporation	
Greenergy Technology Co., Ltd.	
Guangdong No. 2 Hydropower Engineering Co., Ltd.	
Harbin Hongguang Boilier Group Co., Ltd.	
Hebei Ningqiang Group	
Jiangsu Baolong Electromechanical Mfg. Co., Ltd.	
Jiangsu Baolong Tower Tube Manufacture Co., Ltd.	
Jiangsu Taihu Boiler Co., Ltd.	
Jilin Miracle Equipment Manufacturing Engineering Co., Ltd.	
Jilin Tianhe Wind Power Equipment Co., Ltd. (f/k/a/ Jilin Mingmen Wind Power Equipment Co., Ltd.)	
Jinan Railway Vehicles Equipment Co., Ltd.	
Nanjing Jiangbiao Group Co., Ltd.	
Nantong Dongtai New Energy Equipment Co., Ltd.	
Nantong HongboWindpower Equipment Co., Ltd.	
Ningxia Electric Power Group	
Ningxia Yinxing Energy Co.	
Ningxia Yinyi Wind Power Generation Co., Ltd.	
Qingdao GeLinTe Environmental Protection Equipment Co., Ltd.	
Qingdao Ocean Group	
Qingdao Pingcheng Steel Structure Co., Ltd.	
Qingdao Tianneng Electric Power Engineering Machinery Co., Ltd.	
Qingdao Wuxiao Group Co., Ltd.	
Renewable Energy Asia Group Ltd.	
Shandong Endless Wind Turbine Technical Equipment Co., Ltd.	
Shandong Zhongkai Wind Power Equipment Manufacturers, Ltd.	
Shanghai Aerotech Trading International	
Shanghai GE Guangdian Co, Ltd.	
Shanghai Taisheng Wind Power Equipment Co., Ltd.	
Shenyang Titan Metal Co., Ltd.	
Sinovel Wind Group Co., Ltd.	
Suihua Wuxiao Electric Power Equipment Co, Ltd.	
Titan (Lianyungang) Metal Product Co., Ltd.	
Titan Wind (Suzhou) Co., Ltd.	

	Period to be reviewed
Wuxiao Steel Tower Co., Ltd. Xinjiang Huitong (Group) Co., Ltd.	

Suspension Agreements

None

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that the meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013–08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[7] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. Ongoing segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011 should use the formats for the revised certifications provided at the end of the *Interim Final Rule.*[8] All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[9] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered

[4] We have not initiated an administrative review with respect to Electrolux Home Products, Inc., as requested by one interested party, because this company is a U.S. importer and not a foreign producer or exporter of the subject merchandise.

[5] The American Shrimp Processors Association requested that we conduct an administrative review of the antidumping duty order covering Certain Frozen Warmwater Shrimp from China with respect to subject merchandise exported or produced by Zhanjiang Regal Integrated Marine Resources Co., Ltd. (''Regal''), for the period from February 1, 2013 through January 31, 2014. Pursuant to the notice published in the **FEDERAL REGISTER** on September 12, 2013, the *Order* was revoked with respect to subject merchandise produced and exported by Regal, effective February 1, 2012. *See Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results of Administrative Review; 2011–2012,* 78 FR 56209, 56210 (September 12, 2013). Accordingly, we are initiating this review only with respect to subject merchandise exported by Regal but produced by another entity.

[6] The companies listed were inadvertently omitted from the initiation notice that published on February 28, 2014 (79 FR 11401).

[7] *See* section 782(b) of the Act.

[8] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule*''), amending 19 CFR 351.303(g)(1) and (2); *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011).

[9] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: March 27, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–07270 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–947]

Certain Steel Grating From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is rescinding the administrative review of the antidumping duty order on certain steel grating from the People's Republic of China (''PRC'') for the period July 1, 2012, through June 30, 2013.

DATES: *Effective Date:* April 1, 2014.

FOR FURTHER INFORMATION CONTACT: Howard Smith or Jonathan Hill, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5193 or (202) 482–3518, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 2013, based on a timely request for review by Alabama Metal Industries Corporation and Fisher & Ludlow Inc. (collectively ''Petitioners''), the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on certain steel grating from the PRC covering the period July 1, 2012, through June 30, 2013.[1] The review covers 30 companies: Anping Jinyuan Metal, Anping Jinyuan Metal Co., Ltd., Comtrust Metal & Ware Mesh Products Co., Ltd., Comtrust Metal Wire Mesh Product Factory, Dalian AW Gratings, Dalian AW Gratings, Ltd., Fujian Youxi Best Arts & Crafts Co., Ltd., Guangzhou Webforge, Guangzhou Webforge Grating Co., Ltd., Hebei Jinshi Industrial Metal, Hebei Jinshi Industrial Metal Co., Ltd., Jiashan Qilimei Grating, Jiashan Qilmei Grating Co., Ltd., Kingjoy Building Decorative Materials Co., Ltd., Ningbo Haitian International Co., Ltd., Ningbo Jiulong Machinery Manufacturing Co., Ltd., Ningbo Lihong Steel Grating Co., Ltd., Ningbo Zhenhai Jiulong Electronic Equipment Factory, Shanghai Shenhao Steel Structure Designing, Shanghai Shenhao Steel Structure Designing Co., Ltd., Shanghai DAHE Grating Co., Ltd., Sinosteel Yantai Steel Grating Co., Ltd., Tianchang Flying-Dragon Metallic Products, Tianchang Flying-Dragon Metallic Products Co., Ltd., Qing Auging Mechancial, Xinxing Grating Factory, Yantai Hercules Metal Ltd., Yantai Xinke Steel Structure Co., Ltd., Zhejian Hengzhou Steel Grating, and Zhejian Hengzhou Steel Grating Co., Ltd. On December 12, 2013, Petitioners withdrew their request for an administrative review of the 30 companies listed above.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[2] Accordingly, all deadlines in this segment of the proceeding have been extended by 16 days. Therefore, Petitioners withdrew their request within the 90-day deadline. No other parties requested an administrative review of the antidumping duty order. As a result, we are rescinding the administrative review of certain steel grating from the PRC for the period July 1, 2012, through June 30, 2013.

Assessment

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. Because the Department is rescinding this administrative review in its entirety, the entries to which this administrative review pertained shall be assessed antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice.

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a final reminder to parties subject to

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 53128, 53130 (August 28, 2013).

[2] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government,'' (October 18, 2013).

administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: March 26, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–07259 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–896]

Magnesium Metal From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting the administrative review of the antidumping duty order on magnesium metal from the People's Republic of China (''PRC''). The period of review (''POR'') is April 1, 2012, through March 31, 2013. This review covers one PRC company, Tianjin Magnesium International, Co., Ltd. (''TMI''). The Department preliminarily finds that TMI did not have reviewable entries during the POR. We invite interested parties to comment on these preliminary results.

DATES: *Effective Date:* April 1, 2014.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230; telephone: (202) 482–4243 or (202) 482–5848, respectively.

Scope of the Order

The product covered by this antidumping duty order is magnesium metal from the PRC, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this order includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes; magnesium ground, chipped, crushed, or machined into rasping, granules, turnings, chips, powder, briquettes, and other shapes; and products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an ''ASTM Specification for Magnesium Alloy'' [1] and are thus outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as ''alloy'' magnesium).

The scope of this order excludes: (1) All forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an ''ASTM Specification for Magnesium Alloy'' [2]; (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[3]

The merchandise subject to this order is classifiable under items 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Background

On April 2, 2013, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on magnesium metal from the PRC for the period April 1, 2012 through March 31, 2013.[4] On April 30, 2013, U.S. Magnesium LLC (''U.S. Magnesium''), a domestic producer and Petitioner in the underlying investigation of this case, made a timely request that the Department conduct an administrative review of TMI.[5] On June 3, 2013, in accordance with section 751(a) of the Tariff Act of 1930, as amended (''the Act''), the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review.[6] On July 23, 2013, TMI submitted a letter to the Department certifying that it did not export magnesium metal for consumption in the United States during the POR.[7]

On January 6, 2014, the Department placed on the record information

[1] The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

[2] The material is already covered by existing antidumping orders. *See Notice of Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation,* 60 FR 25691 (May 12, 1995); and *Antidumping Duty Order: Pure Magnesium in Granular Form from the People's Republic of China,* 66 FR 57936 (November 19, 2001).

[3] This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from China, Israel, and Russia. *See Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China,* 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel,* 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation,* 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not combined in liquid form and cast into the same ingot.

[4] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 78 FR 19645 (April 2, 2013).

[5] *See* letter from U.S. Magnesium, ''Magnesium Metal from the People's Republic of China: Request for Administrative Review,'' dated April 30, 2013.

[6] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 33052 (June 3, 2013).

[7] *See* letter from TMI, ''Magnesium Metal from the People's Republic of China; A–570–896; Certification of No Sales by Tianjin Magnesium International, Co., Ltd.,'' dated July 23, 2012 {sic}, at 1.

obtained in response to the Department's query to U.S. Customs and Border Protection (''CBP'') concerning imports into the United States of subject merchandise during the POR.[8] This information indicates that there were no entries of subject merchandise during the POR that had been exported by TMI. In addition, on January 16, 2014, we notified CBP that we were in receipt of a no-shipment certification from TMI and requested CBP to report any contrary information within 10 days.[9] CBP did not report any contrary information.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[10] Thus, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the preliminary results of review was established as Thursday, January 16, 2014.[11] On January 7, 2014, we extended the deadline for the preliminary results by 120 days.[12] The preliminary results of this review are due no later than May 16, 2014.[13]

Preliminary Determination of No Shipments

As noted in the ''Background'' section above, TMI submitted a timely-filed certification indicating that it had no shipments of subject merchandise to the United States during the POR. In addition, CBP did not provide any evidence that contradicts TMI's claim of no shipments. Further, on January 6, 2014, the Department released to interested parties the results of a CBP query that it intended to use for corroboration of TMI's no shipment claims.[14] The Department received no comments from interested parties concerning the results of the CBP query.

Based on TMI's certification and our analysis of CBP information, we preliminarily determine that TMI did not have any reviewable entries during the POR. In addition, the Department finds that consistent with its recently announced refinement to its assessment practice in non-market economy (''NME'') cases, it is appropriate not to rescind the review in this circumstance but, rather, to complete the review with respect to TMI and issue appropriate instructions to CBP based on the final results of the review.[15]

Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days after the due date for case briefs, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the argument not to exceed five pages, and a table of statutes, regulations, and cases cited, in accordance with 19 CFR 351.309(c)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, Room 7046 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.[16] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Additionally, pursuant to a recently announced refinement to its assessment practice in NME cases, if the Department continues to determine that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate. For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For TMI, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI in the most recently completed review of the company; (2) for previously investigated or reviewed PRC and non-PRC exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 141.49 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

[8] *See* Memorandum to the File, ''2012–2013 Administrative Review of Magnesium Metal from the People's Republic of China: U.S. Customs and Border Protection Data,'' dated January 6, 2014 (''CBP Query'').

[9] *See* Memorandum to the File, ''Magnesium Metal from the People's Republic of China: 12–13 Administrative Review: Placing No-Shipment Inquiry on the Record,'' dated January 17, 2014, at Attachment 1 Customs Message 4016312, ''No Shipments Inquiry,'' dated January 16, 2014.

[10] *See* Memorandum to the File, ''Magnesium Metal From the People's Republic of China: Tolling of Deadlines for Shutdown of the Federal Government,'' dated December 29, 2013.

[11] *Id.*

[12] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Magnesium Metal from the People's Republic of China: Extension of Deadline for the Preliminary Results of Antidumping Duty Administrative Review,'' dated January 7, 2014.

[13] *Id.*

[14] *See* CBP Query.

[15] *See* Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011) and the ''Assessment Rates'' section, below.

[16] *See* 19 CFR 351.310(c).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: March 26, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–07257 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for May 2014

The following Sunset Review is scheduled for initiation in May 2014 and will appear in that month's Notice of Initiation of Five-Year Sunset Review (''Sunset Review'').

Antidumping Duty Proceedings

Saccharin from China (A–570–878) (2nd Review).

Department Contact

David Goldberger (202) 482–4136

Countervailing Duty Proceedings

No Sunset Review of countervailing duty orders is scheduled for initiation in May 2014.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in May 2014.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: March 12, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–07269 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year reviews (''Sunset Reviews'') of the antidumping and countervailing duty (''AD/CVD'') orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* April 1, 2014.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–122–853	731–TA–1151 ...	Canada	Citric Acid and Certain Citrate Salts (1st Review)	David Goldberger (202) 482–4136.

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–937	731–TA–1152 ...	China	Citric Acid and Certain Citrate Salts (1st Review)	David Goldberger (202) 482–4136.
C–570–938	701–TA–456	China	Citric Acid and Certain Citrate Salts (1st Review)	David Goldberger (202) 482–4136.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: ''*http://enforcement.trade.gov/sunset/.*'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''), can be found at 19 CFR 351.303.[1]

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after August 16, 2013.[3] The formats for the revised certifications are provided at the end of the *Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied.

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Extension of Time Limits,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under part 351 of the Department's regulations expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of

[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*'') (amending 19 CFR 351.303(g)).

publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.[4]

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: March 12, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–07261 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–998]

1,1,1,2-Tetrafluoroethane From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation

AGENCY: Enforcement and Compliance, Formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: April 1, 2014.

FOR FURTHER INFORMATION CONTACT: Frances Veith or Bob Palmer, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4295, or (202) 482–9068, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determination

On December 9, 2013, the Department of Commerce (''Department'') published a notice initiating an antidumping duty investigation of 1,1,1,2-Tetrafluoroethane from the People's Republic of China.[1] The notice of initiation inadvertently stated that the Department, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.205(b)(1), unless postponed, will issue its preliminary determination no later than 140 days after the publication date of this initiation, instead of the date of initiation. Section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1) states that the Department will make a preliminary determination no later than 140 days after the date of the initiation (*i.e.,* December 2, 2013), not 140 days after the publication date of the initiation. Accordingly, the preliminary determination of this antidumping duty investigation is currently due no later than April 21, 2014.

Pursuant to section 733(c)(1)(B) of the Act and 19 CFR 351.205(b)(2), the Department concludes that the parties involved in this investigation are cooperating and determined that this case is extraordinarily complicated by reason of the number and complexity of the transactions to be investigated and adjustments to be considered and the number of firms whose activities must be investigated. The Department determines that a 30-day postponement of the preliminary determination is needed in order to provide the Department with sufficient time to review and analyze questionnaire responses and issue appropriate requests for clarification and additional information.

For the reasons stated above, the Department, in accordance with section 733(c)(1)(B) of the Act, is postponing the deadline for the preliminary determination to no later than 170 days after the date on which the Department initiated this investigation. Therefore, the new deadline for the preliminary determination is May 21, 2014. In accordance with section 735(a)(1) of the Act, the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination, 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).

March 26, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–07256 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Availability of a Draft Programmatic Environmental Assessment for U.S. Integrated Ocean Observing System (IOOS®) Projects

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Request for comments.

SUMMARY: The Integrated Coastal and Ocean Observation System (ICOOS) Act of 2009 mandated the establishment of the U.S. Integrated Ocean Observing System with NOAA as lead Federal agency. NOAA's U.S. IOOS program seeks comment on a draft programmatic environmental assessment (PEA) of the observing activities regularly occurring in the environment as a direct result of cooperative agreements funded by this program. Technologies proposed for deployment and observational activities under U.S. IOOS are categorized into the following groups: sensors and instrumentation; vessels (including personal watercraft) and sampling; AUVs, gliders, and drifters; moorings, marine stations, buoys, and fixed arrays; HF radar; and sound navigation and ranging (sonar) and light detection and ranging (lidar). These observing activities support the core mission of U.S. IOOS: systematic provision of readily accessible marine environmental data and data products in an interoperable, reliable, timely, and user-specified manner to end-users/customers to serve seven critical and expanding societal needs:

1. Improve predictions of climate change and weather and their effects on coastal communities and the nation;

2. Improve the safety and efficiency of maritime operations;

[4] *See* 19 CFR 351.218(d)(1)(iii).

[1] *See 1,1,1,2-Tetrafluoroethane From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 78 FR 73832 (December 9, 2013).

3. More effectively mitigate the effects of natural hazards;

4. Improve national and homeland security;

5. Reduce public health risks;

6. More effectively protect and restore healthy coastal ecosystems; and

7. Enable the sustained use of ocean and coastal resources.

DATE AND TIME: The draft PEA is available for public review and comment through April 30, 2014.

ADDRESSES: If you wish to comment on the draft PEA, you may email comments to Regina Evans at *regina.evans@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Regina Evans, U.S. IOOS, Regions Budget & Policy Division, 1100 Wayne Avenue, Suite 1225, Silver Spring, MD 20910; Phone 301–427–2422; Fax 301–427–2073; Email *regina.evans@noaa.gov.*

SUPPLEMENTARY INFORMATION: The draft PEA for U.S. IOOS is available online at *http://ioos.noaa.gov/about/governance/environmental_compliance.html.*

Authority: Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601–3610).

Dated: March 18, 2014.

Zdenka S. Willis,

Director, U.S. Integrated Ocean Observing System.

[FR Doc. 2014–07225 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Requesting Nominations for the Marine Protected Areas Federal Advisory Committee; Notice of Public Meeting

AGENCY: National Marine Protected Areas Center, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice and request for nominations and notice of public meeting.

SUMMARY: The Department of Commerce (Department) is seeking nominations for membership on the Marine Protected Areas Federal Advisory Committee (Committee). The Committee advises the Secretary of Commerce and the Secretary of the Interior in implementing Section 4 of Executive Order 13158, specifically on strategies and priorities for developing the national system of marine protected areas (MPAs) and on practical approaches to further enhance and expand protection of new and existing MPAs. Nominations are sought for highly qualified non-Federal scientists, resource managers, and people representing other interests or organizations involved with or affected by marine protected areas including in the Great Lakes. Ten members of the Committee have terms that expire June 30, 2014, and nominations are sought to fill these vacancies.

DATES:

Nominations: Nominations must be received on or before May 30, 2014.

Meeting: The Committee will meet at the Flower Garden Banks National Marine Sanctuary office in Galveston, Texas on June 2 from 9:00 a.m. to 5:30 p.m., June 3 from 9:00 a.m. to 5:00 p.m. and June 4 from 9:00 a.m. to 12:00 p.m. These times and the agenda items below are subject to change. For the most recent agenda, see: *http://marineprotectedareas.noaa.gov/fac/meetings/*

ADDRESSES:

Nominations: Nominations should be sent to Nicole Capps at West Coast Region, Office of National Marine Sanctuaries, 99 Pacific Street, Suite 100F, Monterey, CA, 93940, or *Nicole.capps@noaa.gov.* Electronic submissions are acceptable.

Meeting: Flower Garden Banks National Marine Sanctuary, NOAA Galveston Lab, 4700 Avenue U, Building 216, Galveston, Texas.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, National Marine Protected Areas Center, 301–713–7265, lauren.wenzel@noaa.gov.

SUPPLEMENTARY INFORMATION: Executive Order 13158 directed the Department of Commerce and the Department of the Interior to seek the expert advice and recommendations of non-federal scientists, resource managers, and other interested people and organizations through a Marine Protected Areas Federal Advisory Committee (Committee). The Committee was established in June 2003 and includes 20 members.

The Committee meets at least twice annually; meetings may be in person or via teleconference/webinar. Committee members serve one, four-year nonrenewable term. Members of the Committee are not compensated for their time, but their travel expenses associated with attending Committee meetings are reimbursed.

Nominations: Anyone is eligible to nominate and self-nominations will be accepted. Each nomination submission should include Nominations should provide: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise;(3) a short description of his/her qualifications relative to the kinds of advice being solicited, and (4) a resume or CV not to exceed four pages in length. Nominations may choose to include letters of support (no more than three) describing the nominee's qualifications and interest in serving on the Committee. The intent is to select from the nominees; however, NOAA retains the prerogative to nominate people to the Committee that were not nominated through the process outlined in this FRN if it deems it is necessary to achieve the desired balance. Once selected, Committee members' names will be posted at: *http://marineprotectedareas.noaa.gov/fac/.*

Individuals seeking membership on the Committee should possess demonstrable expertise in a related field or represent a stakeholder interest in MPAs. Nominees also will be evaluated based on the following factors: marine policy experience; leadership and organizational skills; region of country represented; and member demographics. The membership reflects the Department's commitment to attaining balance and diversity. The full text of the Committee charter and its current membership can be viewed at the Agency's Web page at *http://marineprotectedareas.noaa.gov.*

Meeting: The meeting is open to the public, and public comment will be accepted from 4:30 p.m. to 5:30 p.m. on Monday, June 2, 2014. In general, each individual or group will be limited to a total time of five (5) minutes. If members of the public wish to submit written statements, they should be submitted by May 29, 2014 to *lauren.wenzel@noaa.gov.*

The focus of the Committee's meeting will be the completion of recommendations to the Departments of Commerce and the Interior that address the Committee's charge related to enhancing and managing recreational activities in MPAs and expanding stakeholder engagement. The Committee will meet with representatives from National Marine Sanctuary Advisory Councils to discuss fostering links between MPA programs on issues of common interest. The agenda will be posted at *http://marineprotectedareas.noaa.gov/fac/meetings/.*

Dated: March 26, 2014.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2014–07204 Filed 3–31–14; 8:45 am]

BILLING CODE 3510–NK–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled AmeriCorps State Commission Support Grant Application Instructions to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Mr. James Stone at 202–606–6885 or via email *jstone@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) By fax to: 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) By email to: *smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on August 27, 2013. This comment period ended October 28, 2013. Six entities provided comments. Individual comments and the disposition of each are addressed below.

Two commenters focused on several aspects of how performance of state service commissions will be assessed. One commenter asked how progress toward state service plan objectives by commissions will be assessed. CNCS will expect commissions to report annually the progress they are making toward outcomes they identify in the theory of change logic model they submit with the Commission Support Grant Application. In addition, CNCS believes that capacity building is a critical activity shared by all state service commissions. Given this capacity building role, CNCS will require commissions to measure their performance against at least one aligned set of capacity building National Performance Measures.

Two commenters stated that evaluation by CNCS would be a more effective mechanism for commission assessment than using performance measures or assessing accomplishment against a theory of change logic model. One commenter specifically mentioned resurrecting the State Administrative Standards project as a model of this type of evaluation. CNCS agrees that periodic inspection and evaluation can be effective ways to assess the impact of a project, verify compliance and confirm the accuracy of reported values. CNCS will continue to conduct risk-based monitoring site visits to ensure program compliance and verify performance accomplishments. CNCS also believes that all grantees, including commissions, must have ways of regularly assessing their performance and reporting their accomplishments. Because a theory of change logic model allows performance and accomplishments to be assessed within a consistent and well-understood framework, CNCS will require state service commissions to submit a theory of change logic model and to select at least one aligned set of capacity building national performance measures as the basis for reporting on their accomplishments.

One commenter expressed the opinion that better measures of value for a state service commission include the number of leveraged volunteers, geographic coverage of programming, compliance of subgrantees, and program development and growth. CNCS agrees with the commenter about the importance of these measures and intends to review these values in any assessment of state service commissions. CNCS expects commissions to report on these values in periodic progress reports rather than in the application for funding. CNCS staff has listened to state commissions that have expressed a desire to have a better method to capture the full value of a state commission's strategic efforts to address the critical needs of the state. Allowing commissions to articulate their priorities through a theory of change logic model is intended to give commissions the flexibility to communicate and define the intensions they have for national service in their state. And it also gives commissions a measure of control in how they may be assessed to reflect differences across state priorities.

One commenter expressed a desire that CNCS take a more consultative approach with commissions to create better methods to capture the value of state commissions and their contribution to national service. CNCS looks forward to receiving input from state commissions and will expand ways to collaborate to improve the way commission performance is assessed. To that end, the development of commission-appropriate national performance measures is especially important. CNCS expects that states will select applicant-determined measures that will best capture aspects of commission outputs and outcomes as we move forward. CNCS anticipates that, through collaboration, these applicant-determined measures could be the basis of commission-specific national performance measures in the future.

One commenter expressed the opinion that the requirement to submit an application, a theory of change logic model, and performance measures, runs counter to Section 178(f) of the Serve America Act. This particular statutory provision gives the agency the option of waiving some types of administrative requirements otherwise applicable to grants made to states. However,

application, reporting and accountability are critical requirements when federal grant funds are provided for a particular purpose. And grant makers benefit from an environment of accountability. CNCS believes that state service commissions have a strong story to share with all types of funders and believes commissions can report on results achieved as a result of receiving these funds. Commissions have the flexibility of selecting their own performance measures (applicant determined measures) in addition to selecting a set of capacity building national measures. Having data that demonstrates the effectiveness of commissions enables CNCS to articulate the value of federal investment in commissions. CNCS believes that all grantees, including state service commissions, should be able to demonstrate that granted federal funds are effectively used for allowable purposes. Periodically reporting on accomplishments is vital to demonstrating the effective use of grant funds.

One commenter expressed concern about linking state service commission performance on the Commission Support Grant to eligibility for competitive program grants. The organizational capability selection criterion for competitive grants has always included a commission's capacity to manage competitive grant resources as a factor in making AmeriCorps program grant award decisions. Information collected from the Commission Support Grant application as well as what may be included in periodic progress reports for that grant informs the CNCS assessment of a commission's capacity. In these application instructions, CNCS is not proposing any change to this capacity assessment.

One commenter noted that CNCS was requesting information requested in previous applications or that might have been collected through monitoring activities including how commission monitoring and financial policies are being implemented. This commenter recommended that CNCS should only ask whether or not there have been any changes. CNCS agrees and expects state service commissions to respond to the questions under the three narrative application sections: Grant Outreach and Selection; Compliance and Performance; and Collaboration and Sustainability only at the beginning of each grant cycle or when the commission makes changes. CNCS does not expect a state service commission to rewrite these application sections when they apply for continuation funding in the succeeding years unless necessary to reflect a change in commission policy, procedure or operations. The applicant responses made in the initial application are carried forward to succeeding applications and only those sections needing modification are expected to be changed.

One commenter asserted that adding a capacity building performance measure and requiring the submission of a theory of change logic model will incompletely capture the value of state service commissions while increasing the time burden on commission grantees to compile the requested information. CNCS acknowledges that the level of burden will be higher for some state service commissions and has increased the burden estimate. CNCS believes the inclusion of the theory of change logic model will better capture the value of commissions because commissions will have a way to articulate their aspirations and accomplishments on matters other than the management of subgrantee program awards. CNCS also believes the inclusion of an aligned set of capacity building national performance measures will allow commissions to report on the important accomplishments they all make in this area.

Two commenters expressed concern that the capacity building measure is the only measure of success or accomplishment for a state service commission. CNCS recognizes that state service commission missions span a wide variety of responsibilities and vary widely from state to state. CNCS also believes that all commissions are engaged in capacity building activities related to outreach to new grantees, the training and support of subgrantees in their portfolio, the collaborative activities they undertake with their stakeholders, and the facilitation of volunteerism to address state priorities. Therefore CNCS believes a capacity building measure is appropriate to document these efforts not otherwise being reported under AmeriCorps program subgrants.

CNCS encourages state service commissions to develop other measures to capture their accomplishments if they constitute a significant part of their mission. CNCS envisions state service commissions collaborating in the development of other standardized measures that might capture other important aspects of their operations. If there is sufficient consensus these measures could be included among the national performance measures in the future.

One commenter expressed concern that instituting performance measures and a theory of change logic model may restrict programming efforts and limit innovation in addressing the needs in the state. One other commenter stated the capacity building measure was unnecessary because the state service plan already requires measurable goals and outcomes for national service programs in the state. The inclusion of the theory of change logic model and an aligned set of national capacity building performance measures is not intended by CNCS to restrict programming efforts. State service commissions, in collaboration with their stakeholders, determine the national service priorities in the respective states. The intent of the theory of change logic model is to have commissions condense the critical priorities of their state service plan in a concise standardized format and allow them to articulate these priorities to CNCS. Commissions should be able to use the measurable goals and outcomes they have included in their state service plan to inform their theory of change logic model to include with their Commission Support Grant application.

One commenter expressed concern regarding the use of the percentage of programs meeting performance measures as an indicator for commission support grant accomplishment. CNCS uses a wide variety of compliance and performance information from its data systems to inform the assessment of the accomplishments of state service commissions. Meeting, partially meeting, on-track to meet, or not meeting performance measure targets are of factors that CNCS considers in assessing Commission Support Grant accomplishment. The application instructions have been amended to indicate that CNCS uses the progress of programs toward meeting performance measures to better capture how this information is used.

Two commenters questioned the need for a performance measure for the Commission Support Grant. Another commenter stated CNCS should not impose a performance measure on the Commission Support Grant because Section 179 (k) of the National and Community Service Act limits performance measures to national service programs. That statutory provision requires performance measurement of national service programs, but does not prohibit performance measurement of other CNCS grants. CNCS supports a culture of accountability. It is in the best interest of CNCS and state service commissions to measure accomplishment and have performance measure information available to make the best case that money spent on and

by state service commissions is money well spent; performance measurement is one way to demonstrate that.

As the Comptroller General testified to Congress on May 22, 2013: ''Performance measurement, because of its ongoing nature, can serve as an early warning system to management and a vehicle for improving accountability to the public. To help ensure that their performance information will be both useful and used by decision makers, agencies must consider the differing information of various users—including those in Congress.''

One commenter requested additional clarity regarding the definition of community and private sector resources as indicated in the inputs section of the theory of change logic model and specifically whether this includes state funds. CNCS has amended the application to clarify the intent is to capture all resources including those from the State, private funders or from Federal sources. The purpose is not to document sources of funding but the magnitude of resource commitment by the commission in addressing the community need and the strategies intended to be implemented by the commission.

One person expressed a desire for examples and additional guidance on CNCS's expectations for the theory of change logic model. CNCS intends to provide technical assistance prior to the deadline for submission to assist commissions prepare their theory of change logic model and performance measures. CNCS expects to include examples at that time.

One commenter stated the narrative questions are narrowly focused on AmeriCorps and do not allow commissions to articulate the breadth of their operations. CNCS recognizes that commission missions vary from state to state; however, all commissions are engaged in managing and overseeing AmeriCorps program grants. CNCS intends the questions provided in the guidance to be minimum starting points and not a specific limit on what may be included in state commission applications. If an activity is included in the state service plan and the commission is dedicating Commission Support Grant resources to that effort, it should be reflected in the commission's application.

One commenter suggested that CNCS adopt a single open narrative instead of three-sections as proposed for 2014. CNCS considered a single narrative section but decided that there were efficiency gains by being able to separately process information related to the distinct outreach and selection, compliance and performance, and collaboration and sustainability sections.

Description: CNCS is seeking approval of the AmeriCorps State Commission Application Instructions. State service commissions will respond to the questions included in this Information Collection Request in order to report on their use of federal funds and progress against their annual plan.

Type of Review: Reinstatement.

Agency: Corporation for National and Community Service.

Title: AmeriCorps State Commission Support Grant Application Instructions.

OMB Number: 3045–0099.

Agency Number: None.

Affected Public: State service commissions.

Total Respondents: 54.

Frequency: Annually.

Average Time Per Response: 37 hours.

Estimated Total Burden Hours: 1,998 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: March 26, 2014.

Bill Basl,

Director, AmeriCorps State and National.

[FR Doc. 2014–07276 Filed 3–31–14; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2012–HA–0116]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 2, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the SNPMIS Project Officer, DHSS, 7700 Arlington Boulevard, Falls Church, VA 22042–2902 or call 703–681–2236.

SUPPLEMENTARY INFORMATION:

Title; OMB Number: Special Needs Program Management Information System (SNPMIS); OMB Control Number 0720–TBD.

Needs and Uses: The information collection requirement is necessary to provide access to a comprehensive program of therapy, medical support, and social services for young Department of Defense (DoD) Military Health System (MHS) beneficiaries with special needs. Special Needs Program Management Information System (SNPMIS) is the MHS automated information system designed to ensure the DoD meets the unique information requirements associated with implementation of the Individuals with Disabilities Education Act (IDEA). SNPMIS captures records referral, evaluation, eligibility, and service plan data for children with special needs who are eligible for MHS services under IDEA. Management reports provide historical analysis to monitor ongoing improvements in quality of care initiatives. It also allows program managers to identify areas where additional services are needed. At the service level, activities of different

programs can be compared to determine best practices that can be implemented throughout the Educational and Developmental Intervention Services (EDIS) clinics. The system's remote function allows EDIS staff members to enter a young beneficiary's data while conducting activities from that child's school or home.

Affected Public: Children of members of the Armed Forces and civilians who are entitled to receive early intervention and special education services from DoD under IDEA.

Annual Burden Hours: 1,775.

Number of Respondents: 1,065.

Responses per Respondent: 2.

Total Annual Responses: 2,130.

Average Burden per Response: 50 minutes.

Frequency: On occasion.

Information is collected from the individual to whom the record pertains; reports from physicians and other medical department personnel; and reports and information from other sources including educational institutions, medical institutions, public and private health, and welfare agencies.

Information from the family may be collected during an intake meeting, a meeting to develop a service plan, as a result of provision of services, performance of an evaluation, or other coordination activities. The EDIS clinic or Department of Defense Dependents School (DoDDS) school must obtain permission from the family before information is collected from or provided to an external agency, and prior to conducting evaluations or providing services. Before information is released to an external agency the parents must sign a Health Insurance Portability and Accountability Act (HIPAA) release.

Personally identifiable information (PII) and protected health information (PHI) that are collected by the system includes: Name, Social Security Number (SSN), Family member prefix (FMP), Birth Date, Race/Ethnicity, Gender, Marital Status, Spouse Information, Child Information, Disability Information, Home, Personal Cell, and Work Phone Numbers—Child and Parents, Emergency Contact, Education Information: Child's School Address; Individual educational program plans, Sponsor Name, Sponsor SSN, Sponsor and Spouse rank or title, Sponsor's unit, Other child care locations, Provider's name and title that evaluate and provide intervention, Medical Information: Clinics and medical summaries, EDIS process and activities data including referral, evaluation, eligibility, and service plans.

The Computer Security Act of 1987, which went into effect in September 1988, requires all U.S. government employees, contractors, and others who directly affect federal programs to undergo periodic training in computer security. All users of systems containing sensitive data must also receive computer training corresponding to the sensitivity of the data to which they access. All persons who have access to or who are users of SNPMIS must have an Information Technology Sensitive (IT) clearance level III or higher. SNPMIS users are health care providers and SNPMIS Technical Support Team. The health care providers have at least an IT II clearance, which allows them access to basic functions of SNPMIS (i.e., data querying, viewing, and printing). SNPMIS Development Team members have at least an IT II clearance. They have access to information regarding the creation and maintenance of user accounts, testing and system monitoring. They also perform SNPMIS audit setup and reviews, and set up roles and responsibilities. All SNPMIS users are subjected to the new hiring screening process associated with their position. Contractors, however, are required to complete a Standard Form 86 from which a National Agency Check with Inquiry's (NACI) and credit check can be conducted.

Dated: March 27, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–07197 Filed 3–31–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0041]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 2, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Manpower Data Center (DMDC), ATTN: Ms. Kristin Williams, 4800 Mark Center Drive, Suite 04E25, Alexandria, VA 22350, or call (571) 372–1033.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; And OMB Number: The 2014 Post-Election Voting Survey of Local Election Officials, OMB 0704–0125.

Needs and Uses: The information collection requirement is necessary to fulfill the mandate of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA of 1986 [42 U.S.C. 1973ff]). UOCAVA requires a statistical analysis report to the President and Congress on the effectiveness of assistance under the Act, a statistical analysis of voter participation, and a description of State/Federal cooperation.

Affected Public: State, Local or Tribal Government.

Annual Burden Hours: 300.

Number of Respondents: 900.

Responses per Respondent: 1.

Total Annual Responses: 900.

Average Burden per Response: 20 minutes.

Frequency: On Occasion.

UOCAVA requires the States to allow Uniformed Services personnel, their family members, and overseas citizens to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal offices. The Act covers members of the Uniformed Services and the merchant marine to include the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service and their eligible dependents, Federal civilian employees overseas, and overseas U.S. citizens not affiliated with the Federal Government. Local Election Officials (LEO) process voter registration and absentee ballot applications, send absentee ballots to voters, and receive and process the voted ballots in counties, cities, parishes, townships and other jurisdictions within the U.S. LEOs, independently and in relation to their respective State election officials, are often one of the most important pieces in the absentee voting process for *UOCAVA* citizens. The Federal Voting Assistance Program (FVAP) conducts the post-election survey of Local Election Officials to evaluate the effectiveness of the overall absentee voting program. The information collected be qualitative and will be used for overall program evaluation, management and improvement, and to compile the congressionally-mandated report to the President and Congress.

Dated: March 27, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–07198 Filed 3–31–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Subcommittee Meeting of the Board of Advisors to The President, Naval Postgraduate School

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of The Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting of the aforementioned subcommittee will be held. (Parent Committee is: Board of Advisors (BOA) to the Presidents of the Naval Postgraduate School (NPS) and the Naval War College). This meeting will be open to the public.

DATES: The meeting will be held on Wednesday, April 23, 2014, from 8:00 a.m. to 4:00 p.m. and on Thursday, April 24, 2014, from 8:00 a.m. to 12:00 p.m. Pacific Time Zone.

ADDRESSES: The meeting will be held at the Naval Postgraduate School, Executive Briefing Center, 1 University Circle, Monterey, CA.

FOR FURTHER INFORMATION CONTACT: Ms. Jaye Panza, Naval Postgraduate School, Monterey, CA, 93943–5001, telephone number 831–656–2514.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to elicit the advice of the Board on the Naval Service's Postgraduate Education Program and the collaborative exchange and partnership between NPS and the Air Force Institute of Technology. The board examines the effectiveness with which the NPS is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the NPS as the board considers pertinent. Individuals without a DoD government/CAC card require an escort at the meeting location. For access, information, or to send written comments regarding the NPS BOA contact Ms. Jaye Panza, Designated Federal Officer, Naval Postgraduate School, 1 University Circle, Monterey, CA 93943–5001 or by fax 831–656–3145 by April 18, 2014.

Dated: March 25, 2014.

N.A. Hagerty-Ford,

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

[FR Doc. 2014–07227 Filed 3–31–14; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2013–OPE–0063]

Agency Information Collection Activities: William D. Ford Federal Direct Loan (Direct Loan) Program and Federal Family Education Loan (FFEL) Program Financial Disclosure for Reasonable and Affordable Rehabilitation Payments Form

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary responds to public comments on, and announces approval by the Office of Management and Budget (OMB) of, the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form.

DATES: This information collection is effective July 1, 2014.

FOR FURTHER INFORMATION CONTACT: For further information related to the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form, contact Brian Smith or Pamela Moran at (202) 502–7551 or (202) 502–7732 or by email at: *Brian.Smith@ed.gov* or *Pamela.Moran@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department of Education (the Department), 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 so that we can minimize the reporting burden on the public. Providing an opportunity for comment also helps the public understand the Department's information collection requirements and how the requested data must be provided.

On July 29, 2013, the Secretary published a notice of proposed rulemaking (NPRM) (78 FR 45618) that solicited comments on proposed regulations and collections of information, including the proposed Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form (identified as 1845–NEW1 in the NPRM). The Secretary published final regulations based on the NPRM on November 1, 2013 (78 FR 65768). This notice responds to comments on and announces OMB's approval of the form. The Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form for the William D. Ford Federal Direct Loan (Direct Loan) Program and the Federal Family Education Loan (FFEL) Program has been approved under OMB Control Number 1845–0120 with an expiration date of March 31, 2017.

In the NPRM, the Department estimated the burden to complete and submit the proposed version of the form. The Department received comments from the public on all aspects of the form and on its intended use. We addressed comments about the use of

the form in the final regulations published on November 1, 2013 (see 78 FR 65768, 65776). In this notice, we address comments about the content of, and burden estimates associated with, the form.

The OMB-approved version of the form contains several changes from the draft form that was discussed in the NPRM and made available in the public docket on *www.regulations.gov* as document ID ED–2013–OPE–0063–0005. We explain the major changes in the *Analysis of Comments and Changes* section of the preamble that follows.

Analysis of Comments and Major Changes

In response to the Secretary's invitation in the NPRM, 25 parties submitted comments on the proposed regulations. Of these commenters, nine provided comments on the content of the proposed Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form. An analysis of the comments and of the major changes to the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form since publication of the NPRM and final regulations follows.

We group major issues according to subject. Generally we do not address minor changes to improve clarity, or technical corrections, such as language that we have revised or added to the form to conform to the final regulatory language.

Financial Disclosure for Reasonable and Affordable Rehabilitation Payments Form

Formatting and Layout

Comments: Several commenters expressed concerns about the length and complexity of the proposed form. The commenters felt that the proposed form was unnecessarily long and inefficiently arranged. In particular, commenters requested that we present the questions requesting income and expenses information from the borrower in a more concise and manageable format.

One commenter submitted a revised version of the form that consolidated several sections from the proposed form into one section and used a column format for reporting monthly income and expenses. The commenter's revised version of the form also included an ''Instructions'' section with detailed information on how to complete the form and information describing the various ''Monthly Income'' and ''Monthly Expenses'' categories. The commenter believed that its revised version of the form would be more borrower-friendly and would help to ensure borrower success in the rehabilitation process.

Discussion: We agree that the commenter's revised version of the form is generally more clear and concise than the version of the form included with the NPRM. We agree that presenting all of the data elements relating to income and expenses in one section makes the form more borrower-friendly. We also believe that presenting these data elements in a column format provides more visual clarity to the form.

In addition, we agree that a separate ''Instructions'' section is helpful to borrowers. An ''Instructions'' section serves as an easy reference for borrowers and provides more detail than can easily be included in the sections of the form that borrowers are required to complete. Including a separate ''Instructions'' section is also consistent with most of our other loan servicing forms.

We also believe that the additional changes that we have made, discussed in the ''Changes'' section below, make the form easier to read and more manageable for borrowers.

Changes: We have used the commenter's proposed revision as the basis for the final version of the form. We have also made the form more accessible to borrowers with visual impairments. We have increased the font size for most of the form to 11 point from 9 point and now include long sections of text in column format.

We have also accepted the commenters' recommendation to streamline the form by consolidating the income and expenses information into one section (''Section 2: Household Income and Reasonable and Necessary Monthly Expenses''), and we have used a column format for the data elements that request borrower income and expenses information. In addition, we have eliminated the check boxes asking borrowers to indicate whether they are paid weekly or biweekly because a loan holder does not need to know how many times per month a borrower receives a paycheck to determine the borrower's monthly income.

Finally, we have added an ''Instructions'' section to the form that provides general information on how to fill out the form and more detailed information about the specific data elements in Section 2.

Borrower Privacy Concerns

Comments: Several commenters noted that the form requested highly sensitive financial information from the borrower. These commenters stated that this type of information should only be collected when fully justified by the necessity of its intended use.

In addition to requesting information about the borrower, the proposed version of the form requested the name, Social Security Number (SSN), and birth date of the borrower's spouse. Commenters raised privacy concerns about collecting this information, arguing that requesting such information was intrusive and not necessary for the purpose of the form.

One commenter recommended removing the birth date data element for the borrower's spouse but requiring the borrower to report marital status.

One commenter noted that the proposed version of the form required borrowers to report taxable and untaxed income separately. The commenter stated that, unless the intent is to exclude untaxed income from the calculation of monthly income, there is no reason to report it separately from taxable income. The commenter asked that the Department clarify how different sources of income will be considered, if the Department retains the requirement that the two types of income be reported separately on the form.

One commenter recommended that we require a borrower to provide monthly income information for individuals in the borrower's household other than the borrower and the borrower's spouse. This commenter also recommended that the form require the borrower to identify the borrower's current employer.

Discussion: We share the commenters' concerns about protecting the privacy of borrowers completing the form. We do not intend to collect information that is not needed to make a determination of a borrower's reasonable and affordable rehabilitation payment amount. However, to determine a borrower's reasonable and affordable loan payment using the alternative methodology outlined in the final regulations, a loan holder must have information on both the borrower's monthly income and the borrower's reasonable and necessary monthly expenses. It is also necessary to collect such information for the borrower's spouse, if the spouse contributes to the household income of the borrower.

Under the Department's regulations at 34 CFR 685.211(f)(3)(ii) and 682.405(b)(1)(vii)(B) the Department or a FFEL loan holder considers the borrower's family size in determining whether the monthly expenses that a borrower reports are reasonable and necessary. Therefore, the Department's form must collect information on family size. However, since marital status is

not needed to determine family size, we disagree with the recommendation that we collect marital status information on the form.

We agree that the birth date of the borrower's spouse does not need to be reported. We have revised the form to make it clear that the name and SSN of the borrower's spouse are only needed if the borrower and the borrower's spouse are applying for rehabilitation of a joint Consolidation Loan.

We agree with the suggestion that it is not necessary to report taxable and untaxed income in separate sections of the form. Both types of income are counted when determining a borrower's monthly income for purposes of calculating a reasonable and affordable payment amount. Consequently, we have grouped these two forms of income together in the same section to provide a clear picture of a borrower's total monthly income.

We disagree with the recommendation that the form should collect income information for individuals in the borrower's household other than the borrower and the borrower's spouse. Under the Department's regulations for loan rehabilitation, monthly income is determined based only on the income of the borrower and his or her spouse.

We also disagree with the recommendation that we require borrowers to provide employer information on the form. This information is not needed to determine a borrower's monthly income or expenses.

Changes: We have added a statement to the instructions for Section 2 indicating that spousal income information is only required if the spouse contributes to household income. We have also revised the form so that borrowers report taxable income and untaxed income in the same section. The form now has separate rows for each type of untaxed income (i.e., child support, Social Security benefits, etc.). As a result, the form no longer refers to ''taxable'' income or ''untaxed'' income.

We have removed the request for the birth date of the borrower's spouse and the ''Spousal Identification'' section that was on the proposed form. We have moved the questions asking for the name and SSN of the borrower's spouse to Section 3, which also collects family size and Adjusted Gross Income (AGI) information. A spouse's signature and other spousal information are only required if both borrowers are applying for rehabilitation of a joint Consolidation Loan.

Comments: None.

Discussion: The version of the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form that we included with the NPRM was intended to be used to determine the initial offer of a borrower's monthly rehabilitation payment amount. The form required a borrower to report AGI because, under the regulations proposed in the NPRM, if the borrower rejected the initial offer of a monthly rehabilitation payment amount based on the borrower's monthly income and expenses, a loan holder would need the borrower's AGI to calculate a monthly rehabilitation payment amount using an alternative method. Under the alternative method, the monthly rehabilitation payment amount would equal 15 percent of the amount by which the borrower's AGI exceeds 150 percent of the poverty guideline applicable to the borrower's family size and State, divided by 12, with a minimum payment of not less than $5 (''the 15 percent formula'').

Under the final regulations, the loan holder determines the initial offer of a monthly rehabilitation payment amount by using the 15 percent formula. If the borrower rejects that offer, the borrower completes the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form, and the loan holder calculates an alternative monthly rehabilitation payment amount using the monthly income and expenses information reported on the form. AGI is not needed to calculate a monthly rehabilitation payment amount based on a borrower's monthly income and expenses, although it is needed to determine a monthly rehabilitation payment amount using the 15 percent formula.

A borrower who initially rejected the monthly rehabilitation repayment amount determined using the 15 percent formula may ultimately decide to accept that payment amount, after the loan holder has calculated a monthly payment amount based on the monthly income and expenses information provided on the form. In this circumstance, it might be useful for the borrower to provide AGI information on the form. However, we do not believe that borrowers who have explicitly rejected a payment amount determined based on their AGI should be required to provide AGI information on this form and, thus, we have made this question optional.

Changes: We have retained the data element asking a borrower to provide AGI information, but have made it optional.

Instructions and Definitions

Comments: The commenter that submitted a proposed revised version of the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form recommended adding definitions for ''public assistance,'' ''taxable income,'' and ''untaxed'' income to the Definitions section of the form.

One commenter asked whether Supplemental Nutritional Assistance Program (SNAP) benefits should be reported under ''Monthly Income.''

Discussion: We agree that including a definition for ''public assistance'' will be helpful to borrowers in completing the form. Definitions for ''taxable income'' and ''untaxed'' income are not needed, since the final version of the form does not use those terms.

The Department's regulations at 34 CFR 685.211(f)(3)(i) and 682.405(b)(1)(vii)(A) specify that a borrower's monthly income includes public assistance payments, welfare benefits, and Supplemental Security Income. SNAP payments qualify under the general category of public assistance payments and will be counted when determining a borrower's monthly income.

Changes: We have added a definition for ''public assistance'' to Section 6 of the form.

Comments: None.

Discussion: The final regulations introduced the term ''15 percent formula'' as the formula used to determine the initial offer of a reasonable and affordable repayment amount. We believe that explaining this term on the form will be helpful to borrowers.

Changes: We have added a definition for the ''15 percent formula'' to Section 6 of the form.

Paperwork Reduction Act of 1995

Sections 685.211 and 682.405 of the Department's final regulations published on November 1, 2013, contain information collection requirements. Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3507(d)), the Department submitted the related Information Collection Request (ICR) to OMB for its review and approval.

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control number assigned to the collection of information in this notice and on the form itself.

Financial Disclosure for Reasonable and Affordable Rehabilitation Payments Form

With the regulations published in the NPRM on July 29, 2013, the form was to be used for all defaulted borrowers who wished to establish a reasonable and affordable monthly rehabilitation repayment amount on a defaulted loan. The initial burden analysis, based on this proposal, resulted in 329,029 respondents requiring 1.5 hours each to complete the form for a total burden estimated at 588,044 hours.

Sections 685.211(f)(5) and 682.405(b)(1)(vii) included in the Department's final regulations published on November 1, 2013, revised the proposal. The final rule now requires only borrowers who object to the monthly rehabilitation payment amount determined using the 15 percent formula described in the final regulations to provide the guaranty agency or the Secretary the information needed to calculate a monthly rehabilitation payment amount by completing the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form.

Based on this change, we project that of the estimated 11,144 Direct Loan borrowers and 35,899 FFEL borrowers who object to the calculation using the 15 percent formula in the final regulations, 75 percent or 8,358 Direct Loan and 26,924 FFEL borrowers will complete and return the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form to the Secretary or guaranty agency. As a result of the restructuring and streamlining of the form, we now anticipate that each borrower will need one hour to read the form and instructions, gather the pertinent documents and complete the form for submission. This will yield 35,282 hours of burden (8,358 + 26,924 = 35,282 × 1 hour = 35,282) under OMB Control Number 1845–0120.

We believe this burden estimate is a realistic projection for this new process and form. The Department plans to monitor the use of the approved Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form and in future information collection submissions be able to provide actual versus projected numbers of submissions (as available), therefore refining future burden estimates.

Consistent with the discussion above, the following chart describes the section of the regulations involving information collections, the information being collected and the collections that the Department has submitted to the Office of Management and Budget for approval and public comment under the Paperwork Reduction Act, and the estimated costs associated with the information collection. The monetized net savings from the reduced burden on guaranty agencies and borrowers using wage data developed using BLS data, available at *http://www.bls.gov/ncs/ect/sp/ecsuphst.pdf* is $13,603,472 as shown in the chart below. This cost was based on an hourly rate of $24.61.

COLLECTION OF INFORMATION

Regulatory sections	Information collection request	OMB Control No. and estimated change in burden	Estimated costs
§ 682.405(b) and § 685.211(f) ..... Loan rehabilitation agreement	Financial Disclosure for Reasonable and Affordable Rehabilitation Payments.	OMB 1845–0120 ..... The Department estimates that the burden will decrease by 552,762 hours.	−$13,603,472

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

(Catalog of Federal Domestic Assistance Numbers: 84.032 Federal Family Education Loan Program; 84.268 William D. Ford Federal Direct Loan Program)

You may access the OMB-approved version of the Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form at *www.regulations.gov* under the Docket Number ED–2013–OPE–0063.

Dated: March 26, 2014.

Brenda Dann-Messier,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2014–07146 Filed 3–31–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–104–000]

Texas Eastern Transmission, LP; Notice of Application

Take notice that on March 11, 2014, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed an application in the above referenced docket pursuant to section 7(c) of the Natural Gas Act (NGA) requesting authorization to construct and operate its U2GC Project to provide 425,000 dekatherms per day of pipeline capacity from Appalachian supply sources to an interconnection with the Panhandle Eastern Pipe Line Company, LP's system near Gas City, Indiana. Texas Eastern states the U2GC Project involves minor modifications to existing facilities in Pennsylvania, Ohio, and Indiana to provide for bidirectional flow capabilities. Texas Eastern estimates the cost of the U2GC Project to be $56.5 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call

toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Berk Donaldson, Director Rates and Certificates, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251–1642, by telephone at (713) 627–4488, by facsimile at (713) 627–5947, or by email at *bdonaldson@spectraenergy.com*.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the 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 EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on April 15, 2014.

Dated: March 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–07180 Filed 3–31–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–76–000]

AmerenEnergy Resources Generating Company (Complainant) v. Midcontinent Independent System Operator, Inc. (Respondent); Notice of Supplement to Complaint

Take notice that on February 20, 2014, Illinois Power Marketing Company (IPM) and Illinois Power Resources Generating, LLC (IPRG) filed a supplement to the July 5, 2013 filed complaint (July 5 Complaint) against Midcontinent Independent System Operator, Inc. (MISO), pursuant to sections 206 of the Federal Power Act, 16 U.S.C. 824e and 18 CFR 385.206, regarding the compensation that a System Support Resource unit should be provided under MISO's Tariff, as more fully explained in the supplement to the July 5 Complaint.

IPM and IPRG certify that copies of the supplement were served on MISO and on persons designated for service on the official service list complied in Docket No. EL13–76.

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 April 14, 2014.

Dated: March 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–07182 Filed 3–31–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP14–638–000]

Atmos Energy Corporation v. American Midstream (Midla) LLC; Notice of Complaint

Take notice that on March 24, 2014, pursuant to section 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Atmos Energy Corporation (Complainant) filed a formal complaint against American Midstream (Midla) LLC (Respondent) alleging that, Respondent's open season notice and process and its refusal to process and extend Complainant's service agreements: (1) Violates the requirements of section 7(b) of the Natural Gas Act, 15 USC 717(f)(b) and Complainant's FERC Gas Tariff, Seventh Revised Volume No. 1; (2) are inconsistent with the Commission's policies and procedures for authorizing abandonment of service to captive customers; and (3)impermissibly discriminates against Complainant in the provision of service and implementation of its tariffs. Complainant also requests that the Commission establish a conference, pursuant to Rule 601 of its Rules of Practice and Procedure, 18 CFR 385.601, in an effort to foster settlement negotiations and address physical pipeline issues raised by the Respondent.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

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 April 14, 2014.

Dated: March 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–07184 Filed 3–31–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–10–133]

Puget Sound Energy, Inc. v. All Jurisdictional Sellers, et al.; Notice of Filing

Take notice that on March 24, 2014, Idaho Power Company and IDACORP Energy Services Company submitted their Settlement and Release of Claims Agreement in accordance with Commission's February 21, 2014 Letter Order, *Puget Sound Energy, Inc.* v. *All Jurisdictional Sellers, et al.,* Order Approving Settlement Agreement, 146 FERC ¶ 61,123 (2014) (February 21 Order).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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 April 14, 2014.

Dated: March 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–07181 Filed 3–31–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR14–24–000]

Enable Bakken Crude Services, LLC; Notice of Petition for Declaratory Order

Take notice that on March 20, 2014, pursuant to Rule 207(a)(2) of the Commission's Rules of Practices and Procedure, 18 CFR 385.207(a)(2)(2014), Enable Bakken Crude Services, LLC filed a petition requesting a declaratory order approving the overall transportation, tariff and rate structure for a new crude oil gathering pipeline system that will gather crude oil produced from various points in Mountrail and Williams Counties, North Dakota and transport it to a central delivery point near Tioga, which is located in Williams County, North Dakota, as explained more fully in the petition.

Any person desiring to intervene or to protest in this proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street 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 April 18, 2014.

Dated: March 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–07183 Filed 3–31–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9908–96–OA]

Notification of Two Public Teleconferences of the Science Advisory Board Panel for the Review of the EPA Water Body Connectivity Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces two public teleconferences of the SAB Panel to discuss its draft advisory report concerning the EPA document titled *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence (September, 2013 External Review Draft, EPA/600/R–11/098B).*

DATES: The SAB Panel for the Review of the EPA Water Body Connectivity Report will conduct public teleconferences on April 28, 2014 and May 2, 2014. Each of the teleconferences will begin at 1:00 p.m. and end at 5:00 p.m. (Eastern Time).

Location: The public teleconferences will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain information concerning the public teleconferences may contact Dr. Thomas Armitage, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; via telephone at (202) 564–2155 or via email at *armitage.thomas@epa.gov.* General information concerning the SAB as well as any updates concerning the teleconferences announced in this notice may be found on the EPA Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Panel for the Review of the EPA Water Body Connectivity Report will hold two public teleconferences to discuss its draft advisory report concerning the EPA document titled *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence (September, 2013 External Review Draft, EPA/600/R–11/098B).* This SAB panel will provide advice to the Administrator through the chartered SAB.

Background: The SAB Panel for the Review of the EPA Water Body Connectivity Report previously held a face-to-face meeting on December 16–18, 2013 to conduct a peer review of the EPA document titled *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence (September, 2013 External Review Draft, EPA/600/R–11/098B)* [**Federal Register** Notice dated September 24, 2013 (78 FR 58536–58537)]. Specifically, the Panel has been asked to evaluate: the clarity and technical accuracy of the EPA document, whether it includes the most relevant peer reviewed literature, whether the literature has been correctly summarized, and whether the findings and conclusions in the Report are supported by the available science. The purpose of the upcoming teleconferences is for the SAB Panel to discuss its draft advisory report. The two teleconferences will be conducted as one complete meeting, beginning on April 28, 2014, and continuing on May 2, 2014.

Availability of Meeting Materials: Teleconference agendas, the SAB Panel's draft advisory report, and any other meeting materials will be placed on the SAB Web at *http://www.epa.gov/sab* in advance of the teleconferences. For technical questions and information concerning the EPA document, *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence (September, 2013 External Review Draft, EPA/600/R–11/098B),* please contact Dr. Laurie Alexander, National Center for Environmental Assessment, Office of Research and Development, U.S. EPA, 1200 Pennsylvania Avenue NW., Mail Code 8623P, Washington, DC 20460, telephone (703) 347–8630 or via email at *alexander.laurie@epa.gov.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide oral statements to the SAB Panel should contact the DFO directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes. Interested parties should contact Dr. Thomas Armitage, DFO, in writing (preferably via email) at the contact information noted above by April 23,

2014 to be placed on the list of public speakers for April 28, 2014. *Written Statements:* Members of the public wishing to provide written comments may submit them to the EPA Docket electronically via *www.regulations.gov* by email, by mail, or by hand delivery/courier. Please follow the detailed instructions provided in the written statements section of this notice. Written statements should be received in the EPA Docket by April 23, 2014 so that the information may be made available to the SAB Panel for its consideration. Written statements should be identified by Docket ID No. EPA–HQ–OA–2013–0582 and submitted to the Docket at *www.regulations.gov* by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Email: *Docket_OEI@epa.gov:* Include the docket number in the subject line of the message.
- Mail: Office of Environmental Information (OEI) Docket (Mail Code: 28221T), Docket ID No. EPA–HQ–OA–2013–0582, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. The phone number is (202) 566–1752.
- Hand Delivery: The OEI Docket is located in the EPA headquarters Docket Center, Room 3334, WJC West Building, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Direct your comments to Docket ID No. EPA–HQ–OA–2013–0582. Please ensure that your comments are submitted by April 23, 2014. Comments received after that date will be marked late and may not be provided to the SAB Panel for consideration before the April 28, 2014 teleconference. It is EPA's policy to include all comments received in the public docket without change and to make the comments available on-line at *www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email 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 comments due to technical difficulties and cannot contact you for clarification, the SAB Panel may not be able to consider your comments. Electronic files should avoid the use of special characters and 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 *www.epa.gov/epahome/dockets.htm.*

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 at *www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Thomas Armitage at (202) 564–2155 or *armitage.thomas@epa.gov.* To request accommodation of a disability, please contact Dr. Armitage preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: March 26, 2014.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Staff Office.

[FR Doc. 2014–07239 Filed 3–31–14; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

Sunshine Act Meeting

ACTION: Notice of an Open Meeting of the Board of Directors of the Export-Import Bank of the United States. This notice replaces the notice of the partially open meeting of April 10, 2014 which has subsequently been cancelled.

TIME AND PLACE: Thursday, April 10, 2014 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 321, 811 Vermont Avenue NW., Washington, DC 20571.

OPEN AGENDA ITEM: Item No. 1: Content Review Initiatives: Services Policy, Annual Content Certification and Co-financing.

PUBLIC PARTICIPATION: The meeting will be open to public observation for Item No. 1 only.

FURTHER INFORMATION: Members of the public who wish to attend the meeting should call Joyce Stone, Office of the Secretary, 811 Vermont Avenue NW., Washington, DC 20571, (202) 565–3336 by close of business Tuesday, April 8, 2014.

Cristopolis Dieguez,

Program Management Analyst.

[FR Doc. 2014–07389 Filed 3–28–14; 4:15 pm]

BILLING CODE 6690–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, April 3, 2014 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes for March 18, 2014

Draft Advisory Opinion 2014–01: Solano County United Democratic Central Committee

Draft Advisory Opinion 2014–02: Make Your Laws PAC, Inc.

Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2014–07278 Filed 3–28–14; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS14–04]

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: April 9, 2014.

Time: 10:30 a.m.

Status: Open.

Chairman's Report
Executive Director's Report
Annual Agency Monitoring
Delegated State Compliance Reviews
Financial Report

Action Item: February 12, 2014 minutes—Open Session.

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: March 27, 2014.

James R. Park,

Executive Director.

[FR Doc. 2014–07273 Filed 3–31–14; 8:45 am]

BILLING CODE P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS14–05]

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 closed session:

Location: Federal Reserve Board—International Square location: 1850 K Street NW., Washington, DC 20006.

Date: April 9, 2014.

Time: Immediately following the ASC open session.

Status: Closed.

Matters To Be Considered:

Personnel.

Dated: March 27, 2014.

James R. Park,

Executive Director.

[FR Doc. 2014–07274 Filed 3–31–14; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 16, 2014.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Kenneth R. Lehman,* Arlington, Virginia; to acquire voting shares of Four Oaks Fincorp, Inc., and thereby indirectly acquire voting shares of Four Oaks Bank & Trust Company, both in Four Oaks, North Carolina.

Board of Governors of the Federal Reserve System, March 27, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–07221 Filed 3–31–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 25, 2014.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *The First Bancshares, Inc.*, Hattiesburg, Mississippi; to merge with BCB Holding Company, Inc., and thereby indirectly acquire Bay Bank, both in Mobile, Alabama.

Board of Governors of the Federal Reserve System, March 27, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–07222 Filed 3–31–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part F, Section F.70 (Order of Succession) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Service (CMS), 75 FR 71714, dated November 24, 2010, which is rescinded and replaced by the following:

Orders of Succession

1. During any period when the Administrator, Centers for Medicare & Medicaid Services (CMS) has died, resigned, or otherwise becomes unable to perform the functions and duties in the Office of the Administrator, CMS, the following officers, in the Order of Succession listed below, shall act for and perform the functions and duties of the Office of the Administrator, CMS, until such time as: the Administrator, CMS, again becomes available; a permanent successor is appointed by the President and confirmed by Congress; or the temporary successor is otherwise relieved:

a. Principal Deputy Administrator.

b. Deputy Administrator and Director, Center for Medicare.

c. Deputy Administrator and Director, Center for Medicaid and CHIP Services.

d. Chief of Staff.

e. Chief Operating Officer.

2. During any period when there is no eligible officer available or capable of performing responsibilities in the Office of the Administrator, CMS, pursuant to the officers listed in 1.a. through 1.e. above, the following positions in CMS, in the Order of Succession listed below, shall act and perform the functions and duties inherent in the Emergency Operations Executive (EOE) in the event of an emergency situation:

a. Consortium Administrator, Consortium for Quality Improvement and Survey & Certification Operations.

b. Consortium Administrator, Consortium for Financial Management and Fee For Service Operations.

c. Consortium Administrator, Consortium for Medicaid and Children's Health Operations.

d. Consortium Administrator, Consortium for Medicare Health Plans Operations.

The authority to act as the Administrator, CMS, must be exercised in accordance with the provisions of the Federal Vacancies Reform Act of 1998 (''the Vacancies Act''), 5 U.S.C. Section 3345 et seq. The ''Acting'' title is applicable and reserved only in instances in which the Administrator, CMS, position is vacant. In accordance with the Vacancies Act, the Principal Deputy Administrator is herein designated as the first assistant for CMS.

During a planned absence, the Administrator, CMS, may designate an individual to serve as ''operationally in charge.'' If an individual is serving in an ''operationally in charge'' capacity, he or she is not eligible for any delegated authority under these Orders of Succession unless he or she was designated as a delegatee by the Administrator, CMS.

The two Orders of Succession listed in this notice are limited to the duties and responsibilities of only the officers and positions. Number 1 can only be exercised in order to accomplish the goals of maintaining the agency's essential functions. Number 2 can only be exercised to restore the agency's normal business functions under the CMS Continuity of Operations Plan.

The EOE is responsible for notifying the Secretary, HHS and any available CMS leadership that the EOE has assumed responsibility.

I, or my successor retain the authority to change, amend, or re-delegate this notice.

The two Orders of Succession listed in this notice remain in effect and will be revised accordingly as positions or nomenclature change in CMS.

This notice only applies to periods when the Administrator, CMS, or his or her successor are not available to perform the duties and responsibilities contained in the two Orders of Succession.

This notice is effective upon date of signature.

Dated: March 27, 2014.

Marilyn Tavenner,

Administrator.

[FR Doc. 2014–07241 Filed 3–31–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Voluntary Establishment of Paternity

OMB No.: 0970–0175

Description: Section 466(a)(5)(C) of the Social Security Act requires States to pass laws ensuring a simple civil process for voluntarily acknowledging paternity under which the State must provide that the mother and putative father must be given notice, orally and in writing, of the benefits and legal responsibilities and consequences of acknowledging paternity. The information is to be used by hospitals, birth record agencies, and other entities participating in the voluntary paternity establishment program that collect information from the parents of children that are born out of wedlock.

Respondents: The parents of children that are born out of wedlock.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
None	1,686,980	1	0.17	286,787

Estimated Total Annual Burden Hours: 286,787.

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. 2014–07237 Filed 3–31–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0329]

Guidance for Industry on Fees for Human Drug Compounding Outsourcing Facilities Under the Federal Food, Drug, and Cosmetic Act; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Fees for Human Drug Compounding Outsourcing Facilities Under Sections 503B and 744K of the FD&C Act.'' The guidance is intended for entities that compound human drugs and elect to register as outsourcing facilities (outsourcing facility) under section 503B of the Federal Food, Drug, and Cosmetic Act (FD&C Act), as added by the Drug Quality and Security Act (DQSA). Entities that elect to register as outsourcing facilities must pay certain fees to be considered outsourcing facilities. This guidance describes the annual establishment fee, the reinspection fee, annual adjustments to fees required by law, how to submit payment, the effect of failure to pay fees, and how to qualify as a small business to obtain a reduction of the annual establishment fee.

DATES: Submit either electronic or written comments on FDA guidances at any time. Submit either electronic or written comments concerning the collection of information proposed in the draft guidance by June 2, 2014.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of User Fee Management and Budget Formulation, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Rm. 2163, Silver Spring, MD 20903. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: M. Jonathan Gil, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Silver Spring, MD 20903, 301–796–7900.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Fees for Human Drug Compounding Outsourcing Facilities Under Sections 503B and 744K of the FD&C Act.'' On November 27, 2013, President Obama signed the DQSA (Pub. L. 113–54) into law. The DQSA added a new section 503B to the FD&C Act that created a category of entities called *outsourcing facilities.* Outsourcing facilities, as defined in section 503B(d)(4) of the FD&C Act, are facilities that meet certain conditions described in section 503B(a), including, registering with FDA as an outsourcing facility and paying associated fees. If the conditions outlined in section 503B(a) of the FD&C Act are satisfied, a drug compounded by or under the direct supervision of a licensed pharmacist in an outsourcing facility is exempt from two sections of the FD&C Act: (1) Section 502(f)(1) (21 U.S.C. 352(f)(1)) (concerning the labeling of drugs with adequate directions for use); and (2) section 505 (21 U.S.C. 355) (concerning the approval of human drug products under new drug applications (NDAs) or abbreviated new drug applications (ANDAs)). Drugs compounded in outsourcing facilities are not exempt from the requirements of section 501(a)(2)(B) of the FD&C Act (21 U.S.C. 351(a)(2)(B)) (concerning current good manufacturing practice for drugs).

This guidance describes in detail the fee types and amounts an entity must pay to satisfy the fee requirements of sections 503B(a)(9) and 744K of the FD&C Act to be deemed an outsourcing facility and maintain its status as an outsourcing facility, the adjustments to the fees required by law, how to qualify as a small business to obtain a reduction of the annual establishment fee, how and when to submit payment to FDA, the effect of failure to pay fees, and fee-related dispute resolution.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents FDA's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This draft guidance contains information collection provisions that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection are given under this section with an estimate of the reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

We invite 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.

Title: Guidance for Industry on Fees for Human Drug Compounding Outsourcing Facilities Under Sections 503B and 744K of the FD&C Act; Availability.

Description: The draft guidance pertains to entities that compound human drugs and elect to register as outsourcing facilities. These outsourcing facilities must pay certain fees to FDA. The draft guidance describes the fee

types and amounts, the adjustments to fees required by law, how to submit payment, the effect of failure to pay fees, and how to qualify as a small business to obtain a reduction of the annual establishment fee. The draft guidance contains the following collections of information:

1. As described in section III.A of the draft guidance, upon receiving registration information from a facility seeking to register as an outsourcing facility, FDA will send an invoice for an establishment fee to the outsourcing facility. The invoice contains instructions for paying the establishment fee, as discussed in section III.E of the draft guidance. This process would be repeated annually under the timeframes described in the draft guidance. An outsourcing facility is not considered registered until the required establishment fee is paid for that fiscal year.

We estimate that annually a total of approximately 20 outsourcing facilities (''no. of respondents'' in table 1, row 1) will pay to FDA approximately 20 establishment fees (''total annual responses'' in table 1, row 1) as described in the draft guidance. We also estimate that it will take an outsourcing facility approximately 0.5 hours to prepare and submit to FDA each establishment fee (''average burden per response'' in table 1, row 1).

2. As described in section III.C of the draft guidance, outsourcing facilities that are reinspected will be assessed a reinspection fee for each reinspection. The reinspection fee is designed to reimburse FDA when it must visit a particular outsourcing facility more than once because of noncompliance identified during a previous inspection. A reinspection fee will be incurred for each reinspection that occurs. After FDA conducts a reinspection, we will send an invoice to the email address indicated in the facility's registration file. The invoice contains instructions for paying the reinspection fee, as discussed in section III.E of the draft guidance.

We estimate that annually a total of approximately 5 outsourcing facilities (''no. of respondents'' in table 2, row 1) will pay to FDA approximately 5 reinspection fees (''total annual responses'' in table 2, row 1) as described in the draft guidance. We also estimate that it will take an outsourcing facility approximately 0.5 hours to prepare and submit to FDA each reinspection fee (''average burden per response'' in table 2, row 1).

3. As described in section III.D of the draft guidance, certain outsourcing facilities may qualify for a small business reduction in the amount of the annual establishment fee. To qualify for this reduction, an outsourcing facility must submit to FDA a written request and a certification that the entity meets the requirements for the reduction. For every fiscal year that the firm seeks to qualify as a small business and receive the fee reduction, the written request must be submitted to FDA by April 30 of the preceding the fiscal year. For example, an outsourcing facility must submit a written request for the small business reduction by April 30, 2014, to qualify for a reduction in the fiscal year 2015 annual establishment fee. As described in the guidance, section 744K of the FD&C Act also requires an outsourcing facility to submit its written request for a small business reduction in a format specified by FDA in the guidance. The draft guidance specifies that Form FDA 3908 is the format for submitting requests for a small business fee reduction; Form FDA 3908 is attached as Appendix 1.

We estimate that annually a total of approximately 10 outsourcing facilities (''no. of respondents'' in table 1, row 2) will submit to FDA a request for a small business reduction in the amount of the annual establishment fee. We estimate that approximately 10 Form FDA 3908 (''total annual responses'' in table 1, row 2) will be submitted to FDA annually, as described in the draft guidance, and that it will take an outsourcing facility approximately 25 hours to prepare and submit to FDA each Form FDA 3908 (''average burden per response'' in table 1, row 2).

4. As described in section III.D of the draft guidance, those outsourcing facilities that request a small business reduction in the amount of the annual establishment fee will receive a small business designation letter notifying the facility of FDA's decision. Outsourcing facilities eligible to pay a reduced fee should maintain a copy of the small business designation letter applicable to that fiscal year for their records.

We estimate that annually a total of approximately 10 outsourcing facilities (''no. of recordkeepers'' in table 3) will keep a copy of their small business designation letter (''total annual records'' in table 3), and that maintaining each record will take approximately 0.5 hours (''average burden per recordkeeping'' in table 3).

5. As described in section V.B of the draft guidance, an outsourcing facility may request a reconsideration under 21 CFR 10.75 of an FDA decision related to the fee provisions of section 744K of the FD&C Act. As explained in the draft guidance, the request should state the facility's rationale for its position that the decision was in error and include any additional information that is relevant to the outsourcing facility's argument.

We estimate that a total of approximately 2 outsourcing facilities (''no. of respondents'' in table 2, row 2) will submit to FDA a request for reconsideration as described in the draft guidance. We estimate that approximately 1 request for reconsideration (''total annual responses'' in table 2, row 2) will be submitted to FDA by each facility, and that it will take an outsourcing facility approximately 1 hour to prepare and submit to FDA each request for reconsideration (''average burden per response'' in table 2, row 2).

6. As described in section V.B of the draft guidance, an outsourcing facility may appeal, as set forth in 21 CFR 10.75, an FDA denial of a request for reconsideration of an FDA decision related to the fee provisions of section 744K of the FD&C Act.

We estimate that a total of approximately 1 outsourcing facility (''no. of respondents'' in table 2, row 3) will submit an appeal of an FDA denial of a request for reconsideration. We estimate that approximately 1 appeal will be made by each facility containing the information described in the draft guidance (''total annual responses'' in table 2, row 3), and that it will take an outsourcing facility approximately 1 hour to prepare and submit each appeal under 21 CFR 10.75 (''average burden per response'' in table 2, row 3).

In the **Federal Register** of December 4, 2013 (78 FR 72899), FDA announced the availability of a draft guidance for industry entitled ''Registration for Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act.'' In that notice, we estimated the burden under the PRA for submitting outsourcing facility registration information to FDA.

The total estimated reporting and recordkeeping burdens for this collection of information are as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN—ESTABLISHMENT FEE [1]

Type of reporting	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Payment of annual establishment fee	20	1	20	0.5	10
Request for Small Business Establishment Fee Reduction (Form FDA 3908)	10	1	10	25	250
Total					260

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN—REINSPECTION FEE AND DISPUTE RESOLUTION REQUESTS [1]

Type of reporting	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Payment of re-inspection fee	5	1	5	0.5	2.5
Reconsideration request	2	1	2	1	2
Appeal request	1	1	1	1	1
Total					5.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Type of recordkeeping	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Copy of small business designation letter	10	1	10	0.5	5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Comments

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

IV. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PharmacyCompounding/ucm166743.htm* or *http://www.regulations.gov.* Use the FDA Web site listed in the previous sentence to find the most current version of the guidance.

Dated: March 24, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–06884 Filed 3–31–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at Vol. 79, FR 1882 dated January 10, 2014).

This notice reflects organizational changes to the Health Resources and Services Administration. Specifically, this notice updates the functional statement for the Healthcare Systems Bureau (RR), Office of Pharmacy Affairs (RR7).

Chapter RR—Healthcare Systems Bureau

Section RR–20, Functions

(1) Delete the functional statement for the Office of Pharmacy Affairs (RR7) and replace in its entirety.

Office of Pharmacy Affairs (RR7)

The Office of Pharmacy Affairs promotes access to clinical and cost effective pharmacy services to enable participating entities to stretch scarce federal resources in order to serve more patients, expand their services, or offer additional services. Specifically, the office: (1) Manages the 340B involvement of pharmaceutical manufacturers that participate in the Medicaid program, through Pharmaceutical Pricing Agreements; (2) maintains a publicly accessible database of participating covered entities, sites, and contract pharmacies; (3) publishes guidelines/regulations to assist in the understanding and participation in the 340B Program; (4) maintains a Prime Vendor Program to increase the value of the 340B Program; (5) provides technical assistance to Program stakeholders to support their appropriate and best use of the 340B Program; (6) fosters mutually productive

relationships with federal and private sector partners; (7) provides a national platform for the coordination and development of leading practices for pharmacy services; (8) promotes comprehensive and efficient pharmacy management application and systems use to ensure safe and effective medication use; (9) manages quality improvement activities; and (10) promotes program integrity compliance and improvement activities.

Section RR–30, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: March 20, 2014.

Mary K. Wakefield,

Administrator.

[FR Doc. 2014–07177 Filed 3–31–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Special Volunteer and Guest Researcher Assignment, Office of the Director (OD)

SUMMARY: In compliance with the requirement of Section 3506(c) (2) (A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Office of Intramural Research (OIR), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Mr. Larry Chloupek, Management Liaison Director, OIR, Office of the Director, NIH, 2 Center Drive MSC 0235, Bethesda, MD 20892–0235; or call non-toll-free number 301–594–3992; or email your request, including your address, to *larry.chloupek@nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Special Volunteer and Guest Researcher Assignment, 0925–0177—EXTENSION—Office of Intramural Research (OIR), National Institutes of Health (NIH).

Need and Use of Information Collection: Form Number NIH–590 is a single form completed by an NIH official for each Guest Researcher or Special Volunteer prior to his/her arrival at the NIH. The information on the form is necessary for the approving official to reach a decision on whether to allow a Guest Researcher to use NIH facilities or whether to accept volunteer services offered by a Special Volunteer. If the original assignment is extended, another form notating the extension is completed to update the file.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours is 166.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Special Volunteers	1,250	1	6/60	125
Guest Researchers	410	1	6/60	41

Dated: March 25, 2014.

Lawrence A. Tabak,

Deputy Director, NIH, Office of the Director.

[FR Doc. 2014–07263 Filed 3–31–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Eye Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Eye Council.

Date: June 12, 2014.

Open: 8:30 a.m. to 2:00 p.m.

Agenda: Following opening remarks by the Director, NEI, there will be presentations by the staff of the Institute and discussions concerning Institute Programs.

Place: National Institutes of Health, Terrace Level Conference Room, 5635 Fishers Lane, Bethesda, MD 20892.

Closed: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Terrace Level Conference Room, 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: Lore Anne Mc Nicol, Ph.D., Director, Division Of Extramural Research National Eye Institute, National Institutes Of Health Bethesda, MD 20892, (301) 451–2020.

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.

Information is also available on the Institute's/Center's home page: *www.nei.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: March 26, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–07159 Filed 3–31–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings (Parent R13/U13).

Date: April 23–25, 2014.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Room 3128, 6700B Rockledge Drive, Bethesda, MD 20817, (Virtual Meeting).

Contact Person: Jane K. Battles, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, Room 3128 Bethesda, MD 20892–7616, 301–451–2744, *battlesja@mail.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''NIAID Clinical Trial Planning Grants (R34) and Implementation Grants and Cooperative Agreements (R01, U01)''.

Date: April 23, 2014.

Time: 1:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Room 3122, 6700B Rockledge Drive, Bethesda, MD 20817.

Contact Person: Brenda Lange-Gustafson, Ph.D., Scientific Review Officer, NIAID/NIH/DHHS, Scientific Review Program, Room 3122, 6700–B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–3684, *bgustafson@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 26, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–07157 Filed 3–31–14; 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. Appendix 2); 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 purpose of this meeting is to evaluate requests for preclinical development resources for potential new therapeutics for the treatment of cancer. The outcome of the evaluation will provide information to internal NCI committees that will decide whether NCI should support requests and make available contract resources for development of the potential therapeutic to improve the treatment of various forms of cancer. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel NCI Experimental Therapeutics Program (Cycle 16 NExT).

Date: April 24, 2014.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To evaluate the NCI Experimental Therapeutics Program Portfolio.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31 Conference Room 6C06, Bethesda, MD 20892.

Contact Person:

Barbara Mroczkowski, Ph.D., Executive Secretary, Discovery Experimental Therapeutics Program, National Cancer Institute, NIH, 31 Center Drive, Room 3A44, Bethesda, MD 20892, (301) 496–4291, *mroczkoskib@mail.nih.gov*.

Joseph Tomaszewski, Ph.D., Executive Secretary, Development Experimental Therapeutics Program, National Cancer Institute, NIH, 31 Center Drive, Room 3A44, Bethesda, MD 20892, (301) 496–6711, *tomaszej@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: March 26, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–07158 Filed 3–31–14; 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; NIBIB LRP Review (2014/08).

Date: April 23, 2014.

Time: 2:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ruth Grossman, DDS, Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Room 960, Bethesda, MD 20892, 301–496–8775, *grossmanrs@mail.nih.gov*.

Dated: March 26, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–07156 Filed 3–31–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov.*

FOR FURTHER INFORMATION CONTACT: Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 7–1051, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

HHS-Certified Instrumented Initial Testing Facilities:

Gamma-Dynacare Medical Laboratories, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190

HHS-Certified Laboratories:

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories).

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.).

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890.

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Fortes Laboratories, Inc., 25749 SW Canyon Creek Road, Suite 600, Wilsonville, OR 97070, 503–486–1023.

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

Laboratory Corporation of America Holdings, 7207 N. Gessner Road,

Houston, TX 77040, 713–856–8288/800–800–2387.
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).
Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).
Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).
LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).
MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.
Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.
Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370, (Formerly: SmithKline Beecham Clinical Laboratories).
Redwood Toxicology Laboratory, 3650 Westwind Blvd., Santa Rosa, CA 95403, 707–570–4434.
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x1276.
Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.
STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438.
US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

The following laboratory voluntarily withdrew from the NLCP on March 28, 2014:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

The following laboratory voluntarily withdrew from the NLCP on April 4, 2014:

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Janine Denis Cook,

Chemist, Division of Workplace Programs, Center for Substance Abuse Prevention, SAMHSA.

[FR Doc. 2014–07196 Filed 3–31–14; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2013–0056; OMB No. 1660–0072]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Mitigation Grant Program/e-Grants.

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before May 1, 2014.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records

Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Mitigation Grant Program/e-Grants.

Type of Information Collection: Extension, without change, of a currently approved information collection.

Form Titles and Numbers: No Forms.

Abstract: The FEMA pre-disaster mitigation grant programs—Flood Mitigation Assistance, and Pre-Disaster Mitigation—both utilize an automated grant application and management system known as e-Grants to apply for these grants. These programs provide funding to allow for the reduction or elimination of the risks to life and property from hazards. The e-Grants system also provides the mechanism to provide quarterly reports of the financial status of the project and the final closeout report.

Affected Public: State, local and Tribal Governments.

Estimated Number of Respondents: 56.

Estimated Total Annual Burden Hours: 43,848.

Estimated Cost: There are no operation and maintenance, or capital and start-up costs associated with this collection of information.

Dated: March 27, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–07283 Filed 3–31–14; 8:45 am]

BILLING CODE 9110–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0030]

Agency Information Collection Activities: Declaration of Unaccompanied Articles

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Declaration of Unaccompanied Articles. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before June 2, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Declaration of Unaccompanied Articles.

OMB Number: 1651–0030.

Form Number: CBP Form 255.

Abstract: CBP Form 255, Declaration of Unaccompanied Articles, is completed by travelers arriving in the United States with a parcel or container which is to be sent from an insular possession at a later date. It is the only means whereby the CBP officer, when the person arrives, can apply the exemptions or five percent flat rate of duty to all of the traveler's purchases.

A person purchasing articles in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States receives a sales slip, invoice, or other evidence of purchase which is presented to the CBP officer along with CBP Form 255, which is prepared in triplicate. The CBP officer verifies the information, indicates on the form whether the article or articles were free of duty, or dutiable at the flat rate. Two copies of the form are returned to the traveler, who sends one form to the vendor. Upon receipt of the form the vendor places it in an envelope, affixed to the outside of the package, and clearly marks the package ''Unaccompanied Tourist Shipment,'' and sends the package to the traveler, generally via mail, although it could be sent by other means. If sent through the mail, the package would be examined by CBP and forwarded to the Postal Service for delivery. Any duties due would be collected by the mail carrier. If the shipment arrives other than through the mail, the traveler would be notified by the carrier when the article arrives. Entry would be made by the carrier or the traveler at the customhouse. Any duties due would be collected at that time.

CBP Form 255 is authorized by Sections 202 & 203 of Public Law 95–410 and provided for 19 CFR 148.110, 148.113, 148.114, 148.115 and 148.116. A sample of this form may be viewed at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20255.pdf.*

Current Actions: This submission is being made to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Individuals.

Estimated Number of Respondents: 7,500.

Estimated Number of Responses: 15,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 1,250.

Dated: March 26, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–07179 Filed 3–31–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–35]

30-Day Notice of Proposed Information Collection: HUD Multifamily Rental Project Closing Documents Renewal of Currently Approved Collection

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* May 1, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on October 29, 2013.

I. Overview of Information Collection

Title of Information Collection: Multifamily Rental Project Closing Documents Renewal of Currently Approved Collection.

OMB Approval Number: 2502–0598.

Type of Request: Revision of currently approved collection.

Form Number: Please see below.

Description of the need for the information and proposed use: These are closing documents (Closing Documents) used in FHA-insured multifamily rental project transactions. The documents included in the proposed collection of information, including where applicable redline/strikeout versions showing both the changes that were proposed with the 60-day notice and the cumulative proposed changes to documents currently in use, have been posted on HUD's Web site at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhclosingdocuments.*

While complying with the Paperwork Reduction Act of 1995, this 30-day notice provides information beyond that normally provided in such notices. This notice identifies substantive changes that HUD has made to the Closing Documents in response to public comment submitted in response to the October 29, 2013 notice, and responds to significant issues raised by commenters on the Closing Documents.

Security Instrument

One comment suggested expanding the definition of ''Loan Documents'' to be consistent with the definition used in the Section 232 healthcare program and to incorporate more of the documents in this collection. HUD has made this revision. Another comment suggested clarifications to the definition of Mortgaged Property. HUD has made these clarifications in both the Security Instrument and the Regulatory Agreement.

Another comment suggested requiring payment of Imposition Deposits a minimum of thirty (30) days prior to the date they are due without penalty or interest, rather than by the date they are due without penalty or interest. HUD has determined that this change is not necessary since it has not previously encountered objections to the current language, and such a change would place an increased burden on borrowers to submit imposition deposit payments a full month before they are due.

Note

HUD revised the language in section 9(h) to make clear that, with respect to a project insured under Section 223(f), a prepayment resulting in a project's conversion to a use other than rental housing is permissible within the five-year post-closing time frame if HUD is able to make the requisite statutory findings.

HUD has taken the opportunity to clarify that Rider 1, attached to the Note for projects being financed with GNMA or Other Bond Obligations, is only to include the prepayment lockout and premium schedule. Since the provisions typically included in Rider have been incorporated into the body of the Note it is no longer necessary to insert them in the Rider.

Regulatory Agreement

One comment suggested removing limitations on distributions in section 14. HUD has declined to make this change. Distributions remain subject to surplus cash requirements and limited to twice-annual Surplus Cash calculation, as set forth in section 13(a).

HUD accepted comments inserting language in section 18 so it is clear that submission of final reports by partial-year owners is required. In section 21(g), which limits the ability of management agents to seek indemnification, HUD accepted comments inserting a standard of gross negligence or willful misconduct.

Lender's Certificate

In section 15, HUD accepted one commenter's suggestion to calculate the ten (10) year anniversary date for the PCNA reporting requirement based on the commencement of amortization date for new construction/substantial rehabilitation projects. We agree that using the commencement of amortization date is preferable since it closely tracks when construction is completed, is easily identified, and rarely changes. With the addition of this language, HUD has determined that the PCNA Rider is no longer necessary and will make the appropriate revision in the MAP Guide.

A commenter pointed out that for purposes of consistency with the Lean program and previous guidance, section 24(b) should be revised to change the date of delinquency for a missed payment from the tenth (10th) to the fifteenth (15th) day of the month in which it is due. HUD has considered this comment, but has decided not to make the change at this time. For the Multifamily program, the tenth (10th) of the month is correct.

A commenter suggested clarifications to section 30 and suggested that the section be limited ''to the best of Lender's knowledge.'' HUD has made several of the clarifications requested but has declined to add the limitation to the best of lender's knowledge. HUD has kept the language, ''. . . based upon Lender's due diligence.''

Another commenter suggested that because UCC Financing Statements do not always establish first liens that section 38 be revised to only state that a perfected security interest has been established in favor of Lender that is only subject to matters approved by HUD. HUD has determined that this

change is not warranted in Lender's Certificate since this document covers new construction/substantial rehabilitation. It is unlikely that there will be prior financing statements in this context, and if there are, revisions to this section would be better addressed on a project basis.

Request for Endorsement

In a comment similar to the comments regarding section 30 of the Lender's Certificate described above, a comment suggested clarifications to the certification regarding permits and approvals. In considering this comment, HUD determined that because the Lender's Certificate is used for new construction and substantial rehabilitation transactions but this document is not, differences between the two documents are warranted with regard to this certification. Due to the limited nature of the permits and approvals necessary for the transactions for which this document is used, HUD limited the certifications accordingly and determined that no exhibit to list the required approvals is necessary.

Request for Final Endorsement

A comment suggested adding to this document a certification regarding permits and approvals similar to the certification in the Lender's Certificate. HUD agrees with this comment.

Opinion of Borrower's Counsel and Instructions

HUD received a very general yet significant comment about the Opinion of Borrower's Counsel. The commenter objected to HUD's refusal to allow the Opinion to be negotiable, and observed that this inflexibility does not conform to customary opinion practice. HUD rejects this comment and continues to make the Opinion of Borrower's Counsel a uniform, standardized document that cannot be modified on a deal-by-deal basis unless the change is required to comply with state or local law. HUD does not have the staffing capacity that would be needed to permit deal-by-deal negotiations of the Opinion, and it would be difficult to ensure that such negotiations were accomplished uniformly across the nation. The use of a uniform, non-negotiable form will also reduce transaction costs.

The commenter also asked HUD to narrow the list of documents reviewed in connection with the issuance of the Opinion and the list of documents upon which the various opinions within the form Opinion are based. HUD declined to adopt these changes. HUD determined that its interests and due diligence needs with respect to ensuring that borrowers are able to fulfill their legal obligations in connection with the loan closing and project ownership are not limited to the provisions in the Note, Security Instrument, Regulatory Agreement, and Building Loan Agreement. HUD's practice in this regard is consistent with that of Fannie Mae and Freddie Mac. Further, HUD has also, for now, decided not to adopt a request that it move the ''closing'' instructions contained in the Instructions to the Opinion of Borrower's Counsel to another location.

Regarding the suggestion that HUD remove any negative assurances in keeping with private practice, HUD declines. HUD's due diligence needs are distinguishable from that of the conventional loans and securities offering and HUD's practice is consistent with that of Fannie Mae and Freddie Mac.

The commenter also requested that opinions that the borrower has the power and authority to comply with statutes, the that loan documents will not violate local law, that the borrower has authority to enter into the loan, that the loan documents are enforceable, that the project is properly zoned, that the loan documents will not contravene the borrower's other agreements, and that the loan documents are sufficient to create a lien in the mortgaged property be removed. Commenter also requested removal of factual confirmations, as well as disclosure of the attorney's financial interest and borrower's pending litigation. Commenter further requested that deviations from the form opinion not be disclosed. Commenter asked to remove language permitting HUD to rely on the opinion letter, and delete the False Claims Act warning language. HUD declines each of these requests. The requested changes would be adverse to FHA's mandate.

Commenter requested that the opinion on Public Entity Agreements (PEA) be removed, but this comment stems from commenter's confusion between PEAs and secondary financing documents, thus HUD declines.

Subordination Agreement

HUD received a comment that subordinate lender entities should not be subject to qualification under HUD's Program Obligations. HUD has determined that the reference to qualifying under Program Obligations should be deleted. While only public bodies providing secured, secondary financing to FHA-insured multifamily projects use this Subordination Agreement, HUD believes that its approval of the use and execution of the Subordination Agreement on a given transaction constitutes the necessary approval of the subordinate lender.

HUD received a comment that the deliverables required under section 4 are not necessary for refinance transactions under Section 223(a)(7) and 223(f) of the National Housing Act. HUD disagrees with the comment with respect to transactions refinanced under Section 223(f) as it is very important for the Department to receive the necessary assurances. HUD, however, agrees that it is not necessary to obtain a copy of the subordinate loan documents for currently insured projects undergoing a 223(a)(7) refinancing after the refinancing takes place.

HUD received a comment about the provision in the document concerning bankruptcy. The comment related to events *after* a borrower's bankruptcy filing, whereas the provision in the Subordination Agreement concerns the timeframe *prior* to a bankruptcy filing. Consequently, HUD has rejected the comment.

HUD received a request to eliminate section 6(b), which precludes subordinate lenders from commencing a foreclosure in the event of a default under the subordinate loan documents without senior lender's consent. HUD disagreed with this comment. Foreclosures of a subordinate loan are still subject to the senior FHA-insured mortgage. Therefore, foreclosure's benefits to the subordinate lender are limited but foreclosure by the subordinate lender without senior lender consent risks disrupting project operations, ownership and senior lender's ability to effect a work out. Further, as is provided for in section 6(b), subordinate lenders may seek recovery against non-project sources such as personal guaranties, as well as specific enforcement remedies relating to project use and occupancy requirements.

HUD agreed with the comment that any future modification of the senior loan documents should not negatively impact subordinate lenders. Consequently, HUD has placed limitations on the ability to modify the senior loan without subordinate lender consent, and has further decided to include limitations on the ability to refinance the senior loan.

Estimated Burden: Please see following table.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hours per response	Annual burden hours	Hourly cost	Total annual cost
HUD–91710M	600	1	600	0.5	300	$26	$700
HUD–91712M	600	1	600	0.5	300	26	7,800
HUD–92023M	1250	1	1250	1	1250	26	32,500
HUD–92070M	60	1	60	0.5	30	26	780
HUD–92223M	600	1	600	0.5	300	26	7,800
HUD–92412M	175	1	175	0.5	87.50	26	2,275
HUD–92414M	1250	1	1250	0.5	625	26	16,250
HUD–92450M	175	1	175	0.5	87.50	26	2,275
HUD–92452A–M	175	1	175	0.5	87.50	26	2,275
HUD–92452M	175	1	175	0.5	87.50	26	2,275
HUD–92455M	1075	1	1075	1	1075	26	27,950
HUD–92456M	175	1	175	0.5	87.50	26	2,275
HUD–91073M	1250	1	1250	0.5	625	26	16,250
HUD–92464M	1250	1	1250	1	1250	46	57,500
HUD–92476.1M	1075	1	1075	0.5	537.50	26	13,975
HUD–92476a–M	175	1	175	0.5	87.50	26	2,275
HUD–92477M	175	1	175	0.5	87.50	26	2,275
HUD–92478M	1250	1	1250	0.5	625	26	16,250
HUD–92479M	175	1	175	0.5	87.50	26	2,275
HUD–91725M	1250	1	1250	1	1250	125	156,250
HUD–91725M–CERT	1250	1	1250	1	1250	46	57,500
HUD–91725M–INST	0	0	0	0	0	0	0
HUD–92434M	175	1	175	1	175	26	4,550
HUD–92441M–SUPP	175	1	175	.75	131.25	26	3,412.50
HUD–92441M	175	1	175	.75	131.25	26	3,412.50
HUD–92442M	175	1	175	1	175	58	10,150
HUD–92466M	1250	1	1250	1	1250	58	72,500
HUD–92554M	175	1	175	0.5	87.50	26	2,275
HUD–94000M	1250	1	1250	0.75	937.5	26	24,375
HUD–94001M	1250	1	1250	1	1250	26	32,500
HUD–93305M	1250	1	1250	0.5	625	26	16,200
HUD–92476M	20	1	20	0.5	10	26	200
HUD–92420M	600	1	600	0.5	300	26	7,800
HUD–92408M	1250	1	600	2	2500	103	257,500
HUD–91070M	1250	1	1250	0.5	625	36	22,500
HUD–91071M	20	1	20	0.5	10	26	260
Totals	.....	.....	23,175	.....	18,325	.....	894,550.00

The hourly rate is an estimate based on an average annual salary of $62,000 for developers and mortgagees.

III. Solicitation of Public Comment

A. Burden of Information Collection

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in this notice on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected or any content of the Closing Documents.

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments must be received by May 1, 2014. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to:

Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000

and

HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax number: (202) 395–6947.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Date: March 26, 2014.

Collette Pollard,

Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–07271 Filed 3–31–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2014–N054; FXES11130300000F3–145–FF03E00000]

Endangered and Threatened Wildlife and Plants; Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (USFWS), invite the public to comment on the following applications to conduct certain

activities with endangered species. With some exceptions, the Endangered Species Act (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: We must receive any written comments on or before May 1, 2014.

ADDRESSES: Send written comments by U.S. mail to the Regional Director, Attn: Karl Tinsley, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458; or by electronic mail to *permitsR3ES@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Karl Tinsley, (612) 713–5330.

SUPPLEMENTARY INFORMATION:

Background

We invite public comment on the following permit applications for certain activities with endangered species authorized by section 10(a)(1)(A) of the Act (16 U.S.C. 1531 et seq.) and our regulations governing the taking of endangered species in the Code of Federal Regulations (CFR) at 50 CFR part 17. Submit your written data, comments, or request for a copy of the complete application to the address shown in **ADDRESSES**.

Permit Applications

Permit Application Number: TE06820A.

Applicant: Russell A. Benedict, Central College, Pella, IA.

The applicant requests a permit renewal to take (capture and release) Indiana bat (*Myotis sodalis*) and gray bat (*Myotis grisescens*) within the States of Illinois, Iowa, and Missouri. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE206781.

Applicant: Ecological Specialists, Inc., O'Fallon, MO.

The applicant requests a permit renewal, with amendment, to take (capture and release; capture and relocate) the following mussel species within the States of Arkansas, Iowa, Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New York, Pennsylvania, Oklahoma, Ohio, South Dakota, Tennessee, Virginia, Wisconsin, and West Virginia:

MUSSEL SPECIES

Clubshell	*Pleurobema clava.*
Dwarf wedgemussel	*Alasmidonta heterodon.*
Fanshell	*Cyprogenia stegaria.*
Fat pocketbook	*Potamilus capax.*
Higgins' eye pearlymussel	*Lampsilis higginsii.*
Northern riffleshell	*Epioblasma torulosa rangiana.*
Orange-footed pimpleback	*Plethobasus cooperianus.*
Ouachita Rock pocketbook	*Arkansia wheeleri.*
Pink mucket pearlymussel	*Lampsilis abrupta.*
Rayed bean	*Villosa fabalis.*
Rink pink	*Obovaria retusa.*
Rough pigtoe	*Pleurobema plenum.*
Scaleshell	*Leptodea leptodon.*
Spectaclecase	*Cumberlandia monodonta.*
Spectacled pocketbook	*Lampsilis streckeri.*
Sheepnose	*Plethobasus cyphyus.*
Snuffbox	*Epioblasma triquetra.*
Winged mapleleaf	*Quadrula fragosa.*

Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE60958A.

Applicant: Bat Calls Identification, Inc., Kansas City, MO.

The applicant requests a permit renewal to take (capture and release) Indiana bat, gray bat, Ozark big-eared bat (*Corynorhinus townsendii ingens*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) within the States of Alabama, Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE48835A.

Applicant: Applied Science and Technology, Inc., Brighton, MI.

The applicant requests a permit renewal, with amendments, to take (capture and release) snuffbox, rayed bean, clubshell, and northern riffleshell mussels within the States of Michigan and Ohio. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE38842A

Applicant: Sanders Environmental, Inc., Bellefonte, PA.

The applicant requests a permit renewal, with amendments, to take (capture and release) Indiana bat within the States of Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, and Wisconsin. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE26707B

Applicant: Paige N. Anderson, Yutan, NE.

The applicant requests a permit to take (capture and release) Indiana bat and northern long-eared bat (*Myotis septentrionalis*) within the States of Illinois, Indiana, Iowa, Michigan, Missouri, and Ohio. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE77313A

Applicant: Egret Environmental Consulting, LLC, Athens, OH.

The applicant requests a permit, with amendments, to take the following species: Indiana bats, gray bats, northern long-eared bats, Hine's emerald dragonfly (*Somatochlora hineana*), American burying beetle (*Nicrophorus americanus*), and Mitchell's satyr butterfly (*Neonympha mitchellii mitchellii*) within the States of Alabama, Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio,

Oklahoma, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE31055B

Applicant: Kory M. Armstrong, Springfield, MO.

The applicant requests a permit to take (capture and release) Indiana bat, gray bat, and northern long-eared bat within the States of Alabama, Arkansas, Georgia, Illinois, Iowa, Indiana, Kentucky, Michigan, Missouri, Minnesota, Ohio, Tennessee, and Wisconsin. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE31208A

Applicant: Lewis and Associates, LLC, Borden, IN.

The applicant requests a permit renewal to take (capture, handle, and release) Illinois Cave Amphipod (*Gammarus acherondytes*) within Monroe County, Illinois, for the purpose of conducting census of populations in cave stream communities. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE66724A

Applicant: Cleveland Metroparks, Timothy Krynak, P.I., Parma, OH.

The applicant requests a permit renewal to take (capture and release) Indiana bat within Cuyahoga, Medina, and Summit Counties, Ohio. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE31078B

Applicant: U.S. Army Corps of Engineers, St. Louis, MO.

The applicant requests a permit renewal to take (capture, handle, and release) pallid sturgeon (*Scaphirhynchus albus*) within the middle Mississippi River adjacent to Scott County, Missouri (RM 38.4–39.4), Cape Girardeau County, Missouri (RM 58.0–60.0), Perry County, Missouri (RM 100.0–104.0), and Liberty Island (near RM 100.0), Monroe County, Illinois, for the purpose of evaluating flex pipe restoration and conducting population census. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE62334A

Applicant: Mark Hove, University of Minnesota, St. Paul, MN.

The applicant requests a permit to take (capture and hold) winged mapleleaf, Higgins' eye pearlymussel, sheepnose, snuffbox, and spectaclecase mussel species occurring in the Mississippi and St. Croix River watersheds in the States of Minnesota and Wisconsin for scientific research. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE10887A

Applicant: U.S. Geological Survey, Porter, IN.

The applicant requests a permit renewal, with amendments, to take (capture, house, breed, handle, and release) Karner blue butterfly (*Lycaeides melissa samuelis*) within the State of Indiana. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE31355B

Applicant: Brooke Ann Hines, Paris, KY.

The applicant requests a permit to take (capture and release) Indiana bat, gray bat, northern long-eared bat, Virginia big-eared bat, and Ozark big-eared bat within the States of Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE06846A

Applicant: Smithsonian Migratory Bird Center, Washington, DC.

The applicant requests a permit renewal, with amendments, to take (capture, band/tag, and release) the Kirtland's warbler (*Dendroica kirtlandii*) throughout the State of Michigan. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Public Comments

We seek public review and comments on these permit applications. Please refer to the permit number when you submit comments. Comments and materials we receive are available for public inspection, by appointment, during normal business hours at the address shown in the **ADDRESSES** section. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 24, 2014.

Lynn M. Lewis,

Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. 2014–07228 Filed 3–31–14; 8:45 a.m.]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO320000 L13300000.PO0000]

Renewal of Approved Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information from applicants for authorization to purchase mineral materials from public lands. The Office of Management and Budget (OMB) has assigned control number 1004–0103 to this information collection.

DATES: Please submit comments on the proposed information collection by June 2, 2014.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: *Jean_Sonneman@blm.gov*.

Please indicate ''Attn: 1004–0103'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: George Brown, Division of Solid Minerals, at 202–912–7118. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339, to leave a message for Mr. Brown.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d) and 1320.12(a)). This notice identifies an information collection that the BLM will be submitting to the OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) The accuracy of the agency's burden estimates; (3) Ways to enhance the quality, utility and clarity of the information collection; and (4) Ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to the OMB.

Before including your address, telephone number, email address, or other personal identifying information in your comments, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

The following information is provided for the information collection:

Title: Sale of Mineral Materials (43 CFR Part 3600).

OMB Control Number: 1004–0103.

Summary: The Mineral Materials Act, 30 U.S.C. 601 and 602, authorizes disposals of mineral materials (such as sand, gravel, and petrified wood) from public lands. This information collection request pertains to mineral sales contracts in accordance with regulations at 43 CFR part 3600.

Frequency of Collection: On occasion.

Forms:

- Form 3600–9, Contract for the Sale of Mineral Materials.

Estimated Number and Description of Respondents: An estimated 400 businesses annually submit applications to purchase or use mineral materials from public lands.

Estimated Annual Responses: 2,424.

Estimated Annual Burden Hours: 11,187.

Estimated Annual Non-Hour Costs: $100,000.

The following table details the individual components and respective hour burdens of this information collection request:

A. Type of response	B. Number of responses	C. Time per response	D. Total Hours (column B × column C)
Pre-Application Sampling and Testing 43 CFR 3601.30	30	30 minutes	15
Request for Sale Not Within a Community Pit or Common Use Area 43 CFR 3602.11	376	30 minutes	188
Request for Sale Within a Community Pit or Common Use Area 43 CFR 3602.11	40	30 minutes	20
Contract for the Sale of Mineral Materials 43 CFR subpart 3602 Form 3600–9	417	30 minutes	209
Mining and Reclamation Plans (Complex) 43 CFR 3601.40	110	24 hours	2,640
Mining and Reclamation Plans (Simple) 43 CFR 3601.40	200	2 hours	400
Performance Bond 43 CFR 3602.14	417	30 minutes	209
Payments 43 CFR 3602.21	417	12 hours	5,004
Records Maintenance 43 CFR 3602.28	417	6 hours	2,502
Totals	2,424		11,187

Jean Sonneman,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 2014–07275 Filed 3–31–14; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–PCE–14914; PPWOPCADD0, PPMPSPDIT.Y00000]

Notice of Availability of Draft Director's Order #46 Concerning National Park Service Policies and Procedures Governing Its Wild and Scenic Rivers Program

AGENCY: National Park Service, Interior.

ACTION: Notice of availability and request for comments.

SUMMARY: The National Park Service (NPS) has prepared a Director's Order setting forth its policies and procedures governing its Wild and Scenic Rivers (WSRs) program. When adopted, the policies and procedures will apply to all National Wild and Scenic River System responsibilities, including: (1) Designated WSRs that are part of the national park system, partnership WSRs, and rivers in NPS units with protective language similar to that of the Wild and Scenic Rivers Act in their enabling legislation; and (2) section 7 (16 U.S.C. 1278) responsibilities for State-administered components of the National Wild and Scenic Rivers System. This order also advises on responsibilities related to WSR planning studies and the Nationwide Rivers Inventory. It supersedes and replaces the policies and procedures previously issued.

DATES: Written comments will be accepted until May 16, 2014.

ADDRESSES: Draft Director's Order #46: Wild and Scenic Rivers, is available online at: *www.nps.gov/policy/Draft_DO46_2014.htm*. Requests for written copies of, and submission of written comments on, Draft Director's Order #46 should be sent to Joan Harn, NPS Wild and Scenic Rivers Program Co-Lead, 1201 Eye St., NW., 2240, Washington, DC 20005, or via email: *joan_harn@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Joan Harn, River Programs Manager, at (202) 354–6929 or via email at *joan_harn@nps.gov*.

SUPPLEMENTARY INFORMATION: The NPS is updating its current system of internal written instructions. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, they are first

made available for public review and comment before being adopted. Director's Order #46 and a reference manual (subsequent to the Director's Order) will be issued. The draft Director's Order covers topics such as review of federally assisted water resources projects (i.e., section 7 of the Wild and Scenic Rivers Act); management responsibilities; planning and studies; technical support; agreements; and signage.

Public Availability of Comments: Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 25, 2014.

Richard Weideman,

Assistant Director, Partnerships and Civic Engagement, National Park Service.

[FR Doc. 2014–07161 Filed 3–31–14; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–456 and 731–TA–1151–1152 (Review)]

Citric Acid and Certain Citrate Salts from Canada and China; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on citric acid and certain citrate salts from China and the antidumping duty orders on citric acid and certain citrate salts from Canada and China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is May 1, 2014. Comments on the adequacy of responses may be filed with the Commission by June 16, 2014. For further information concerning the conduct of this proceeding and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* April 1, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On May 29, 2009, the Department of Commerce issued a countervailing duty order on citric acid and certain citrate salts from China and antidumping duty orders on citric acid and certain citrate salts from Canada and China (74 FR 25703–25706). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Canada and China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined one *Domestic Like Product* consisting of citric acid (whether in crude form as crude calcium citrate or in finished form), sodium citrate, and potassium citrate in all chemical and physical forms and grades.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as consisting of all domestic producers of citric acid and citrate salts (i.e., ADM, Cargill, and Tate & Lyle).

(5) The *Order Date* is the date that the antidumping and countervailing duty orders under review became effective. In these reviews, the *Order Date* is May 29, 2009.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–313, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 1, 2014. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is June 16, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided In Response To This Notice Of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2013, except as noted (report quantity data in dry pounds and value data in U.S. dollars, f.o.b. plant).

If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in dry pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in dry pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: March 27, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–07207 Filed 3–31–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–850]

Certain Electronic Imaging Devices; Corrected Notice of Commission Determination To Reverse the Finding of Violation of Section 337; Termination of the Investigation; Corrected

AGENCY: U.S. International Trade Commission.

ACTION: Correction of Notice of Commission Determination.

SUMMARY: Correction is made in accordance with the amended notice of investigation. The notice of investigation was amended to substitute Huawei Device Co., Ltd. of Shenzhen, China and Huawei Device USA Inc. of Plano, Texas for the Huawei Technologies Co., Ltd. of Shenzhen, China and FutureWei Technologies, Inc. d/b/a Huawei Technologies (USA) of Plano, Texas. 77 FR 55498.

Issued: March 26, 2014.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–07149 Filed 3–31–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0340]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Equal Employment Opportunity Plan Certification and Utilization Report (Formerly Short Form)

AGENCY: Office for Civil Rights, Office of Justice Programs.

ACTION: 60-day notice.

SUMMARY*:* The U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until June 2, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact George Mazza, (202) 305–3146, Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Equal Employment Opportunity Plan Certification and Utilization Report.

(3) *Agency form number, if any, and the applicable component of the U.S. Department of Justice sponsoring the collection:* Office for Civil Rights, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, and local, government instrumentalities. Other: For-profit Institutions. 28 C.F.R.§ 42.301 et seq. authorizes the Department of Justice to collect information regarding employment practices from State or Local units of government, agencies of State and Local governments, and Private entities, institutions or organizations to which OJP, COPS or OVW extend Federal financial assistance. OJP components include the Bureau of Justice Assistance (BJA), Office for Victims of Crime (OVC), Office of Juvenile Justice and Delinquency Prevention (OJJDP), Bureau of Justice Statistics (BJS), National Institute of Justice (NIJ), and the Office of Sexual Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* There are 6371 respondents. It is estimated that it will take 1,290 respondents, receiving a grant of $500,000 or more, one and a half hours to complete an Equal Employment Opportunity Plan Utilization Report and submit it to the Office of Justice Programs. In addition, an estimated 5,081 of respondents seeking grants ranging from $25,000 up to $500, 000 will be required to complete Certification stating that they are maintaining a current Equal Employment Opportunity Plan on file and submit the certification to OJP. Completion and submission of the Certification will take ¼ hour. Submissions are required once every two years.

(6) *An estimate of the total public burden (in hours) associated with the collection:* For the 6371 respondents, there are an estimated 2237 total annual burden hours associated with this collection to complete the EEOP Utilization Report or Certification.

If additional information is required, contact Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: March 27, 2014.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2014–07203 Filed 3–31–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0114]

Agency Information Collection Activities; Proposed eCollection; eComments Requested; Extension of a Currently Approved Collection; Victims of Crime Act, Victim Compensation Grant Program, State Performance Report

AGENCY: Office of Victims of Crime, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs (OJP), Office for Victims of Crime (OVC), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 12, page 3254, on January 17, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until May 1, 2014.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via email to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and

suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Victims of Crime Act, Victim Compensation Grant Program, State Performance Report.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: 1121–0114. Office for Victims of Crime, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State Government. The form is used by State Government to submit Annual Performance Report data about claims for victim compensation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 53 respondents will complete the form within 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 106 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: March 27, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–07202 Filed 3–31–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Three Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act

On March 26, 2014, the Department of Justice lodged three proposed Consent Decrees with the United States District Court for the Eastern District of Wisconsin in the lawsuit entitled *United States and the State of Wisconsin* v. *NCR Corp., et al.,* Civil Action No. 10–cv–910 (E.D. Wis.).

In 2010, the United States and the State of Wisconsin filed a lawsuit against multiple defendants that had contributed to polychlorinated biphenyl (''PCB'') contamination in sediment at the Lower Fox River and Green Bay Superfund Site in northeastern Wisconsin (the ''Fox River Site'' or the ''Site''). That lawsuit—brought under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601–75—sought enforcement of a U.S. Environmental Protection Agency order requiring cleanup work at the Site, reimbursement of response costs that the United States and the State have incurred in addressing the PCB contamination at the Site, and recovery of damages for injuries to natural resources resulting from the PCBs at the Site. The three proposed Consent Decrees contain the terms of proposed CERCLA settlements with nine parties for the Fox River Site.

The first proposed Consent Decree is with the City of Appleton, CBC Coating Inc., Menasha Corporation, the Neenah-Menasha Sewerage Commission, U.S. Paper Mills Corporation, and WTM I Company. Those six Settling Defendants would pay a total of $54 million toward the response costs and natural resource damages associated with the Site. The State would pay an additional $100,000 to resolve its own potential CERCLA liability, as alleged in certain counterclaims asserted by some of the defendants in the lawsuit.

The second proposed Consent Decree is with Settling Defendant Kimberly-Clark Corporation. Kimberly-Clark would pay the United States and the State a total of $1,350,000 under this *de minimis* settlement pursuant to CERCLA Section 122(g), 42 U.S.C. 9622(g).

The third proposed Consent Decree is with Settling Defendant NewPage Wisconsin System Inc. (''NewPage''). NewPage filed a petition for relief under Chapter 11 of the Bankruptcy Code in 2011. The proposed Consent Decree with NewPage would grant the United States and the State allowed general unsecured claims for a total of $1,157,254 that would be paid as allowed claims under NewPage's court-approved Reorganization Plan. Because such claims are paid on a discounted basis under the Reorganization Plan, the actual distributions that the United States and the State will receive on those allowed claims may be as little as $50,000.

Taken together, the three Consent Decrees would yield a total of approximately $55.5 million, which would be allocated as follows: (1) Slightly more than $45.9 million would be applied toward natural resource damages; (2) slightly more than $8 million would be paid into a segregated fund managed by the State to defray future costs that the State will continue to incur in overseeing ongoing cleanup work by non-settlers; and (3) slightly less than $1.6 million would be paid into a Site-specific Superfund Special Account as partial reimbursement of past and future costs incurred by the U.S. Environmental Protection Agency.

The publication of this notice opens a period for public comment on each of the three Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Wisconsin* v. *NCR Corp., et al.,* D.J. Ref. No. 90–11–2–1045/3. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decrees may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of any of the Consent Decrees upon written request and payment of

reproduction costs (at 25 cents per page). Please mail your request and a check or money order payable to the United States Treasury to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

The cost for paper copies is $14.75 for the Consent Decree with the six Settling Defendants and the State, $8.00 for the Consent Decree with Kimberly Clark, and $7.50 for the Consent Decree with NewPage.

Maureen M. Katz,

Assistant Section Chief,Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–07168 Filed 3–31–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–391]

Controlled Substances: 2014 Proposed Aggregate Production Quota for 10 Temporarily Controlled Synthetic Cathinones

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Notice of a proposed 2014 aggregate production quota for ten synthetic cathinones.

SUMMARY: Ten synthetic cathinones: 4-methyl-*N*-ethylcathinone (4–MEC); 4-methyl-α-pyrrolidinopropiophenone (4-MePPP); alpha-pyrrolidinopentiophenone (α-PVP); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone); 2-(methylamino)-1-phenylpentan-1-one (pentedrone); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone); 4-fluoro-*N*-methylcathinone (4–FMC); 3-fluoro-*N*-methylcathinone (3–FMC); naphthylpyrovalerone (naphyrone); and alpha-pyrrolidinobutiophenone (α-PBP) were temporarily placed in schedule I of the Controlled Substances Act (CSA) by a final order published by the Drug Enforcement Administration (DEA) on March 7, 2014 (79 FR 12938). This means that any manufacturer that wishes to manufacture 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α-PBP after March 7, 2014, must be registered with the DEA and have obtained a manufacturing quota for 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α-PBP pursuant to 21 CFR part 1303.

The DEA cannot issue individual manufacturing quotas for 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α-PBP unless and until it establishes an aggregate production quota. Therefore, this notice proposes a 2014 aggregate production quota for 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP.

DATES: Comments or objections should be received on or before May 1, 2014.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–391'' on all electronic and written correspondence. The DEA encourages that all comments be submitted electronically through *www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at *www.regulations.gov* for easy reference. Paper comments that duplicate the electronic submission are not necessary as all comments submitted to *www.regulations.gov* will be posted for public review and are part of the official docket record. Written comments submitted via regular or express mail should be sent to the Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Ruth A. Carter, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152, Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

The Freedom of Information Act applies to all comments received. All comments received are considered part of the public record and made available for public inspection online at *www.regulations.gov* and in the DEA's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted, and the comment, in redacted form, will be posted online and placed in the DEA's public docket file.

If you wish to inspect the DEA's public docket file in person by appointment, please see the For Further Information Contact paragraph.

Background

Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration (DEA) by 28 CFR 0.100. The Administrator, in turn, has redelegated this function to the Deputy Administrator, pursuant to 28 CFR 0.104.

The DEA established the 2014 aggregate production quotas for substances in schedules I and II on September 9, 2013 (78 FR 55099). Subsequently, on January 28, 2014, the DEA published in the **Federal Register** a notice of intent to temporarily place ten synthetic cathinones: 4-methyl-*N*-ethylcathinone (4–MEC), 4-methyl-α-pyrrolidinopropiophenone (4-MePPP), alpha-pyrrolidinopentiophenone (α-PVP), 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone), 2-(methylamino)-1-phenylpentan-1-one (pentedrone), 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone), 4-fluoro-*N*-methylcathinone (4–FMC), 3-fluoro-*N*-methylcathinone (3–FMC), naphthylpyrovalerone (naphyrone), and alpha-pyrrolidinobutiophenone (α-PBP) in schedule I of the CSA (79 FR 4429). On March 7, 2014, the DEA published in the **Federal Register** a final order to temporarily place these ten synthetic cathinones in schedule I of the CSA (79

FR 12938), making all regulations pertaining to schedule I controlled substances applicable to the manufacture of these ten synthetic cathinones, including the requirement to obtain a manufacturing quota pursuant to 21 CFR part 1303.

4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP were non-controlled substances when the aggregate production quotas for schedule I and II substances were established, therefore, no aggregate production quotas for 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP were established at that time.

In determining the 2014 aggregate production quotas of these ten synthetic cathinones, the Deputy Administrator considered the following factors in accordance with 21 U.S.C. 826(a) and 21 CFR 1303.11: (1) Total estimated net disposal of each substance by all manufacturers; (2) estimated trends in the national rate of net disposal; (3) total estimated inventories of the basic class and of all substances manufactured from the class; (4) projected demand for each class as indicated by procurement quotas requested pursuant to 21 CFR 1303.12; and (5) other factors affecting medical, scientific, research, and industrial needs of the United States and lawful export requirements, as the Deputy Administrator finds relevant. These quotas do not include imports of controlled substances for use in industrial processes.

The Deputy Administrator, therefore, proposes that the year 2014 aggregate production quotas for the following temporarily controlled schedule I controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class—schedule I	Proposed 2014 quota
1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone)	15 g
1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone)	15 g
2-(methylamino)-1-phenylpentan-1-one (pentedrone)	15 g
3-fluoro-N-methylcathinone (3–FMC)	15 g
4-fluoro-N-methylcathinone (4–FMC)	15 g
4-methyl-N-ethylcathinone (4–MEC)	15 g
4-methyl-α-pyrrolidinopropiophenone (4-MePPP)	15 g
alpha-pyrrolidinobutiophenone (α-PBP)	15 g
alpha-pyrrolidinopentiophenone (α-PVP)	15 g
naphthylpyrovalerone (naphyrone)	15 g

Comments

Pursuant to 21 CFR 1303.11, any interested person may submit written comments on or objections to these proposed determinations. Based on comments received in response to this notice, the Deputy Administrator may hold a public hearing on one or more issues raised. In the event the Deputy Administrator decides in his sole discretion to hold such a hearing, the Deputy Administrator will publish a notice of any such hearing in the **Federal Register**. After consideration of any comments and after a hearing, if one is held, the Deputy Administrator will publish in the **Federal Register** a final order establishing the 2014 aggregate production quota for 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP.

Dated: March 24, 2014.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2014–07166 Filed 3–31–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–382]

Controlled Substances: 2014 Established Aggregate Production Quotas for Three Temporarily Controlled Synthetic Phenethylamines

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Notice.

SUMMARY: This notice establishes the initial 2014 aggregate production quotas for three temporarily controlled synthetic phenethylamines, 25B-NBOMe, 25C-NBOMe, and 25I–NBOMe.

DATES: *Effective Date:* April 1, 2014.

FOR FURTHER INFORMATION CONTACT: Ruth A. Carter, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152, Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Background

Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for each basic class of controlled substance listed in schedules I and II and for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. The Attorney General has delegated this authority to the Administrator of the DEA, 28 CFR 0.100, who in turn has redelegated that authority to the Deputy Administrator of the DEA, 28 CFR part 0, subpt. R, App.

On November 15, 2013, the DEA published in the **Federal Register** a final order to temporarily place three synthetic phenethylamines, 25B-NBOMe, 25C-NBOMe, and 25I–NBOMe, into schedule I of the CSA (78 FR 68716), making all regulations pertaining to schedule I controlled substances applicable to the manufacture of 25B-NBOMe, 25C-NBOMe, and 25I-NBOMe, including the requirement to obtain a manufacturing quota pursuant to 21 CFR part 1303.

The 2014 aggregate production quotas for 25B-NBOMe, 25C-NBOMe, and 25I–NBOMe represent those quantities to be manufactured in the United States in 2014 to provide for the estimated medical, scientific, research, and industrial needs of the United States, lawful export requirements, and the establishment and maintenance of reserve stocks.

On January 30, 2014, the DEA published a notice titled, ''Controlled Substances: 2014 Proposed Aggregate Production Quota for Three Temporarily Controlled Synthetic Phenethylamines'' in the **Federal Register** (79 FR 4958). That notice proposed the 2014 aggregate

production quotas for 25B-NBOMe, 25C-NBOMe, and 25I-NBOMe. Interested persons were invited to comment on or object to the proposed aggregate production quotas for 25B-NBOMe, 25C-NBOMe, and 25I-NBOMe on or before March 3, 2014. No comments were received.

Analysis for 2014 Established Aggregate Production Quotas

In determining the 2014 aggregate production quotas for 25B-NBOMe, 25C-NBOMe, and 25I-NBOMe, the DEA has taken into consideration the factors set forth at 21 CFR 1303.11, pursuant to 21 U.S.C. 826(a), and other relevant factors, including 2014 export requirements, industrial use, applications for quotas, as well as information on research and product development requirements.

Pursuant to 21 U.S.C. 826 and in accordance with 21 CFR 1303.11, the Deputy Administrator hereby establishes the 2014 aggregate production quotas for the 25B-NBOMe, 25C-NBOMe, and 25I-NBOMe, expressed in grams of anhydrous acid or base, as follows:

Basic class—schedule I	Established 2014 quota
2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36)	15 g.
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82)	15 g.
2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5)	15 g.

In accordance with 21 CFR 1303.13, upon consideration of the relevant factors, the Deputy Administrator may adjust the 2014 aggregate production quotas for 25B-NBOMe, 25C-NBOMe, and 25I-NBOMe as needed.

Dated: March 24, 2014.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2014–07170 Filed 3–31–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0030]

Ionizing Radiation Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in the Ionizing Radiation Standard (29 CFR 1910.1096). The information collection requirements contained in the Ionizing Radiation Standard protect workers from the adverse health effects that may result from occupational exposure to ionizing radiation, including tissue damage and cancer.

DATES: Comments must be submitted (postmarked, sent, or received) by June 2, 2014.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2010–0030, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number for the Information Collection Request (ICR) (OSHA–2010–0030). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The basic purpose of the information collection requirements in the Standard on Ionizing Radiation is to document

that employers are providing their workers with protection from hazardous ionizing radiation exposure.

Several provisions of the Standard specify paperwork requirements, including: monitoring worker exposure to ionizing radiation, instructing workers on the hazards associated with ionizing radiation exposure and precautions to minimize exposure, posting of caution signs at radiation areas, reporting worker overexposures to OSHA, maintaining exposure records, and providing exposure records to current and former workers.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements specified in the Ionizing Radiation Standard. OSHA is also requesting that it retain its current burden hour estimate of 45,217 hours. There is no adjustment in the estimated total of $5,691,144 for the cost for whole body monitoring and extremity monitoring badges. The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Ionizing Radiation Standard (29 CFR 1910.1096).

OMB Control Number: 1218–0103.

Affected Public: Business or other for-profits.

Number of Respondents: 12,719.

Frequency of Responses: On Occasion; Quarterly; Annually; Immediately; Within 24 hours; Within 30 days.

Total Responses: 256,914.

Average Time per Response: Varies from 5 minutes (.08 hour) to maintain radiation exposure records to 20 minutes (.5 hours) for employers to gather and prepare training materials, and maintaining, compiling, and sending records to the worker.

Estimated Total Burden Hours: 45,217.

Estimated Cost (Operation and Maintenance): $5,691,144

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2010–0030). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on March 27, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–07231 Filed 3–31–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Wage and Hour Division

Proposed Extension of the Approval of Information Collection Requirements

AGENCY: Wage and Hour Division, Department of 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. 3056(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 Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: Notice to Examinee, Employee Polygraph Protection Act. A copy of the proposed information 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 June 2, 2014.

ADDRESSES: You may submit comments identified by Control Number 1235–0005, by either one of the following methods: *Email: WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier:*

Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and 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 transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Mary Ziegler, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. *Background:* The Wage and Hour Division (WHD) of the Department of Labor (DOL) administers the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. 2001 *et seq.* The EPPA prohibits most private employers from using any lie detector tests either for pre-employment screening or during the course of employment. The Act contains an exemption applicable to Federal, State and local government employers. The EPPA also contains several limited exemptions authorizing polygraph tests under certain conditions, including testing: (1) By the Federal Government of experts, consultants, or employees of Federal contractors engaged in national security intelligence or counterintelligence functions; (2) of employees the employer reasonably suspects of involvement in a workplace incident resulting in economic loss or injury to the employer's business; (3) of some prospective employees of private armored cars, security alarm and security guard firms; and (4) of some current and prospective employees of certain firms authorized to manufacture, distribute, or dispense controlled substances. The WHD may assess civil money penalties of up to $10,000 against employers who violate any EPPA provision.

II. *Review Focus:* The Department of Labor 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;
- 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 an approval for the extension of this information collection that requires the keeping of records by examiners and employers as necessary or appropriate for the administration of the Act and the provision of certain notices to polygraph examiners and examinees.

Type of Review: Extension without change of a currently approved collection.

Agency: Wage and Hour Division.

Title: Notice to Examinee, Employee Polygraph Protection Act.

OMB Number: 1235–0005.

Affected Public: Business or other for-profit, Not-for-profit institutions, Farms.

Total Respondents: 593,400.

Total Annual Responses: 593,400.

Estimated Total Burden Hours: 68,739.

Estimated Time per Response: 30–45 minutes.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Costs (operation/maintenance): $0.

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 and will become a matter of public record.

Dated: March 25, 2014.

Mary Ziegler,

Director, Division of Regulation, Legislation, and Interpretation

[FR Doc. 2014–07167 Filed 3–31–14; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–021]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before May 1, 2014. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, Records Management Services (ACNR), National

Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1799. Email: *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media-neutral unless specified otherwise. An item in a schedule is media-neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media-neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending: 1. Department of Commerce, Economic Development Administration (DAA–0378–2014–0006, 2 items, 1 temporary item). Routine working papers of the Office of Chief Counsel. Proposed for permanent retention are high-level correspondence and legal opinions.

2. Department of Commerce, Economic Development Administration (DAA–0378–2014–0008, 2 items, 2 temporary items). Administrative briefings and economic assessment records of the Office of Regional Affairs.

3. Department of Commerce, Economic Development Administration (DAA–0378–2014–0010, 3 items, 3 temporary items). Records of the Trade Adjustment Assistance for Firms program, including certification case files, cooperative agreement files, and periodic reports.

4. Department of Commerce, Economic Development Administration (DAA–0378–2014–0014, 2 items, 2 temporary items). Records relating to the creation, maintenance, and content of the agency Web site.

5. Department of Defense, National Security Agency (N1–457–14–2, 1 item, 1 temporary item). Material safety data sheets.

6. Department of the Treasury, Internal Revenue Service (N1–58–10–15, 17 items, 9 temporary items). Records of the Taxpayer Advocate Service, including working copies of correspondence, reports, studies, and planning files; and calendars, reading files, and administrative management records. Proposed for permanent retention are records that establish policies, practices and programs; and special project and study files, speeches, subject files of senior management, and significant reports.

7. Department of the Treasury, Internal Revenue Service (DAA–0058–2014–0005, 2 items, 2 temporary items). Records used to identify and monitor tax preparer compliance and to determine penalties for fraud.

8. Administrative Office of the United States Courts, United States Bankruptcy Courts (DAA–0578–2013–0002, 11 items, 11 temporary items). Records of the Bankruptcy Administration Program, including financial records, routine audit records, periodic reports, and audio recordings which document oversight of the Trustee Program.

9. Commodity Futures Trading Commission, Agency-wide (N1–180–12–1, 4 items, 4 temporary items). Records related to employee compensation, benefits, and awards.

10. Consumer Financial Protection Bureau, Consumer Education and Engagement (N1–587–12–14, 15 items, 12 temporary items). Records of the Office of Servicemember Affairs, including research records, conference files, education and awareness files, and administrative records. Proposed for permanent retention are final reports and historic publication and event files.

11. Consumer Financial Protection Bureau, Consumer Education and Engagement (N1–587–12–16, 17 items, 12 temporary items). Records of the Office of Financial Education, including trend analysis records, conference files, and administrative records. Proposed for permanent retention are final reports, decision memorandums, and historic publication and event files.

12. Consumer Financial Protection Bureau, Consumer Education and Engagement (N1–587–12–17, 7 items, 5 temporary items). Records of the Office of Consumer Engagement, including feedback files and survey results. Proposed for permanent retention are final reports and historic event files.

13. Court Services and Offender Supervision Agency for the District of Columbia, Pretrial Services Agency (DAA–0562–2013–0027, 1 item, 1 temporary item). Master files of an electronic information system used to assess substance abuse by defendants.

14. Court Services and Offender Supervision Agency for the District of Columbia, Pretrial Services Agency (DAA–0562–2013–0028, 1 item, 1 temporary item). Records used to document health and safety incidents in facilities and work areas.

15. Office of Personnel Management, Human Resource Solutions (DAA–0478–2012–0006, 1 item, 1 temporary item). Master files of an electronic information system used to manage testing for government employment.

16. Peace Corps, Overseas Posts (N1–490–12–3, 14 items, 14 temporary items). Administrative records of the country directors including newsletters, post updates, personnel request and activity records, meeting minutes, communication files, and training records.

17. Peace Corps, Overseas Posts (N1–490–12–5, 9 items, 9 temporary items). Safety and security records including emergency action plans, safety guidance, and investigative files.

18. Peace Corps, Overseas Posts (N1–490–12–6, 10 items, 10 temporary items). Programming and training records including project files,

correspondence files, training records, and volunteer handbooks.

Dated: March 24, 2014.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2014–07164 Filed 3–31–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Comment Request: National Science Foundation—Applicant Survey

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewed clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; 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.

DATES: Written comments should be received by June 2, 2014 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by email to *splimpto@nsf.gov*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton at (703) 292–7556 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION: *Title of Collection:* ''National Science Foundation Applicant Survey.''

OMB Approval Number: 3145–0096.

Expiration Date of Approval: July 31, 2014.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: The current National Science Foundation Applicant survey has been in use for several years. Data are collected from applicant pools to examine the racial/sexual/disability composition and to determine the source of information about NSF vacancies.

Use of the Information: Analysis of the applicant pools is necessary to determine if NSF's targeted recruitment efforts are reaching groups that are underrepresented in the Agency's workforce and/or to defend the Foundation's practices in discrimination cases.

Burden on the Public: The Foundation estimates about 4,000 responses annually at 1 minute per response; this computes to approximately 67 hours annually.

Dated: March 26, 2014.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2014–07173 Filed 3–31–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0252; Docket Nos. 50–220, 50–410; License Nos. DPR–63, NPF–69]

Nine Mile Point Nuclear Station, LLC; Exelon Generation Company, LLC (Nine Mile Point Nuclear Station, Units 1 and 2); Order Approving Direct Transfer of Licenses and Conforming Amendments

I

Nine Mile Point Nuclear Power Station, LLC (Nine Mile Point, LLC or the licensee) is the holder of Renewed Facility Operating License No. DPR–63, which authorizes the possession, use, and operation of Nine Mile Point Nuclear Station, Unit 1 (Nine Mile Point 1), including an Independent Spent Fuel Storage Installation (ISFSI) with a general license. Nine Mile Point, LLC is also the 82 percent owner and the licensed operator of Renewed Facility Operating License No. NPF–69, which authorizes the possession, use, and operation of Nine Mile Point Nuclear Station, Unit 2 (Nine Mile Point 2). Long Island Power Authority owns the remaining 18 percent of Nine Mile Point 2. Nine Mile Point 1 and 2 (the facility) is located in Oswego County, New York.

II

By application dated August 6, 2013, as supplemented by letters and emails dated August 14, 2013, September 23 and 26, 2013, December 17, 2013, January 9, 2014, and February 5, 10, 14, and 21, 2014 (together, the application), Constellation Energy Nuclear Group, LLC (CENG) requested on behalf of itself, its subsidiary, Nine Mile Point, LLC, and Exelon Generation Company, LLC (Exelon Generation) (together, the applicants), that the U.S. Nuclear Regulatory Commission (NRC) approve the proposed direct transfer of operating authority of the facility to Exelon Generation. The applicants also requested approval of conforming license amendments that would reflect the proposed transfer of operating authority to Exelon Generation. Prior to the transfer, Exelon Generation was an intermediate 50.01 percent parent company of CENG, which is the parent company owner of Nine Mile Point, LLC. After completion of the proposed transfer, Exelon Generation would remain an intermediate parent company and also become the co-licensee of Nine Mile Point, LLC and the operator of Nine Mile Point 1 and 2. Exelon Generation will assume direct licensed responsibility for the operation of the facility and its ISFSI, but the ownership will not be affected. There will be no physical changes to the facility and no adverse changes in day-to-day operations.

Approval of the direct transfer of the renewed facility operating licenses and the conforming amendments was requested by the applicants pursuant to Sections 50.80 and 50.90 of Title 10 of the *Code of Federal Regulations* (10 CFR). A notice entitled, ''Consideration of Approval of Transfer of Renewed Facility Operating Licenses, Materials Licenses, and Conforming Amendments Containing Sensitive Unclassified Non-Safeguards Information,'' was published in the **Federal Register** on December 26, 2013 (78 FR 78411). No comments or hearing requests were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. Upon review of the information in the application, and

other information before the Commission, the NRC staff has determined that Exelon Generation is qualified to acquire and hold the operating authority under the license previously held by the licensee, and that the transfer of the license, as proposed in the application, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission, pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed conforming amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed conforming amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed conforming amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by the NRC staff's safety evaluation dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the direct license transfer of the operating authority of the licenses from the licensee to Exelon Generation, as described herein, is approved, subject to the following conditions:

1. The existing E.D.F. International S.A.S. Support Agreement of approximately $145 million, dated November 6, 2009, may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. Nine Mile Point, LLC, CENG, or Exelon Generation shall not take any action to cause E.D.F. International S.A.S., or its successors and assigns, to void, cancel, or materially modify the E.D.F. International S.A.S. Support Agreement or cause it to fail to perform, or impair its performance under the E.D.F. International S.A.S. Support Agreement, without the prior written consent of the NRC. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for the CENG subsidiary licensee under the E.D.F. International S.A.S. Support Agreement.

2. Exelon Corporation shall, no later than the time the license transfers occur, enter into a Support Agreement of approximately $245 million with the licensee. The Exelon Corporation Support Agreement shall supersede the Support Agreement provided by Exelon Generation, dated March 12, 2012, in all respects and shall be consistent with the representations contained in the August 6, 2013 transfer application. Nine Mile Point, LLC, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel, or materially modify the Exelon Corporation Support Agreement or cause it to fail to perform, or impair its performance under the Exelon Corporation Support Agreement, without the prior written consent of the NRC. The Exelon Corporation Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the Exelon Corporation Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transaction and license transfers. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for the licensee under the Exelon Corporation Support Agreement.

3. Exelon Corporation shall, no later than the time the license transfers occur, provide a parent guarantee in the amount of $165 million to ensure a source of funds for the facility in the event that the existing cash pool between the licensee and CENG is insufficient to cover operating costs. The existing CENG cash pool arrangement shall be consistent with the representations contained in the 2009 Transfer Application dated January 22, 2009 (ADAMS Accession No. ML090290101). Nine Mile Point, LLC, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel or materially modify the parent guarantee or cause it to fail to perform, or impair its performance under the parent guarantee without the prior written consent of the NRC.

4. Within 14 days of the license transfers, Exelon Generation shall submit to the NRC the Nuclear Operating Services Agreement reflecting the terms set forth in the application dated August 6, 2013. Section 7.1 of the Nuclear Operating Services Agreement may not be modified in any material respect related to financial arrangements that would adversely impact the ability of the licensee to fund safety-related activities authorized by the license without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

5. Within 10 days of the license transfers, Exelon Generation shall submit to the NRC the amended CENG Operating Agreement reflecting the terms set forth in the application dated August 6, 2013. The amended and restated Operating Agreement may not be modified in any material respect concerning decisionmaking authority over safety, security and reliability without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

6. At least half the members of the CENG Board of Directors must be U.S. citizens.

7. The CENG Chief Executive Officer, Chief Nuclear Officer, and Chairman of the CENG Board of Directors must be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure and shall ensure that the business and activities of CENG with respect to the facility's license are at all times conducted in a manner consistent with the public health and safety and common defense and security of the United States.

8. CENG will retain its Nuclear Advisory Committee (NAC) composed of U.S. citizens who are not officers, directors, or employees of CENG, EDF Inc., Constellation Nuclear, LLC, or CE Nuclear, LLC. The NAC will report to, and provide transparency to, the NRC and other U.S. governmental agencies regarding foreign ownership and control of nuclear operations.

9. The NAC shall prepare an annual report regarding the status of foreign ownership, control, or domination of the licensed activities of power reactors under the control, in whole or part, of CENG. The NAC report shall be submitted to the NRC within 30 days of completion, or by January 31 of each year (whichever occurs first). No action shall be taken by CENG or any entity to cause Constellation Nuclear, LLC, Exelon Generation, or their parent companies, subsidiaries or successors to modify the NAC report before submittal to the NRC. The NAC report shall be made available to the public, with the

potential exception of information that meets the requirements for withholding such information from public disclosure under the regulations of 10 CFR 2.390, ''Public Inspections, Exemptions, Requests for Withholding.''

10. Before completion of the direct transfer of Nine Mile Point 1 and 2 licenses, Exelon Generation shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that the licensees have obtained the appropriate amount of primary and secondary insurance, and have complied with the requirements of 10 CFR Part 140 of the Commission's regulations.

It is further ordered that consistent with 10 CFR 2.1315(b), the license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject direct transfer, are approved. The license amendments shall be issued and made effective at the time the proposed direct transfer action is consummated.

It is further ordered that after receipt of all required regulatory approvals for the proposed direct transfer action, Exelon Generation shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt no later than 2 business day prior to the date of the closing of the direct transfer. Should the proposed direct transfer not be completed within one year of this Order's date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application and the non-proprietary safety evaluation dated the same date as this Order, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Room O–1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 25 day of March 2014.

For The Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–07244 Filed 3–31–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0252; Docket No. 50–244; License No. DPR–18]

R.E. Ginna Nuclear Power Plant, LLC; Exelon Generation Company, LLC (R.E. Ginna Nuclear Power Plant); Order Approving Direct Transfer of License and Conforming Amendment

I

R.E. Ginna Nuclear Power Plant, LLC (Ginna, LLC or the licensee) is the holder of Renewed Facility Operating License No. DPR–18, which authorizes the possession, use, and operation of R.E. Ginna Nuclear Power Plant (Ginna or the facility), including an Independent Spent Fuel Storage Installation (ISFSI) with a general license. The facility is located in Wayne County, New York.

II

By application dated August 6, 2013, as supplemented by letters and emails dated August 14, 2013, September 23 and 26, 2013, December 17, 2013, January 9, 2014, and February 5, 10, 14, and 21, 2014 (together, the application), Constellation Energy Nuclear Group, LLC (CENG) requested on behalf of itself, its subsidiary, Ginna, LLC, and Exelon Generation Company, LLC (Exelon Generation) (together, the applicants), that the U.S. Nuclear Regulatory Commission (NRC) approve the proposed direct transfer of operating authority of the facility to Exelon Generation. The applicants also requested approval of a conforming license amendment that would reflect the proposed transfer of operating authority to Exelon Generation. Prior to the transfer, Exelon Generation was an intermediate 50.01 percent parent company of CENG, which is the parent company owner of Ginna, LLC. After completion of the proposed transfer, Exelon Generation would remain an intermediate parent company and also become the co-licensee of Ginna, LLC and the operator of Ginna. Exelon Generation will assume direct licensed responsibility for the operation of the facility and its ISFSI, but the ownership will not be affected. There will be no physical changes to the facility and no adverse changes in day-to-day operations.

Approval of the direct transfer of the renewed facility operating license and the conforming amendment was requested by the applicants pursuant to Sections 50.80 and 50.90 of Title 10 of the *Code of Federal Regulations* (10 CFR). A notice entitled, ''Consideration of Approval of Transfer of Renewed Facility Operating Licenses, Materials Licenses, and Conforming Amendments Containing Sensitive Unclassified Non-Safeguards Information,'' was published in the **Federal Register** on December 26, 2013 (78 FR 78411). No comments or hearing requests were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that Exelon Generation is qualified to acquire and hold the operating authority under the license previously held by the licensee, and that the transfer of the license, as proposed in the application, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission, pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed conforming amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed conforming amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed conforming amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by the NRC staff's safety evaluation dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the direct license transfer of the operating authority of the license from the licensee to Exelon Generation, as described herein, is approved, subject to the following conditions:

1. The existing E.D.F. International S.A.S. Support Agreement of approximately $145 million, dated November 6, 2009, may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. Ginna, LLC, CENG, or Exelon Generation shall not take any action to cause E.D.F. International S.A.S., or its successors and assigns, to void, cancel, or materially modify the E.D.F. International S.A.S. Support Agreement or cause it to fail to perform, or impair its performance under the E.D.F. International S.A.S. Support Agreement, without the prior written consent of the NRC. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for the CENG subsidiary licensee under the E.D.F. International S.A.S. Support Agreement.

2. Exelon Corporation shall, no later than the time the license transfers occur, enter into a Support Agreement of approximately $245 million with the licensee. The Exelon Corporation Support Agreement shall supersede the Support Agreement provided by Exelon Generation, dated March 12, 2012, in all respects and shall be consistent with the representations contained in the August 6, 2013 transfer application. Ginna, LLC, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel, or materially modify the Exelon Corporation Support Agreement or cause it to fail to perform, or impair its performance under the Exelon Corporation Support Agreement, without the prior written consent of the NRC. The Exelon Corporation Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the Exelon Corporation Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transaction and license transfers. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for the licensee under the Exelon Corporation Support Agreement.

3. Exelon Corporation shall, no later than the time the license transfers occur, provide a parent guarantee in the amount of $165 million to ensure a source of funds for the facility in the event that the existing cash pool between the licensee and CENG is insufficient to cover operating costs. The existing CENG cash pool arrangement shall be consistent with the representations contained in the 2009 Transfer Application dated January 22, 2009 (ADAMS Accession No. ML090290101). Ginna, LLC, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel or materially modify the parent guarantee or cause it to fail to perform, or impair its performance under the parent guarantee without the prior written consent of the NRC.

4. Within 14 days of the license transfers, Exelon Generation shall submit to the NRC the Nuclear Operating Services Agreement reflecting the terms set forth in the application dated August 6, 2013. Section 7.1 of the Nuclear Operating Services Agreement may not be modified in any material respect related to financial arrangements that would adversely impact the ability of the licensee to fund safety-related activities authorized by the license without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

5. Within 10 days of the license transfers, Exelon Generation shall submit to the NRC the amended CENG Operating Agreement reflecting the terms set forth in the application dated August 6, 2013. The amended and restated Operating Agreement may not be modified in any material respect concerning decisionmaking authority over safety, security and reliability without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

6. At least half the members of the CENG Board of Directors must be U.S. citizens.

7. The CENG Chief Executive Officer, Chief Nuclear Officer, and Chairman of the CENG Board of Directors must be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure and shall ensure that the business and activities of CENG with respect to the facility's license are at all times conducted in a manner consistent with the public health and safety and common defense and security of the United States.

8. CENG will retain its Nuclear Advisory Committee (NAC) composed of U.S. citizens who are not officers, directors, or employees of CENG, EDF Inc., Constellation Nuclear, LLC, or CE Nuclear, LLC. The NAC will report to, and provide transparency to, the NRC and other U.S. governmental agencies regarding foreign ownership and control of nuclear operations.

9. The NAC shall prepare an annual report regarding the status of foreign ownership, control, or domination of the licensed activities of power reactors under the control, in whole or part, of CENG. The NAC report shall be submitted to the NRC within 30 days of completion, or by January 31 of each year (whichever occurs first). No action shall be taken by CENG or any entity to cause Constellation Nuclear, LLC, Exelon Generation, or their parent companies, subsidiaries or successors to modify the NAC report before submittal to the NRC. The NAC report shall be made available to the public, with the potential exception of information that meets the requirements for withholding such information from public disclosure under the regulations of 10 CFR 2.390, ''Public Inspections, Exemptions, Requests for Withholding.''

10. Before completion of the direct transfer of the facility's license, Exelon Generation shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that the licensees have obtained the appropriate amount of primary and secondary insurance, and have complied with the requirements of 10 CFR Part 140 of the Commission's regulations.

It is further ordered that consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject direct transfer, is approved. The license amendment shall be issued and made effective at the time the proposed direct transfer action is consummated.

It is further ordered that after receipt of all required regulatory approvals for the proposed direct transfer action, CENG shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt no later than 2 business day prior to the date of the closing of the direct transfer. Should the proposed direct transfer not be completed within one year of this Order's date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application and the non-

proprietary safety evaluation dated the same date as this Order, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Room O–1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 25 day of March 2014.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–07242 Filed 3–31–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0252]

Order Approving Direct Transfer of Licenses and Conforming Amendments

In the Matter of:	
Calvert Cliffs Nuclear Power Plant, LLC) Exeloon Generation Company, LLC (Calvert Cliffs Nuclear Power Plant Units 1 and 2 and Independent Spent Fuel Storage Instllation).	Docket Nos. 50–317, 50–318, 72–8 License Nos. DPR–53, DPR–69, SNM–2505.

I

Calvert Cliffs Nuclear Power Plant, LLC (Calvert Cliffs, LLC or the licensee), is the holder of Renewed Facility Operating License Nos. DPR–53 and DPR–69 and Materials License No. SNM–2505, which authorizes the possession, use, and operation of Calvert Cliffs Nuclear Power Plant, Units 1 and 2 (Calvert Cliffs 1 and 2 or the facility), including an Independent Spent Fuel Storage Installation (ISFSI). The facility and its ISFSI are located in Calvert County, Maryland.

II

By application dated August 6, 2013, as supplemented by letters and emails dated August 14, 2013, September 23 and 26, 2013, December 17, 2013, January 9, 2014, and February 5, 10, 14, and 21, 2014 (together, the application), Constellation Energy Nuclear Group, LLC (CENG) requested on behalf of itself, its subsidiary licensee, Calvert Cliffs, LLC, and Exelon Generation Company, LLC (Exelon Generation) (together, the applicants), that the U.S. Nuclear Regulatory Commission (NRC) approve the proposed direct transfer of operating authority of the facility and its ISFSI to Exelon Generation. The applicants also requested approval of conforming license amendments that would reflect the proposed transfer of operating authority to Exelon Generation. Prior to the transfer, Exelon Generation was an intermediate 50.01 percent parent company of CENG, which is the parent company owner of Calvert Cliffs, LLC. After completion of the proposed transfer, Exelon Generation would remain an intermediate parent company and also become the co-licensee of Calvert Cliffs, LLC and the operator of Calvert Cliffs 1 and 2. Exelon Generation will assume direct licensed responsibility for the operation of the facility and its ISFSI, but the ownership will not be affected. There will be no physical changes to the facility and no adverse changes in day-to-day operations.

Approval of the direct transfer of the renewed facility operating licenses, the materials license, and conforming amendments was requested by the applicants pursuant to Sections 50.80, 50.90, and 72.50 of Title 10 of the *Code of Federal Regulations* (10 CFR). A notice entitled, ''Consideration of Approval of Transfer of Renewed Facility Operating Licenses, Materials Licenses, and Conforming Amendments Containing Sensitive Unclassified Non-Safeguards Information,'' was published in the **Federal Register** on December 26, 2013 (78 FR 78411). No comments or hearing requests were received.

Pursuant to 10 CFR 50.80 and 72.50, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that Exelon Generation is qualified to acquire and hold the operating authority under the licenses previously held by the licensee, and that the transfer of the licenses, as proposed in the application, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission, pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed conforming amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facilities will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed conforming amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed conforming amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by the NRC staff's safety evaluation dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80 and 72.50, *it is hereby ordered* that the direct license transfer of the operating authority of the licenses from the licensee to Exelon Generation, as described herein, is approved, subject to the following conditions:

1. The existing E.D.F. International S.A.S. Support Agreement of approximately $145 million, dated November 6, 2009, may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or

his designee. Calvert Cliffs, LLC, CENG, or Exelon Generation shall not take any action to cause E.D.F. International S.A.S., or its successors and assigns, to void, cancel, or materially modify the E.D.F. International S.A.S. Support Agreement or cause it to fail to perform, or impair its performance under the E.D.F. International S.A.S. Support Agreement, without the prior written consent of the NRC. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for the CENG subsidiary licensee under the E.D.F. International S.A.S. Support Agreement.

2. Exelon Corporation shall, no later than the time the license transfers occur, enter into a Support Agreement of approximately $245 million with the licensee. The Exelon Corporation Support Agreement shall supersede the Support Agreement provided by Exelon Generation, dated March 12, 2012, in all respects and shall be consistent with the representations contained in the August 6, 2013 transfer application. Calvert Cliffs, LLC, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel, or materially modify the Exelon Corporation Support Agreement or cause it to fail to perform, or impair its performance under the Exelon Corporation Support Agreement, without the prior written consent of the NRC. The Exelon Corporation Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the Exelon Corporation Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transaction and license transfers. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for the licensee under the Exelon Corporation Support Agreement.

3. Exelon Corporation shall, no later than the time the license transfers occur, provide a parent guarantee in the amount of $165 million to ensure a source of funds for the facility in the event that the existing cash pool between the licensee and CENG is insufficient to cover operating costs. The existing CENG cash pool arrangement shall be consistent with the representations contained in the 2009 Transfer Application dated January 22, 2009 (ADAMS Accession No. ML090290101). Calvert Cliffs, LLC, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel or materially modify the parent guarantee or cause it to fail to perform, or impair its performance under the parent guarantee without the prior written consent of the NRC.

4. Within 14 days of the license transfers, Exelon Generation shall submit to the NRC the Nuclear Operating Services Agreement reflecting the terms set forth in the application dated August 6, 2013. Section 7.1 of the Nuclear Operating Services Agreement may not be modified in any material respect related to financial arrangements that would adversely impact the ability of the licensee to fund safety-related activities authorized by the license without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

5. Within 10 days of the license transfers, Exelon Generation shall submit to the NRC the amended CENG Operating Agreement reflecting the terms set forth in the application dated August 6, 2013. The amended and restated Operating Agreement may not be modified in any material respect concerning decisionmaking authority over safety, security and reliability without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

6. At least half the members of the CENG Board of Directors must be U.S. citizens.

7. The CENG Chief Executive Officer, Chief Nuclear Officer, and Chairman of the CENG Board of Directors must be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure and shall ensure that the business and activities of CENG with respect to the facility's license are at all times conducted in a manner consistent with the public health and safety and common defense and security of the United States.

8. CENG will retain its Nuclear Advisory Committee (NAC) composed of U.S. citizens who are not officers, directors, or employees of CENG, EDF Inc., Constellation Nuclear, LLC, or CE Nuclear, LLC. The NAC will report to, and provide transparency to, the NRC and other U.S. governmental agencies regarding foreign ownership and control of nuclear operations.

9. The NAC shall prepare an annual report regarding the status of foreign ownership, control, or domination of the licensed activities of power reactors under the control, in whole or part, of CENG. The NAC report shall be submitted to the NRC within 30 days of completion, or by January 31 of each year (whichever occurs first). No action shall be taken by CENG or any entity to cause Constellation Nuclear, LLC, Exelon Generation, or their parent companies, subsidiaries or successors to modify the NAC report before submittal to the NRC. The NAC report shall be made available to the public, with the potential exception of information that meets the requirements for withholding such information from public disclosure under the regulations of 10 CFR 2.390, ''Public Inspections, Exemptions, Requests for Withholding.''

10. Before completion of the direct transfer of the Calvert Cliffs 1 and 2 and ISFSI licenses, Exelon Generation shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that the licensees have obtained the appropriate amount of primary and secondary insurance, and have complied with the requirements of 10 CFR Part 140 of the Commission's regulations.

It is further ordered that consistent with 10 CFR 2.1315(b), the amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject direct transfer, are approved. The license amendments shall be issued and made effective at the time the proposed direct transfer action is consummated.

It is further ordered that after receipt of all required regulatory approvals for the proposed direct transfer action, Exelon Generation shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt no later than 2 business day prior to the date of the closing of the direct transfer. Should the proposed direct transfer not be completed within one year of this Order's date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application and the non-proprietary safety evaluation dated the same date as this Order, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Room O–1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff by telephone at 1–800–397–4209, or 301–

415–4737, or by email to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland this 24th day of March 2014.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

Catherine Haney,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2014–07243 Filed 3–31–14; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC–2014–0064]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 6, 2014, to March 19, 2014. The last biweekly notice was published on March 18, 2014.

DATES: Comments must be filed by May 1, 2014. A request for a hearing must be filed by June 2, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0064. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• Mail comments to: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN–06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Janet Burkhardt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1384, email: *janet.burkhardt@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2014–0064 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document by any of the following methods:

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0064.

• NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Documents may be viewed in ADAMS by performing a search on the document date and docket number.

• NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0064 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in you comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day

comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave to Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

B. Electronic Submissions (E-Filing)

All documents filed in 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 ten 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 agency'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 NRC guidance available on the NRC's public 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 NRC'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's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 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, Maryland, 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 the 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. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. 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.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Accessing Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 28, 2014.

Description of amendment request: The proposed amendment revises an error made during McGuire's conversion to standard technical specifications (TSs) in TS 3.4.12. Condition G incorrectly references Condition E. As currently written, TS 3.4.12 Required Actions F.2 and G.1 collectively require that an operable residual heat removal (RHR) suction relief valve be aligned within 1 hour and that a reactor coolant system (RCS) vent path greater than 2.75 square inches be established within 8 hours if one of two Power Operated Relief Valves (PORVs) is inoperable in accordance with Condition E. As such, the proposed license amendment request revises Condition G to eliminate the reference to Condition E on the basis that the alignment of an operable RHR relief valve is sufficient to compensate for the loss of one PORV.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1: Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change has no effect on the probability or consequences of an accident previously evaluated since adequate low temperature overpressure protection [(LTOP)] of the RCS is being maintained.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2: Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve the addition or modification of any plant equipment. The proposed change does not involve a change in the operational limits or the design capabilities of the LTOP system. The LTOP system remains capable of protecting the RCS against low temperature overpressurization.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3: Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of the fuel cladding, the reactor coolant system and the containment system will not be adversely impacted by the proposed change since the ability of the LTOP system to prevent a challenge to the integrity of a fission product barrier has not been adversely impacted by the proposed change.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

Based on the above, Duke Energy concludes that the proposed amendment does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, Associate General Counsel, Duke Energy Corporation, 526 South Church Street—EC07H, Charlotte, NC 28202

NRC Branch Chief: Robert J. Pascarelli.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: June 11, 2013.

Description of amendment request: Entergy Operations, Inc., has requested an amendment to the Arkansas Nuclear One, Unit 1 (ANO–1) Technical Specification (TS) 2.1.1.1, to add the determination of the maximum local fuel pin centerline temperature using NRC reviewed and approved COPERNIC fuel performance computer code. The ANO–1 TSs currently provide similar information for other fuel performance computer codes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not require any physical change to any plant systems, structures, or components, nor does it require any change in systems or plant operations. The proposed change does not require any change in safety analysis methods or results. Operations and analysis will continue to be in accordance with the ANO–1 licensing basis. The peak fuel centerline temperature is the basis for protecting the fuel and is consistent with safety analysis.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change adds a new fuel centerline melt temperature versus burnup relationship based on an NRC reviewed and approved fuel performance computer code. The accident analyses presented in the ANO–1 Safety Analysis Report indicate that the fuel centerline temperature is not approached or exceeded for any of the events or Anticipated Operational Occurrences. The existing analyses, which are unchanged, do not affect any accident initiators that would create a new accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not require any change in safety analysis methods or results. Therefore, by adding the fuel centerline temperature and burnup relationship as defined by the COPERNIC code to the TS, the margin as established with the ANO–1 TS and SAR [Safety Analyses Report] are unchanged.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Michael T. Markley.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: December 20, 2013, as supplemented by March 11, 2014.

Description of amendment request: The amendment would allow for the extension to the 10-year frequency of the Arkansas Nuclear One, Unit 1 (ANO–1) Type A or Integrated Leak Rate Test (ILRT) that is required by ANO–1 Technical Specification (TS) 5.5.16, ''Reactor Building Leakage Rate Testing Program,'' to be extended to 15 years on a permanent basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment involves changes to the ANO–1 Reactor Building Leakage Rate Testing Program. The proposed amendment does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The primary reactor building function is to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the reactor building itself and the testing requirements to periodically demonstrate the integrity of the reactor building exist to ensure the plant's ability to mitigate the consequences of an accident, do not involve any accident precursors or initiators. Therefore, the probability of occurrence of an accident previously evaluated is not significantly increased by the proposed amendment.

The integrity of the reactor building is subject to two types of failure mechanisms which can be categorized as (1) activity based and (2) time based. Activity based failure mechanisms are defined as degradation due to system and/or component modifications or maintenance. Local leak rate test requirements and administrative controls such as configuration management and procedural requirements for system restoration ensure that the reactor building containment integrity is not degraded by plant modifications or maintenance activities. The design and construction requirements of the reactor building itself combined with the reactor building inspections performed in accordance with ASME [American Society of Mechanical Engineers Boiler and Pressure Vessel Code], Section XI, the Maintenance Rule and regulatory commitments serve to provide a high degree of assurance that the containment will not degrade in a manner that is detectable only by a Type A test. Based on the above, the proposed amendment does not involve a significant increase in the consequences of an accident previously evaluate.

The proposed amendment adopts the NRC-accepted guidelines of [Nuclear Energy Institute] NEI 94–01, Revision 3–A, [''Industry Guideline for Implementing

Performance-Based Option of 10 CFR Part 50, Appendix J''] for development of the ANO–1 performance-based testing program. Implementation of these guidelines continues to provide adequate assurance that during design basis accidents, the primary containment and its components will limit leakage rates to less the values assumed in the plant safety analyses. The potential consequences of extending the ILRT interval to 15 years have been evaluated by analyzing the resulting changes in risk. The increase in risk in terms of person-rem per year within 50 miles resulting from design basis accidents was estimated to be acceptably small and determined to be within the guidelines published in [NRC Regulatory Guide (RG) 1.174, ''An Approach for using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Bases'']. Additionally, the proposed change maintains defense-in-depth by preserving a reasonable balance among prevention of core damage, prevention of containment failure, and consequence mitigation. ANO–1 has determined that the increase in Conditional Containment Failure Probability due to the proposed change would be very small. Therefore, it is concluded that the proposed amendment does not significantly increase the consequences of an accident previously evaluated.

Based on the above discussion, it is concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment adopts the NRC-accepted guidelines of NEI 94–01, Revision 3–A, for the development of the ANO–1 performance-based leakage testing program, and establishes a 15-year interval for the performance of the reactor building ILRT. The reactor building and the testing requirements to periodically demonstrate the integrity of the reactor building exist to ensure the plant's ability to mitigate the consequences of an accident, do not involve any accident precursors or initiators. The proposed change does not involve a physical change to the plant (i.e., no new or different type of equipment will be installed) or a change to the manner in which the plant is operated or controlled.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment adopts the NRC-accepted guidelines of NEI 94–01, Revision 3–A, for the development of the ANO–1 performance-based leakage testing program, and establishes a 15 year interval for the performance of the containment ILRT. This amendment does not alter the manner in which safety limits, limiting safety system setpoints, or limiting conditions for operation are determined. The specific requirements and conditions of the Reactor Building Leakage Rate Testing Program, as defined in the TS, ensure that the degree of the reactor building structural integrity and leak-tightness that is considered in the plant's safety analysis is maintained. The overall reactor building leakage rate limit specified by the TS is maintained, and the Type A, Type B, and Type C containment leakage tests will be performed at the frequencies established in accordance with the NRC-accepted guidelines of NEI 94–01, Revision 3–A.

Containment inspections performed in accordance with other plant programs serve to provide a high degree of assurance that the containment will not degrade in a manner that is not detectable by an ILRT. A risk assessment using the current ANO–1 risk model concluded that extending the ILRT test interval from ten years to 15 years results in an acceptably small change to the ANO–1 risk profile.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Michael T. Markley.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Docket Nos. STN 50–454 and STN 50–455, Byron Station, Units 1 and 2, Ogle County, Illinois

Date of amendment request: August 21, 2013.

Description of amendment request: The proposed amendment would revise technical specifications (TS) Section 3.7.2, ''Main Steam Isolation Valves (MSIVs),'' to incorporate the MSIV actuator trains into the Limiting Condition for Operation (LCO) and provide associated Conditions and Required Actions. The proposed amendment would also revise surveillance requirement (SR) 3.7.2.2 to identify that the MSIV actuator trains are required to be tested.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

EGC [Exelon Generation Company, LLC] has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92(c), ''Issuance of amendment,'' as discussed below:

1. Does the proposed amendment involve a significant increase the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes provide requirements for MSIVs that have dual actuators which receive signals from separate instrumentation trains. The design and functional performance requirements, operational characteristics, and reliability of the MSIVs and actuator trains are unchanged. There is no impact on the design safety function of the MSIVs to close (as an accident mitigator), nor is there any change with respect to inadvertent closure of an MSIV (as a potential transient initiator). Since no failure mode or initiating condition that could cause an accident (including any plant transient) is created or affected, the change cannot involve a significant increase in the probability of an accident previously evaluated.

With regard to the consequences of an accident and the equipment required for mitigation of the accident, the proposed changes involve no design or physical changes to the MSIVs or any other equipment required for accident mitigation. With respect to MSIV actuator train Completion Times, the consequences of an accident are independent of equipment Completion Times as long as adequate equipment availability is maintained. The proposed MSIV actuator Completion Times take into account the redundancy of the actuator trains and are limited in extent consistent with other Completion Times specified in the Technical Specifications. Adequate equipment availability would therefore continue to be required by the Technical Specifications. On this basis, the consequences of applicable, analyzed accidents are not significantly affected by the proposed changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to incorporate requirements for the MSIV actuator trains do not involve any design or physical changes to the facility, including the MSIVs and actuator trains themselves. No physical alteration of the plant is involved, as no new or different type of equipment is to be installed. The proposed changes do not alter any assumptions made in the safety analyses, nor do they involve any changes to plant procedures for ensuring that the plant is operated within analyzed limits. As such, no new failure modes or mechanisms that could

cause a new or different kind of accident from any previously evaluated are being introduced.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in [a] margin of safety?

Response: No.

The proposed changes to incorporate requirements for the MSIV actuator trains do not alter the manner in which safety limits or limiting safety system settings are determined. No changes to instrument/system actuation setpoints are involved. The safety analysis acceptance criteria are not affected by this change and the proposed changes will not permit plant operation in a configuration outside the design basis.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Based on the above, EGC concludes that the proposed amendments do not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of no significant hazards consideration is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Travis L. Tate.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: December 6, 2013.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) setpoints and allowable values for certain area temperature instrumentation associated with the leak detection system (LDS). The purpose of the LDS is to detect and provide the signals necessary to isolate leakage from the reactor coolant pressure boundary (RCPB) before predetermined limits are exceeded. The affected TS instrumentation monitor ambient temperature in the reactor water cleanup system (RWCS) area, the high pressure coolant injection (HPCI) equipment room and pipe routing area, and the reactor core isolation cooling (RCIC) equipment room and pipe routing area. The temperature setpoints, for the LDS instrumentation described above, are established to provide system isolations in the event of a postulated 25 gallon per minute (gpm) steam leak.

The proposed amendment would also change the leakage design basis from 25 gpm to 35 gpm for the turbine enclosure main steam line tunnel temperature isolation setpoint (the setpoint of this instrumentation is not being changed).

The licensee's amendment request indicated that the proposed changes are being made in order to establish adequate margins such that normal variations in the maximum operating temperatures for the affected plant areas do not result in system isolation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The LDS is a mitigating system for low energy line breaks or leakage. The LDS includes ambient temperature instrumentation with setpoints established to provide for system isolation in the event of a small steam leak (e.g., 25 gpm).

The proposed changes will not alter the way any structure, system, or component (SSC) functions, and will not alter the manner in which the plant is operated. The proposed changes do not impact any SSC that could cause an accident. Therefore, the proposed amendment will not increase the probability of occurrence of an accident previously evaluated in the Updated Final Safety Analysis Report (UFSAR).

The design basis leakage values for the LDS will remain bounded by the design basis accident analysis analyzed in the UFSAR for a main steam line break (MSLB). In addition, the proposed amendment will not impact the ability of any SSC to mitigate an accident as currently evaluated in the UFSAR. Therefore, the proposed amendment will not increase the consequences of an accident previously evaluated in the UFSAR.

Based on the above, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes will not alter the plant configuration (no new or different type of equipment will be installed). The proposed changes will not change the design function of any SSC, and will not alter the manner in which the plant is operated. There will be no adverse effect on plant operation or accident mitigation equipment. The response of the plant and the operators following an accident will not be different. In addition, the proposed changes do not introduce any new failure modes.

Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is related to the confidence in the ability of the fission product barriers (i.e., fuel cladding, RCPB, and containment) to limit the level of radiation dose to the public.

The proposed changes have no impact on the fuel cladding or containment. With respect to the RCPB, the proposed changes to the TS setpoints and allowable values for the RWCS, HPCI, and RCIC instrumentation will be established to provide system isolations in the event of a postulated 25 gpm steam leak. The 25 gpm leakage value is the current design basis value. As such, the proposed TS changes have no impact on the current assumptions regarding the ability of the LDS to isolate leakage from the RCPB.

The proposed amendment would also change the leakage design basis from 25 gpm to 35 gpm for the turbine enclosure main steam line tunnel temperature isolation setpoint. However, the licensee's application indicated that the increase in total coolant loss as a result of a change in the leak detection setpoint design basis from 25 gpm to 35 gpm is insignificant compared to the bounding analysis for the analyzed MSLB.

Based on the above, the proposed changes will not result in a reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

Acting NRC Branch Chief: John D. Hughey.

Exelon Generation Company, LLC, Docket No. 50–352 and No. 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Exelon Generation Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–171, 50–277, and 50–278, Peach Bottom Atomic Power Station, Units 1, 2 and 3, York and Lancaster Counties, Pennsylvania

Exelon Generation Company, LLC, Docket No. 50–289 and 50–320, Three

Mile Island Nuclear Station, Units 1 and 2, Dauphin County, Pennsylvania

Date of amendment request: October 30, 2013.

Description of amendment request: The proposed change would revise the Emergency Response Organization (ERO) requalification training frequency for the affected facilities.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not increase the probability or consequences of an accident. The proposed change does not involve the modification of any plant equipment or affect plant operation. The proposed change will have no impact on any safety-related Structures, Systems, or Components. The proposed change would revise the ERO annual requalification training frequency.

Therefore, the proposed change to the Emergency Plan requalification training frequency for the affected sites does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change has no impact on the design, function, or operation of any plant systems, structures, or components. The proposed change does not affect plant equipment or accident analyses. The proposed change only affects the administration aspects of the annual emergency response organization requalification training frequency requirements. There are no changes to the actual training conducted.

Therefore, the proposed change to the Emergency Plan requalification training frequency for the affected sites does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analyses. There is no change being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed change. Margins of safety are unaffected by the proposed change to the frequency in the ERO requalification training requirements.

Therefore, the proposed change to the Emergency Plan requalification training frequency for the affected sites does not involve a significant reduction in a margin of safety.

Based on the above analysis, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Travis L. Tate.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: July 30, 2013.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) to relocate the operability and surveillance requirements for the reactor coolant system safety/relief valve (SRV) position instrumentation from the Hope Creek Generating Station (Hope Creek) TS to the Hope Creek Technical Requirements Manual (TRM).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below with the NRC staff's edits in square brackets:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response*:* No.

The proposed changes to the TS would relocate the operability and surveillance requirements for the SRV position instrumentation from the TS to the TRM. The failure of this instrumentation is not assumed to be an initiator of any analyzed event in the UFSAR [updated final safety analysis report]. The proposed changes do not alter the design of the SRVs or any other system, structure, or component (SSC). The proposed changes conform to NRC's regulatory [requirements] regarding the content of plant TS, as identified in 10 CFR 50.36, [and the regulatory guidance identified in] NUREG–1433, and [also conform with] the NRC's Final Policy Statement published on July 22, 1993 (58 FR 39132).

Therefore, these proposed changes do not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response*:* No.

The proposed changes to the TS would relocate the operability and surveillance requirements for the SRV position instrumentation from the TS to the TRM. The proposed changes do not involve a modification to the physical configuration of the plant or change in the methods governing normal plant operation. The proposed changes will not impose any new or different requirement or introduce a new accident initiator, accident precursor, or malfunction mechanism.

Additionally, there is no change in the types or increases in the amounts of any effluent that may be released off-site and there is no increase in individual or cumulative occupational exposure. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to the TS would relocate the operability and surveillance requirements for the SRV position instrumentation from the TS to the TRM. This instrumentation is not needed for manual operator action necessary for safety systems to accomplish their safety function for the design basis events. The SRV position instrumentation, including the acoustic monitors and the tailpipe temperature indicators, provides only alarm and position indication functions and does not provide an input to any automatic trip function.

Several diverse means are available to monitor SRV position, including the Suppression Pool Temperature Monitoring System. Operability and surveillance requirements will be established in a licensee-controlled document, the TRM, to ensure the reliability of SRV position monitoring capability. Changes to these requirements in the TRM will be subject to the provisions of 10 CFR 50.59, providing an appropriate level of regulatory control.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, and with the changes noted above in square brackets, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, PSEG Nuclear, LLC—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: Meena K. Khanna.

South Carolina Electric and Gas Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, Burke County, Georgia

Date of amendment request: December 4, 2013.

Description of amendment request: The proposed changes would amend Combined License Nos. NPF–93 and NPF–94, for VCSNS Units 2 and 3, respectively, in regard to the Technical Specifications (TS). The proposed amendment updates the TS for operator usability that more closely aligns with

the form and content of other improved Standard Technical Specifications NUREGs. Specifically, the changes would result in closer alignment with the guidance of the Technical Specifications Task Force (TSTF) Writer's Guide for Plant-Specific Improved Technical Specifications, TSTF–GG–05–01, Revision 1, and with NUREG–1431, Standard Technical Specifications-Westinghouse Plants as updated by the NRC-approved generic changes.

Basis for proposed no significant hazards consideration determination: As required under 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with the provisions of 10 CFR 50.90, South Carolina Electric & Gas Company (SCE&G) proposes to amend the VCSNS TS. Evaluations pursuant to 10 CFR 50.92 showing that the proposed changes do not involve significant hazards considerations are provided for each change.

However, due to the significant number of changes associated with the upgrade effort, SCE&G has grouped similar changes into categories to facilitate the significant hazards evaluations required by 10 CFR 50.92. Generic significant hazards evaluations are provided for the Administrative, More Restrictive, Relocation, and Detail Removed categories. Each individual Less Restrictive change is addressed by a specific significant hazards evaluation. Because of the large volume of changes, obvious editorial or administrative changes (e.g., formatting, page rolls, punctuation, etc.) have not always received an explicit discussion, but are considered to be addressed by the applicable generic significant hazards evaluation for Administrative changes.

Each significant change to the TS is marked-up on the appropriate page in Enclosure 2 of SCE&G's submittal and assigned a reference number reflective of the significant hazards evaluation type. The reference number assigned to a change is used in the Discussion of Change (DOC) in Enclosure 1 of SCE&G's submittal which provides a detailed description (basis) for each change supporting the applicable significant hazards evaluation in Attachment 6 of Enclosure 1 of SCE&G's submittal.

10 CFR 50.92 EVALUATION FOR ADMINISTRATIVE CHANGES

This generic category applies to changes that are editorial in nature, involve the movement of requirements within the TS without affecting their technical content, simply reformat a requirement or clarify the TS (such as deleting a footnote no longer applicable due to a technical change to a requirement). These changes also include non-technical modifications of requirements to conform to TSTF–GG–05–01, ''Writer's Guide for Plant-Specific Improved Standard Technical Specifications,'' or provide consistency with the Improved Standard Technical Specifications in NUREG–1431.

Changes to the TS requirements categorized as Administrative are annotated with an ''A'' in Enclosure 1 DOC and Enclosure 2 markup of SCE&G's submittal.

These changes are intended to make the TS more readily understandable to plant operators and other users. The application of the TS format and style will also assure consistency is achieved between TS. During this reformatting and rewording process, no technical changes (either actual or interpretational) were made to the TS unless they were identified and justified. Because of the large volume of changes, obvious editorial or administrative changes (e.g., formatting, page rolls, punctuation, etc.) do not always receive a DOC reference number but are considered to be addressed by this generic significant hazards evaluation for Administrative changes.

SCE&G proposes to amend the VCSNS Units 2 and 3, Technical Specifications. SCE&G has evaluated each of the proposed TS changes identified as Administrative in accordance with the criteria set forth in 10 CFR 50.92, ''Issuance of amendment,'' and has determined that the proposed changes do not involve a significant hazards consideration. This significant hazards consideration is applicable to each Administrative change identified in Enclosure 1 and Enclosure 2 of SCE&G's submittal.

The basis for the determination that the proposed changes do not involve a significant hazards consideration is an evaluation of these changes against each of the criteria in 10 CFR 50.92(c). The criteria and conclusions of the evaluation are presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes involve reformatting, renumbering, and rewording the TS. The reformatting, renumbering, and rewording process involves no technical changes to the TS. As such, these changes are administrative in nature and do not affect initiators of analyzed events or assumed mitigation of accident or transient events.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The proposed changes will not impose any new or different requirements, or eliminate any existing requirements.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes will not reduce a margin of safety because the changes have no effect on any safety analyses assumptions. These changes are administrative in nature.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

10 CFR 50.92 EVALUATION FOR MORE RESTRICTIVE CHANGES

This generic category include changes that impose additional requirements, decrease allowed outage times, increase the Frequency of Surveillances, impose additional Surveillances, increase the scope of Specifications to include additional plant equipment, broaden the Applicability of Specifications, or provide additional actions. These changes have been evaluated to not be detrimental to plant safety.

More restrictive changes are proposed only when such changes are consistent with the current VCSNS, Units 2 and 3 Licensing basis; the applicable VCSNS safety analyses; and good engineering practice such that the availability and reliability of the affected equipment is not reduced.

Changes to the TS requirements categorized as More Restrictive are annotated with an ''M'' in the Enclosure 1 DOC and Enclosure 2 markup of SCE&G's submittal.

SCE&G proposes to amend the VCSNS Units 2 and 3 TS. SCE&G has evaluated each of the proposed TS changes identified as More Restrictive in accordance with the criteria set forth in 10 CFR 50.92, ''Issuance of amendment,'' and has determined that the proposed changes do not involve a significant hazards consideration. This significant hazards consideration is applicable to each More Restrictive change identified in Enclosure 1 and Enclosure 2 of SCE&G's submittal.

The basis for the determination that the proposed changes do not involve a

significant hazards consideration is an evaluation of these changes against each of the criteria in 10 CFR 50.92(c). The criteria and conclusions of the evaluation are presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes provide more stringent TS requirements. These more stringent requirements do not result in operations that significantly increase the probability of initiating an analyzed event, and do not alter assumptions relative to mitigation of an accident or transient event. The more restrictive requirements continue to ensure process variables, structures, systems, and components are maintained consistent with the safety analyses and licensing basis.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The proposed changes do impose different Technical Specification requirements. However, these changes are consistent with the assumptions in the safety analyses and licensing basis.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The imposition of more restrictive requirements either has no effect on or increases a margin of plant safety. As provided in the discussion of change, each change in this category is, by definition, providing additional restrictions to enhance plant safety. The changes maintain requirements within the safety analyses and licensing basis.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

10 CFR 50.92 EVALUATION FOR RELOCATED SPECIFICATIONS

This generic category applies to changes that relocate entire TS Limiting Conditions for Operations (LCOs). A specific DOC for each TS identified for relocation is provided in Enclosure 1. This evaluation will be applicable to each of the changes identified with an ''R'' in the Enclosure 1 DOC and the associated Enclosure 2 markup of SCE&G's submittal.

SCE&G proposes to amend the VCSNS, Units 2 and 3 TS. Some of the proposed changes involve relocating certain TS LCOs to licensee controlled documents that are subject to the provisions of 10 CFR 52.98.

SCE&G has evaluated the VCSNS TS using the criteria set forth in 10 CFR 50.36 which define the scope of the TS. LCOs identified by this evaluation that did not meet the retention requirements specified in the regulation are deleted from the TS.

SCE&G has evaluated each of the proposed TS changes identified as Relocated Specifications in accordance with the criteria set forth in 10 CFR 50.92, ''Issuance of Amendment,'' and has determined that the proposed changes do not involve a significant hazards consideration. This significant hazards consideration is applicable to each Relocated Specification identified in Enclosure 1 and Enclosure 2 of SCE&G's submittal.

The basis for the determination that the proposed changes do not involve a significant hazards consideration is an evaluation of these changes against each of the criteria in 10 CFR 50.92(c). The criteria and conclusions of the evaluation are presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes relocate LCOs for structures, systems, components, or variables that do not meet the criteria of 10 CFR 50.36(c)(2)(ii) for inclusion in TS. The affected structures, systems, components, or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and Surveillances for these affected structures, systems, components, or variables are proposed to be relocated from the TS to a licensee controlled document that is controlled by the provisions of 10 CFR 50.59. The proposed changes only reduce the level of regulatory control on these requirements. The level of regulatory control has no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or change in the methods governing normal plant operation. The proposed changes will not impose or eliminate any requirements, and adequate control of existing requirements will be maintained.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes will not reduce a margin of safety because they have no significant effect on any safety analyses assumptions, as indicated by the fact that the requirements do not meet the 10 CFR 50.36 criteria for retention. In addition, the relocated requirements are moved without change, and any future changes to these requirements will be evaluated per 10 CFR 50.59.

The NRC prior review and approval of changes to these relocated requirements, in accordance with 10 CFR 50.92, will no longer be required. There is no margin of safety attributed to NRC prior review and approval. However, the proposed changes are consistent with 10 CFR 50.36, which allows revising the TS to relocate these requirements and Surveillances to a licensee controlled document.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

10 CFR 50.92 EVALUATION FOR DETAIL REMOVED CHANGES

This generic category applies to changes that involve removing details out of the TS. These details are either supported by existing content in the TS Bases or the Final Safety Analysis Report (FSAR) or a commitment is made to add them to the TS Bases or FSAR. The removal of this information is considered to be less restrictive because it is no longer controlled by the TS change process. Typically, the information removed is descriptive in nature and its removal conforms to NUREG–1431 for format and content.

A specific DOC for each detail identified for removal is provided in Enclosure 1 of SCE&G's submittal. This evaluation will be applicable to each of the changes identified with a ''D'' in the Enclosure 1 DOC and the associated Enclosure 2 markup of SCE&G's submittal.

SCE&G proposes to amend the VCSNS Units 2 and 3, Technical Specifications. SCE&G has evaluated each of the proposed TS changes identified as Detail Removed in accordance with the criteria set forth in 10 CFR 50.92, ''Issuance of amendment,'' and has determined that the proposed changes do not involve a significant hazards consideration. This significant hazards consideration is applicable to each Detail Removed change identified in Enclosure 1 and Enclosure 2 of SCE&G's submittal.

The basis for the determination that the proposed changes do not involve a significant hazards consideration is an evaluation of these changes against each

of the criteria in 10 CFR 50.92(c). The criteria and conclusions of the evaluation are presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes relocate certain details from the TS to other documents under regulatory control. The FSAR will be maintained in accordance with 10 CFR 50.59 and 10 CFR Part 52, Appendix D, Section VIII. The TS Bases are subject to the change control provisions in the Administrative Controls Chapter of the TS. Since any changes to these documents will be evaluated, no significant increase in the probability or consequences of an accident previously evaluated will be allowed.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operations. The proposed changes will not impose or eliminate any requirements, and adequate control of the information will be maintained. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes will not reduce a margin of safety because they have no effect on any assumption of the safety analyses. In addition, the details to be moved from the TS to other documents are not being changed. Since any future changes to these details will be evaluated under the applicable regulatory change control mechanism, no significant reduction in a margin of safety will be allowed. A significant reduction in a margin of safety is not associated with the elimination of the 10 CFR 50.90 requirement for the NRC review and approval of future changes to the relocated details. Not including these details in the TS is consistent with NUREG–1431, issued by the NRC, which allows revising the TS to relocate these requirements to a licensee controlled document controlled by 10 CFR 50.59 and 10 CFR Part 52, Appendix D, Section VIII, or other TS controlled or regulation controlled documents.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

10 CFR 50.92 EVALUATION FOR LESS RESTRICTIVE CHANGES

This category consists of technical changes which revise existing requirements such that more restoration time is provided, fewer compensatory measures are needed, surveillance requirements are deleted, or less restrictive surveillance requirements are required. This would also include requirements which are deleted from the TS (not relocated to other documents) and other technical changes that do not fit a generic category. These changes are evaluated individually.

Technical changes to the TS requirements categorized as ''Less Restrictive'' are identified with an ''L'' and an individual number in the Enclosure 1 DOC and Enclosure 2 markup of SCE&G's submittal.

SCE&G proposes to amend the VCSNS Units 2 and 3, Technical Specifications. SCE&G has evaluated each of the proposed technical changes identified as ''Less Restrictive'' individually in accordance with the criteria set forth in 10 CFR 50.92 and has determined that the proposed changes do not involve a significant hazards consideration.

The basis for the determination that the proposed changes do not involve a significant hazards consideration is an evaluation of these changes against each of the criteria in 10 CFR 50.92(c). The criteria and conclusions of the evaluation are presented below.

L01 SCE&G proposes to amend TS 1.0, ''Definitions,'' by deleting the definition for Actuation Device Test. Reference to ''overlap with the ACTUATION DEVICE TEST'' that is cited in the definition of Actuation Logic Test is replaced with ''overlap with the actuated device.''

Current Surveillance Requirement (SR) 3.3.2.7 (''Perform ACTUATION DEVICE TEST'') and SR 3.3.2.8 (''Perform ACTUATION DEVICE TEST for squib valves'') are deleted from current TS 3.3.2 and Table 3.3.2–1, Function 26, Engineered Safety Feature (ESF) Actuation. The equivalent requirement (using phrasing generally consistent with NUREG–1431) is included in individual Specifications for the actuated devices with the same 24-month Frequency as the deleted SRs. The impact of this reformatting is such that more appropriate, albeit less restrictive, actions would be applied when the associated device fails to meet the surveillance requirement. Also, current SR 3.3.2.9 is revised to eliminate the use of the Actuation Device Test defined term and replaced it with verification of actuation on an actual or simulated actuation signal.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. The change involves reformatting and revising the presentation of existing surveillance requirements (with no change in required system or device function), such that more appropriate, albeit less restrictive, actions would be applied when the device fails to meet the surveillance requirement. Revised surveillance requirement presentation and compliance with TS actions are not an initiator to any accident previously evaluated. As a result, the probability of an accident previously evaluated is not affected.

The consequences of an accident as a result of the revised surveillance requirements and actions are no different than the consequences of the same accident during the existing ones. As a result, the consequences of an accident previously evaluated are not affected by this change.

The proposed change does not alter or prevent the ability of structures, systems, and components from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change reformats TS requirements such that more appropriate, albeit less restrictive, actions would be applied when the device fails to meet the surveillance requirement. However, the proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce a margin of safety because it has no effect on any assumption of the safety analyses. While certain actions for inoperability of actuated devices are made less restrictive by eliminating entry into Engineered Safety Feature Actuation System (ESFAS) Actuation and Instrumentation inoperability actions, no action is made less restrictive than currently approved for any associated actuated device inoperability. As such, there is no significant reduction in a margin of safety.

L02 SCE&G proposes to amend current TS 5.6, ''Reporting Requirements,'' to delete TS 5.6.1, ''Occupational Radiation Exposure Report,'' and TS 5.6.4, ''Monthly Operating Reports.'' This change results in the renumbering of TS 5.6 sections, but does not revise technical or administrative requirements. SCE&G stated that the change is consistent with NRC approved Industry/TSTF Standard Technical Specification Change Traveler, TSTF–369, ''Removal of Monthly Operating Report and Occupational Radiation Exposure Report,'' Revision 1.

SCE&G has reviewed the proposed no significant hazards consideration determination published on June 23, 2004 (69 FR 35067) as part of the Consolidated Line Item Improvement Process (CLIIP) for TSTF–369, Revision 1. SCE&G has concluded that the proposed determination presented in the notice is applicable to VCSNS Units 2 and 3 and the determination is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91 (a).

L03 SCE&G proposes to eliminate the use of the defined term ''CORE ALTERATIONS'' and incorporate changes reflected in TSTF–471–A.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change eliminates the use of the term ''CORE ALTERATIONS,'' all Required Actions requiring suspension of core alterations, and reference to core alterations in a surveillance requirement. With the exception of a fuel handling accident, core alterations are not an initiator of any accident previously evaluated. Those revised Specifications which protect the initial conditions of a fuel handling accident also require the suspension of movement of irradiated fuel assemblies. This Required Action protects the initial conditions of a fuel handling accident and, therefore, suspension of all other core alterations is not required. Suspension of core alterations, except fuel handling, does not provide mitigation of any accident previously evaluated. Therefore, eliminating the TS presentation of core alterations does not affect the initiators of the accidents previously evaluated and suspension of core alterations does not affect the mitigation of the accidents previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Two events are postulated to occur in the plant conditions in which core alterations may be made: a fuel handling accident and a boron dilution incident. Suspending movement of irradiated fuel assemblies to prevent a fuel handling accident is retained as appropriate. As such, requiring the suspension of core alterations is an overly broad, redundant requirement that does not increase a margin of safety. Core alterations have no effect on a boron dilution incident. Core components are not involved in the creation or mitigation of a boron dilution incident and the shutdown margin (Mode 5) and boron concentration (Mode 6) limits are based on assuming the worst-case configuration of the core components. Therefore, core alterations have no effect on a margin of safety related to a boron dilution incident.

Therefore, there is no significant reduction in a margin of safety.

L04 SCE&G proposes to amend TS, Section 1.3, ''Completion Times,'' Example 1.3–3 to eliminate the Required Action A.1 and Required Action B.1 second Completion Times, and to replace the discussion regarding second Completion Times with a new discussion. SCE&G also proposes to delete the second Completion Times associated with current TS 3.8.5, ''Distribution Systems—Operating,'' Required Actions A.1, B.1, C.1, and D.1.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change eliminates certain Completion Times from the Technical Specifications. Completion Times are not an initiator to any accident previously evaluated. As a result, the probability of an accident previously evaluated is not affected. The consequences of an accident during the revised Completion Time are no different than the consequences of the same accident during the existing Completion Times. As a result, the consequences of an accident previously evaluated are not affected by this change. The proposed change does not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed change is consistent with the safety analysis assumptions and resultant consequences.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to delete the second Completion Time does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside of the design basis.

Therefore, there is no significant reduction in a margin of safety.

L05 SCE&G proposes to amend TS to eliminate LCO 3.0.8.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Technical Specification actions to restore equipment to Operable and to monitor plant parameters are not initiators to any analyzed accident sequence. Operation in accordance with the proposed TS continues to ensure that plant equipment is capable of performing mitigative functions assumed by the accident analysis. The proposed TS change does not involve any changes to SSCs and does not alter the method of operation or control of SSCs as described in the FSAR. The current assumptions in the safety analysis regarding accident initiators and mitigation of accidents are unaffected by this change. No additional failure modes or mechanisms are being introduced and the likelihood of previously analyzed failures remains unchanged.

The integrity of fission product barriers, plant configuration, and operating procedures as described in the FSAR will not be affected by this change. Therefore, the consequences of previously analyzed accidents will not increase because of this change.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. Any alteration in procedures will continue to ensure that the plant remains within analyzed limits, and no change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change does not alter the requirement to restore compliance with TS and to monitor plant parameter status for appropriate manual actions. Operation in accordance with the proposed TS ensures that the plant response to analyzed events will continue to provide the margins of safety assumed by the analysis. Appropriate monitoring and maintenance, consistent with industry standards, will continue to be performed.

As such, there is no functional change to the requirements and therefore, there is no significant reduction in a margin of safety.

L06 SCE&G proposes to amend TS 3.2.5 to eliminate the increased frequency of verifying core power distribution parameters when the On-line Power Distribution Monitoring System (OPDMS) alarms are inoperable. This change retains the normal 24-hour Frequency and eliminates the 12-hour Frequency when OPDMS alarms are inoperable.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

A TS frequency for monitoring plant parameters is not an initiator to any accident sequence analyzed in the FSAR. Operation in accordance with the proposed TS continues to ensure that initial conditions assumed in the accident analysis are maintained.

The proposed change does not involve a physical alteration of the plant as described in the FSAR and does not alter the method of operation or control of equipment as described in the FSAR. The current assumptions in the safety analysis regarding accident initiators and mitigation of accidents are unaffected by this change. Plant equipment remains capable of performing mitigative functions assumed by the accident analysis. No additional failure modes or mechanisms are being introduced and the likelihood of previously analyzed failures remains unchanged. The integrity of fission product barriers, plant configuration, and operating procedures as described in the FSAR will not be affected by this change. Therefore, the consequences of previously analyzed accidents will not increase because of this change.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. Any alteration in procedures will continue to ensure that the plant remains within analyzed limits, and no change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change is acceptable because the OPDMS alarms do not impact a margin of safety. Operation in accordance with the proposed TS ensures that the plant response to analyzed events will continue to provide the margins of safety assumed by the analysis. Appropriate monitoring and maintenance, consistent with industry standards, will continue to be performed.

As such, there is no functional change to the requirements and therefore, there is no significant reduction in a margin of safety.

L07 SCE&G proposes to amend the TS 3.3.1, 3.3.4, and 3.4.5 by replacing the TS Required Actions requiring the reactor trip breakers (RTBs) to be opened with two Required Actions: one Required Action states ''Initiate action to fully insert all rods,'' and the other Required Action states ''Place the Plant Control System in a condition incapable of rod withdrawal.'' For consistency, TS Applicabilities associated with RTB position are

also being revised. Applicabilities including ''RTBs closed'' are revised to state ''Plant Control System capable of rod withdrawal or one or more rods not fully inserted.'' Conversely, Applicabilities including ''RTBs open'' are revised to state ''With Plant Control System incapable of rod withdrawal and all rods fully inserted.''

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR and does not alter the method of operation or control of equipment as described in the FSAR. The current assumptions in the safety analysis regarding accident initiators and mitigation of accidents are unaffected by this change. Plant equipment remains capable of performing mitigative functions assumed by the accident analysis. However, the change involves allowing methods of compliance other than establishing or verifying RTB open or closed status to determine the condition of the capability of the Plant Control System to allow or inhibit rod withdrawal and the status of all rods inserted or not. The method of establishing this status is not an accident initiator nor involved with mitigation of the consequences of an accident.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does allow methods of compliance other than establishing or verifying RTB open or closed status; however, RTB open or closed status will continue to be one appropriate and viable method of establishing and verifying applicable plant conditions. The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce a margin of safety because it has no effect on any assumption of the safety analyses. While certain interlocks depend on RTB open or close status, these interlocks and the association with RTB is not revised. When those interlocks are required, the position of RTBs will continue to dictate the appropriate protection system response. Allowing alternate methods of establishing or verifying the condition of the capability of the Plant Control System to allow or inhibit rod withdrawal and the status of all rods inserted or not, does not impact any safety analysis assumption or plant response to an analyzed event.

As such, there is no functional change to the required plant conditions, and therefore, there is no significant reduction in a margin of safety.

L08 SCE&G proposes to amend the TS by deleting current TS 3.3.1, Reactor Trip System (RTS) Instrumentation, Required Actions D.1.1, D.2.1, and D.2.2 applicable to inoperable Power Range Neutron Flux channels.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. Overly restrictive and inappropriate Required Actions are being deleted since adequate compensatory measures already address the potential impact on radial power monitoring and the appropriate compensatory and mitigative actions in the event the RTS function is degraded for the Power Range Neutron Flux function. Additionally, the Surveillances for TS 3.2.4, Quadrant Power Tilt Ratio (QPTR), address the requirements unique to loss of Power Range Neutron Flux monitoring for QPTR. Eliminating overly restrictive and inappropriate Required Actions does not impact an accident initiator or impact mitigation of the consequences of any accident. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change eliminates overly restrictive and inappropriate Required Actions. However, the proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change will not reduce a margin of safety because it has no such effect on any assumption of the safety analyses. While certain actions for inoperability of actuated devices are made less restrictive by eliminating a potentially unnecessary power reduction, and actions that could not be performed, no action is made less restrictive than currently approved for similar channel inoperability.

Therefore, there is no significant reduction in a margin of safety.

L09 SCE&G proposes to amend current TS 3.3.1, ''Reactor Trip System (RTS) Instrumentation,'' Source Range Neutron Flux Actions in Mode 2 for one and two inoperable channels. The change allows for placing inoperable channels in bypass and/or trip thereby allowing continued operation.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. However, the change involves providing actions allowing bypassing and/or tripping one or two inoperable Source Range Neutron Flux channels. Required Actions are not an accident initiator nor credited with mitigation of the consequences of an accident. The actions continue to assure operation consistent with the design provisions and within the assumptions of the safety analysis.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change involves certain less restrictive actions; however, these actions are consistent with the design provisions and with currently approved actions for other inoperable automatic RTS actuation functions. The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change will not reduce a margin of safety because it has no such effect on any assumption of the safety analyses. While the change involves less restrictive actions, these actions are consistent with the design provisions and with currently approved actions for other inoperable automatic RTS actuation Functions. These actions do not result in any conflict with the assumptions in the safety analyses and licensing basis.

As such, there is no significant reduction in a margin of safety.

L10 SCE&G proposes to amend the TS, as follows

- TS 3.1.8 ''PHYSICS TESTS Exceptions—MODE 2,'' is revised to delete the listing of current Function 16.b for TS 3.3.1, ''Reactor Trip System (RTS) Instrumentation'';
- Current TS 3.3.1, ''Reactor Trip System (RTS) Instrumentation,'' Table 3.3.1–1, Function 16, Reactor Trip System Interlocks requirements are removed;
- Current TS 3.3.1 Action M is deleted;
- Current TS 3.3.2, ''Engineered Safety Feature Actuation System (ESFAS) Instrumentation,'' Table 3.3.2–1, Function 18, ESFAS Interlocks (with the exception of Table 3.3.2–1, Function 18.b, Reactor Trip, P–4) requirements are removed; and
- Current TS 3.3.2 Action J is deleted.

The design description and role in supporting operability of TS required RTS and ESFAS functions re retained in the FSAR Chapter 7, Instrumentation and Controls, as well as the TS Bases.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. The TS RTS and ESFAS actuation functions explicitly retained in TS are those assumed to actuate in the safety analysis. The associated interlocks are necessary support functions for Operability of these TS required RTS and ESFAS functions. The removal of explicit interlock functions does not impact the design-required actuation function. Plant equipment remains capable of performing preventative and mitigative functions assumed by the accident analysis. However, the change involves removing explicit requirements, including actions that lead to reestablishing operability of the assumed actuation functions; implicitly these requirements are maintained and the actions remain viable for reestablishing operability. Since the requirements for the safety function Operability remains unchanged, removing the explicit presentation of detail is not an accident initiator nor involved with mitigation of the consequences of an accident.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce a margin of safety because it has no effect on any assumption of the safety analyses. While the presentation of TS RTS and ESFAS actuation functions moves the associated interlocks from explicit treatment to becoming an implicit support system feature, the function continues to be required as necessary to support associated TS actuation functions. In doing so, certain actions for inoperability of interlocks are made more restrictive by now entering actions specific to the supported function's inoperability which have shorter Completion Times. However those actions are consistent with those currently approved for inoperability of that function.

As such, there is no significant reduction in a margin of safety.

L11 SCE&G proposes to amend TS 3.3.1, ''Reactor Trip System (RTS) Instrumentation,'' to delete:

- Current Table 3.3.1–1, Function 5, Source Range Neutron Flux High Setpoint, third row for that function including Applicability set ''3(e),4(e),5(e)'' and associated references to Required Channel, Condition, and Surveillance Requirements;
- Current Table 3.3.1–1, Footnote (e); and
- Current Action R.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. The change involves removing certain actions that apply during inoperability of all four source range channels to provide indication. However, requirements and associated Required Actions continue to apply to source range channels in separate TS. The Required Actions removed are not accident initiators nor involved with mitigation of the consequences of an accident. The remaining requirements and actions continue to assure operation within the assumptions of the safety analysis.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change involves removing certain actions for inoperability of all four source range channels; however, this change does not result in any conflict with the assumptions in the safety analyses and licensing basis. The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change will not reduce a margin of safety because it has no such effect on any assumption of the safety analyses. While certain actions for inoperability of all four source range channels to indicate are removed, requirements and associated Required Actions continue to apply to source range channels in a separate TS. When all source range monitoring channels are inoperable, the remaining actions continue to assure operation within safety analysis assumptions. These actions are consistent with the actions presented in the NUREG–1431.

As such, there is no significant reduction in a margin of safety.

L12 SCE&G proposes to amend current TS 3.3.2, ''Engineered Safety Feature Actuation System (ESFAS) Instrumentation,'' Actions related to functions that result in valve isolation actuations. Current TS 3.3.2 Actions P, Q, R, S, T, and Z, are revised to ''Declare affected isolation valve(s) inoperable.'' Additionally, the following current Table 3.3.2–1 Applicability Footnotes are deleted:

- (e) Not applicable for valve isolation functions whose associated flow path is isolated;
- (h) Not applicable if all main steam isolation valves (MSIVs) are closed; and
- (i) Not applicable when the startup feedwater flow paths are isolated.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. The less restrictive Required Actions are acceptable based on the fact that the new actions are the appropriate actions for the actuated equipment. Required Actions are not an accident initiator nor credited with mitigation of the consequences of an accident. The actions continue to assure operation within the assumptions of the safety analysis and are consistent with approved actions for the actuated equipment.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change involves certain less restrictive actions; however, the actions continue to assure operation within the assumptions of the safety analysis and are consistent with approved actions for the actuated equipment. The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce a margin of safety because it has no effect on any assumption of the safety analyses. While the change involves less restrictive actions, the actions are consistent with approved actions for the actuated equipment. These actions do not result in any conflict with the assumptions in the safety analyses and licensing basis.

As such, there is no significant reduction in a margin of safety.

L13 SCE&G proposes to amend current TS 3.3.3, ''Post Accident Monitoring (PAM) Instrumentation,'' as follows:

- Function 12 is revised from ''Passive Residual Heat Removal (PRHR) Flow and PRHR Outlet Temperature,'' to ''Passive Residual Heat Removal (PRHR) Heat Removal.'' In addition, the Required Channels/Divisions column is revised from ''2 flow & 1 temperature,'' to ''2''.
- Function 17 is revised from ''Passive Containment Cooling System (PCS) Storage Tank Level and PCS Flow,'' to ''Passive Containment Cooling System (PCS) Heat Removal.'' In addition, the Required Channels/Divisions column is revised from ''2 level & 1 flow,'' to ''2''.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change reduces the number of required Function 12 and Function 17 channels from three to two. Requiring the minimum of two redundant channels is consistent with NUREG–1431 requirements for meeting Regulatory Guide (RG) 1.97 PAM redundancy requirements. The change also relocates the details of the specific channels designed to satisfy the PAM requirements to the associated Bases. The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. PAM functions are not initiators of analyzed events and therefore the revised requirements do not result in operations that significantly increase the probability of initiating an analyzed event. The PAM function affected by this change is designed to accommodate single failure to support post-accident monitoring. The change reduces TS requirements on excess required channels; however, single failure redundancy continues to be required. Thus, the proposed change does not alter assumptions relative to mitigation of an accident or transient event. The less restrictive requirements continue to ensure process variables, structures, systems, and components are maintained consistent with the safety analyses and licensing basis.

The TS Bases will be maintained in accordance with the change control provisions of the TS Bases Control Program described in TS 5.5.6. Because any change to the TS Bases will be evaluated, no significant increase in the probability or consequences of an accident previously evaluated will be allowed.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being

introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce a margin of safety because it has no effect on any assumption of the safety analyses. In addition, the details being moved from the current TS to the TS Bases are not being changed. NRC prior review and approval of changes to these relocated requirements, in accordance with 10 CFR 50.92, will no longer be required. Future change to these details will be evaluated under the applicable regulatory change control mechanism. There is no margin of safety attributed to the NRC prior review and approval; therefore, there is no significant reduction in a margin of safety.

L14 SCE&G proposes to amend current TS 3.3.5, ''Diverse Actuation System (DAS) Manual Controls,'' Table 3.3.5–1, ''DAS Manual Controls,'' footnote b; current TS 3.6.7, ''Passive Containment Cooling System (PCS)—Shutdown,'' Applicability; and current TS 3.7.9, ''Fuel Storage Pool Makeup Water Sources,'' LCO Notes 1, 2, and 3; Applicability, Surveillance Requirement (SR) 3.7.9.1 Note, SR 3.7.9.2 Note, SR 3.7.9.3 Note, and SR 3.7.9.4 Note by deleting ''calculated'' with respect to decay heat.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. The proposed change provides less stringent TS requirements for the facility by not expressly specifying the method of determining the decay heat value. These less stringent requirements do not result in operations that significantly increase the probability of initiating an analyzed event, and do not alter assumptions relative to mitigation of an accident or transient event. The less restrictive requirements continue to ensure process variables, structures, systems, and components are maintained consistent with the safety analyses and licensing basis.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce a margin of safety because it has no effect on any assumption of the safety analyses. Eliminating the imposition of single method of determining the decay heat value has no effect on or a margin of plant safety. ''Calculating'' the decay heat value remains a viable option. The change maintains requirements within the safety analyses and licensing basis.

As such, there is no technical change to the requirements and therefore, there is no significant reduction in a margin of safety.

L15 SCE&G proposes to amend TS 3.4.8, ''Minimum [Reactor Coolant System] RCS Flow,'' SR 3.4.8.1 from ''Verify that at least one [Reactor Coolant Pump] RCP is in operation at ≥ 10% rated speed or equivalent,'' to ''Verify that at least one RCP is in operation with total flow through the core ≥ 3,000 gpm.''

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. The change involves revising the acceptance criteria of an existing surveillance requirement with no change in required system or device function. Surveillance acceptance criteria are not accident initiators nor involved with mitigation of the consequences of any accident. The proposed acceptance criteria ensure that the applicable analysis input assumptions are preserved.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises the acceptance criteria of an existing surveillance requirement. However, the proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce a margin of safety because it has no effect on any assumption of the safety analyses. While the surveillance requirement acceptance criteria is made less restrictive by removal of design margin that accounts for minimizing stress and wear, and increasing equipment life, and the expected operating limit on minimum RCP speed, this margin is more appropriately maintained in the design and in operating and surveillance procedures.

Therefore, there is no significant reduction in a margin of safety.

L16 SCE&G proposes to amend current TS 3.4.10, ''RCS Specific Activity,'' Actions by deleting Required Action B.1, which requires ''Perform SR 3.4.10.2,'' within 4 hours.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. The proposed change provides less stringent TS actions for the facility. However, the less restrictive requirements continue to ensure process variables, structures, systems, and components are maintained consistent with the safety analyses and licensing basis. The performance of SR 3.4.10.2 is not related to an accident initiator nor credited with mitigation of the consequences of an accident.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce a margin of safety because it has no effect on any assumption of the safety analyses. The change maintains requirements within the safety analyses and licensing basis. The result of performing the additional surveillance does not provide any additional margin of safety; as such, eliminating the Required Action for performing the additional surveillance does not result in a significant reduction in a margin of safety.

L17 SCE&G proposes to amend TS as follows:

1. Current TS 3.5.2, ''Core Makeup Tanks (CMTs)—Operating,'' Condition D is revised from ''One CMT inoperable due to presence of noncondensible gases in one high point vent,'' to ''One CMT inlet line with noncondensible gas volume not within limit.''

2. Current TS 3.5.2, Required Action D.1 is revised from ''Vent noncondensible gases,'' to ''Restore CMT inlet line noncondensible gas volume to within limit.''

3. Current TS 3.5.4, ''Passive Residual Heat Removal Heat Exchanger (PRHR HX)—Operating,'' Condition C is revised from ''Presence of noncondensible gases in the high point vent,'' to ''PRHR HX inlet line noncondensible gas volume not within limit.''

4. Current TS 3.5.4, Required Action C.1 is revised from ''Vent noncondensible gases,'' to ''Restore PRHR HX inlet line noncondensible gas volume to within limit.''

5. Current TS 3.5.5, ''Passive Residual Heat Removal Heat Exchanger (PRHR HX)—Shutdown, Reactor Coolant System (RCS) Intact,'' Condition C is revised from ''Presence of noncondensible gases in the high point vent,'' to ''PRHR HX inlet line noncondensible gas volume not within limit.''

6. Current TS 3.5.5, Required Action C.1 is revised from ''Vent noncondensible gases,'' to ''Restore PRHR HX inlet line noncondensible gas volume to within limit.''

7. Current TS 3.5.6, ''In-containment Refueling Water Storage Tank (IRWST)—Operating,'' Condition B is revised from ''One IRWST injection line inoperable due to presence of noncondensible gases in one high point vent,'' to ''One IRWST injection flow path with noncondensible gas volume in one squib valve outlet line pipe stub not within limit.''

8. Current TS 3.5.6, Required Action B.1 is revised from ''Vent noncondensible gases,'' to ''Restore noncondensible gas volume in squib valve outlet line pipe stub to within limit.''

9. Current TS 3.5.6, Condition C is revised from ''One IRWST injection line inoperable due to presence of noncondensible gases in both high point vents,'' to ''One IRWST injection flow path with noncondensible gas volume in both squib valve outlet line pipe stubs not within limit.''

10. Current TS 3.5.6, Required Action C.1 is revised from ''Vent noncondensible gases from one high point vent,'' to ''Restore one squib valve outlet line pipe stub noncondensible gas volume to within limit.''

11. Current TS 3.5.7, ''In-containment Refueling Water Storage Tank (IRWST)—Shutdown, MODE 5,'' Condition B is revised from ''Required IRWST injection line inoperable due to presence of noncondensible gases in one high point vent,'' to ''Required IRWST injection flow path with noncondensible gas volume in one squib valve outlet line pipe stub not within limit.''

12. Current TS 3.5.7, Required Action B.1 is revised from ''Vent noncondensible gases,'' to ''Restore noncondensible gas volume in squib valve outlet line pipe stub to within limit.

13. Current TS 3.5.7, Condition C is revised from ''Required IRWST injection line inoperable due to presence of noncondensible gases in both high point vents,'' to ''Required IRWST injection flow path with noncondensible gas volume in both squib valve outlet line pipe stubs not within limit.''

14. Current TS 3.5.7, Required Action C.1 is revised from ''Vent noncondensible gases from one high point vent,'' to ''Restore one squib valve outlet line pipe stub noncondensible gas volume to within limit.''

15. TS 3.5.8, ''In-containment Refueling Water Storage Tank (IRWST)—Shutdown, MODE 6,'' Condition B is revised from ''Required IRWST injection line inoperable due to presence of noncondensible gases in one high point vent,'' to ''Required IRWST injection flow path with noncondensible gas volume in one squib valve outlet line pipe stub not within limit.''

16. Current TS 3.5.8, Required Action B.1 is revised from ''Vent noncondensible gases,'' to ''Restore noncondensible gas volume in squib valve outlet line pipe stub to within limit.''

17. Current TS 3.5.8, Condition C is revised from ''Required IRWST injection line inoperable due to presence of noncondensible gases in both high point vents,'' to ''Required IRWST injection flow path with noncondensible gas volume in both squib valve outlet line pipe stubs not within limit.''

18. Current TS 3.5.8, Required Action C.1 is revised from ''Vent noncondensible gases from one high point vent,'' to ''Restore one squib valve outlet line pipe stub noncondensible gas volume to within limit.''

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operations. The proposed change provides less stringent TS requirements by not

expressly specifying the noncondensible gas volume limit; however, the requirement that noncondensible gas volume be within limits is not changed. These less stringent requirements do not result in operations that significantly increase the probability of initiating an analyzed event, and do not alter assumptions relative to mitigation of an accident or transient event. The less restrictive requirements continue to ensure process variables, structures, systems, and components are maintained consistent with the safety analyses and licensing basis.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce a margin of safety because it has no effect on any assumption of the safety analyses. The amended actions and surveillances continue assure that noncondensible gas volumes are maintained and restored to within acceptable limits. The change maintains requirements within the safety analyses and licensing basis.

As such, there is no technical change to the requirements and therefore, there is no significant reduction in a margin of safety.

L18 SCE&G proposes to amend current TS 3.6.8, ''Containment Penetrations,'' LCO 3.6.8.d.2 to allow the penetration flow path to be open provided it can be closed prior to steaming into the containment. In conjunction, current SR 3.6.8.3 as well as the corresponding containment Isolation function required in current TS 3.3.2, ''Engineered Safety Feature Actuation System (ESFAS) Instrumentation,'' Table 3.3.2–1 Function 3.a for Modes 5 and 6, are removed. This removes requirements for Operable containment isolation signals in Modes 5 and 6, allowing manual operator actions to affect any required isolation prior to steaming into the containment.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change would remove requirements for Operable containment isolation signals in Modes 5 and 6, allowing manual operator action to effect any required isolation. The design provisions for instrumented closure signals are unaffected. The isolation status of the penetration flow path is not an initiator to any accident previously evaluated. As a result, the probability of an accident previously evaluated is not affected. The consequences of an accident with the valves open and capable of being closed prior to steaming into the containment are no different than the consequences of the same accident with the current requirements. The valves are currently allowed to be open, provided they can be isolated. The accident analysis assumes cooling water inventory is not lost in the event of an accident. Thus, closing the valves prior to steaming into the containment will ensure this assumption is met. As a result, the consequences of an accident previously evaluated are not affected by this change. The proposed change does not alter or prevent the ability of SSCs from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed change is consistent with the safety analysis assumptions and resultant consequences.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to remove requirements for Operable containment isolation signals in Modes 5 and 6, and allowing manual operator action to isolate the purge valve penetration flow path prior to steaming into the containment, does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside of the design basis.

As such, there is no technical change to the requirements and therefore, there is no significant reduction in a margin of safety.

L19 SCE&G proposes to amend current TS 3.9.6 ''pH Adjustment,'' LCO and current SR 3.9.6.1 trisodium phosphate (TSP) requirement from the volume requirement of 560 ft^3 to a weight requirement of 26,460 lbs. In addition, due to this change, Condition A and Required Action A.1 is changed to refer to ''weight'' in lieu of ''volume.''

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change allows for a lesser volume over time consistent with expected compaction and agglomeration. While the total weight will remain constant and sufficient to assure safety analysis assumptions are met, the unintended requirement to maintain volume > 560 ft^3, even after compaction and agglomeration is made less restrictive. The TSP is not an initiator to any accident previously evaluated. As a result, the probability of an accident previously evaluated is not affected. The consequences of an accident with the changed TSP weight limit are no different than the consequences of the same accident with the current TSP limit. The accident analysis assumes a minimum of 26,460 lbs of

TSP, and this value is being maintained in the TS. The assumed pH of 7.0 will be maintained using the proposed weight of TSP. This pH will continue to augment the retention of elemental iodine in the containment water, and thus reduce the iodine available to leak to the environment. As a result, the consequences of an accident previously evaluated are not affected by this change. The proposed change does not alter or prevent the ability of SSCs from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed change is consistent with the safety analysis assumptions and resultant consequences.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to allow for a lesser volume over time consistent with expected compaction and agglomeration, while maintaining the total weight to assure safety analysis assumptions are met, does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside of the design basis.

As such, there is no technical change to the requirements and therefore, there is no significant reduction in a margin of safety.

L20 SCE&G proposes to amend current TS 3.7.2, ''Main Steam Isolation Valves (MSIVs),'' Condition D Note to allow separate Condition entry due to any inoperable valve covered by the LCO, not just the MSIVs.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change allows a separate Condition entry for each affected flow path. The failure of the main steam line flow path covered by the LCO to close is not an initiator to any accident previously evaluated. As a result, the probability of an accident previously evaluated is not affected. The consequences of an accident are not affected since the inoperability in the flow path is addressed to assure affected flow paths are isolated as assumed in the accident analysis. As a result, the consequences of an accident previously evaluated are not affected by this change. The proposed change does not alter or prevent the ability of structures, systems, and components from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed change is consistent with the safety analysis assumptions and resultant consequences.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR as a result of this change. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to allow a separate Condition entry for each affected flow path does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside of the design basis.

As such, there is no technical change to the requirements and therefore, there is no significant reduction in a margin of safety.

L21 SCE&G proposes to amend TS 3.8.1, ''[Direct Current] DC Sources—Operating,'' by deleting SR 3.8.1.3 Note 2.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Class 1E DC electrical power system, including associated battery chargers, is not an initiator to any accident sequence analyzed in the FSAR. Operation in accordance with the proposed TS ensures that the Class 1E DC electrical power system is capable of performing its function as described in the FSAR, therefore the mitigative functions supported by the Class 1E DC electrical power system will continue to provide the protection assumed by the accident analysis.

The proposed TS change does not involve any changes to SSCs and does not alter the method of operation or control of SSCs as described in the FSAR. The current assumptions in the safety analysis regarding accident initiators and mitigation of accidents are unaffected by this change. No additional failure modes or mechanisms are being introduced and the likelihood of previously analyzed failures remains unchanged. The integrity of fission product barriers, plant configuration, and operating procedures as described in the FSAR will not be affected by this change.

Therefore, the consequences of previously analyzed accidents will not increase because of this change.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. Any alteration in procedures will continue to ensure that the plant remains within analyzed limits, and no change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change is acceptable because the operability of the Class 1E DC electrical power system is unaffected, there is no detrimental impact on any equipment design parameter, and the plant will still be required to operate within assumed conditions. Operation in accordance with the proposed TS ensures that the Class 1E DC electrical power system is capable of performing its function as described in the FSAR; therefore, the support of the Class 1E DC electrical power system to the plant response to analyzed events will continue to provide the margins of safety assumed by the analysis. Appropriate monitoring and maintenance, consistent with industry standards, will continue to be performed.

As such, there is no technical change to the requirements and therefore, there is no significant reduction in a margin of safety.

L22 SCE&G proposes to amend current TS 3.8.2, ''DC Sources—Shutdown,'' by adding a new Condition A to address inoperable battery chargers.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Class 1E DC electrical power system, including associated battery chargers, is not an initiator to any accident sequence analyzed in the FSAR. Operation in accordance with the proposed TS ensures that the Class 1E DC electrical power system is capable of performing its function as described in the FSAR, therefore the mitigative functions supported by the Class 1E DC electrical power system will continue to provide the protection assumed by the accident analysis.

The proposed change does not involve any changes to SSCs and does not alter the method of operation or control of SSCs as described in the FSAR. The current assumptions in the safety analysis regarding accident initiators and mitigation of accidents are unaffected by this change. No additional failure modes or mechanisms are being introduced and the likelihood of previously analyzed failures remains unchanged.

The integrity of fission product barriers, plant configuration, and operating procedures as described in the FSAR will not be affected by this change. Therefore, the consequences of previously analyzed accidents will not increase because of this change.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. Any alteration in procedures will continue to ensure that the plant remains within analyzed limits, and no change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change is acceptable because the Operability of the Class 1E DC electrical power system is unaffected, there is no detrimental impact on any equipment design parameter, and the plant will still be required to operate within assumed conditions. Operation in accordance with the proposed TS ensures that the Class 1E DC electrical power system is capable of performing its function as described in the FSAR; therefore, the support of the Class 1E DC electrical power system to the plant response to analyzed events will continue to provide the margins of safety assumed by the analysis. Appropriate monitoring and maintenance, consistent with industry standards, will continue to be performed.

As such, there is no technical change to the requirements and therefore, there is no significant reduction in a margin of safety.

L23 SCE&G proposes to amend current TS 5.5.2, ''Radioactive Effluent Control Program,'' to state that the provisions of SR 3.0.2 and SR 3.0.3 are applicable to the Radioactive Effluents Control Program surveillance frequency.

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

A TS frequency for the determination of cumulative and projected dose contributions from radioactive effluents is not an initiator to any accident sequence analyzed in the FSAR. Operation in accordance with the proposed TS continues to ensure that initial conditions assumed in the accident analysis are maintained. The proposed change does not involve a modification to the physical configuration of the plant or change in the methods governing normal plant operation. The proposed change will not impose any new or different requirements or introduce a new accident initiator, accident precursor, or malfunction mechanism.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. Any alteration in procedures will continue to ensure that the plant remains within analyzed limits, and no change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change, applying the 25% extension to the frequency of performing the monthly cumulative dose and projected dose calculations, will have no effect on the plant response to analyzed events and with therefore not impact a margin of safety. Operation in accordance with the proposed TS ensures that the plant response to analyzed events will continue to provide the margins of safety assumed by the analysis. Appropriate monitoring and maintenance, consistent with industry standards, will continue to be performed.

As such, there is no functional change to the requirements and therefore, there is no significant reduction in a margin of safety.

L24 SCE&G proposes to amend current TS 5.5.3, ''Inservice Testing Program,'' paragraph b from ''The provisions of SR 3.0.2 are applicable to the above required Frequencies for performing inservice testing activities,'' to ''The provisions of SR 3.0.2 are applicable to the above required Frequencies and other normal and accelerated Frequencies specified as 2 years or less in the Inservice Testing Program for performing inservice testing activities.''

SCE&G has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The frequency for inservice testing is not an initiator to any accident sequence analyzed in the FSAR, nor is it associated with any mitigative actions to reduce consequences. Operation in accordance with the proposed TS continues to ensure that initial conditions accident mitigative features assumed in the accident analysis are maintained. The proposed change does not involve a modification to the physical configuration of the plant or change in the methods governing normal plant operation. The proposed change will not impose any new or different requirements or introduce a new accident initiator, accident precursor, or malfunction mechanism.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant as described in the FSAR. No new equipment is being introduced, and equipment is not being operated in a new or different manner. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. Any alteration in procedures will continue to ensure that the plant remains within analyzed limits, and no change is being made to the procedures relied upon to respond to an off-normal event as described in the FSAR. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change, applying the 25% extension to certain frequencies for performing inservice testing, does not significantly degrade the reliability that results from performing the Surveillance at its specified Frequency. This is based on the recognition that the most probable result of any particular surveillance being performed is the verification of conformance with the SRs. As such, there is no technical change to the requirements and therefore, there is no significant reduction in a margin of safety. Margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. Operation in accordance with the proposed TS ensures that the plant response to analyzed events will continue to provide the margins of safety assumed by the analysis. Appropriate monitoring and maintenance, consistent with industry standards, will continue to be performed.

As such, there is no functional change to the requirements and therefore, there is no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence Burkhart.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: January 23, 2014.

Description of amendment request: The amendment would revise Technical Specification (TS) 3.4.12, ''Cold Overpressure Mitigation System (COMS),'' to reflect the mass input transient analysis that assumes an Emergency Core Cooling System (ECCS) centrifugal charging pump (CCP) and the normal charging pump (NCP) capable of injecting into the reactor coolant system (RCS) when TS 3.4.12 is applicable. The proposed amendment would additionally revise TS Table 3.3.1–1, ''Reactor Trip System Instrumentation,'' to remove unnecessary page number references.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The TS 3.4.12 Limiting Condition for Operation provides RCS overpressure protection by restricting coolant input capability and providing adequate pressure relief capability during applicable Modes. Analyses have demonstrated that one power-operated relief valve (PORV) or one residual heat removal (RHR) suction relief valve or an RCS vent of at least 2.0 square inches is capable of limiting the RCS pressure excursions below the COMS limits which are based on the pressure-temperature limits of 10 CFR [Part] 50, Appendix G. The analyzed mass transient for COMS is based on an assumption that one ECCS CCP and the NCP are both capable of injection to the RCS.

The NRC has previously evaluated the allowance for an ECCS CCP and the NCP being capable of injecting into the RCS during the TS 3.4.12 Modes of Applicability. In the safety evaluation dated April 2, 1998 related to the Callaway Plant, Unit 1, Amendment No. 124, the NRC concluded:

The mass input transient analysis assumes simultaneous injection of both a centrifugal charging pump and the 'normal' charging pump into the water-solid RCS while the RHRS [residual heat removal system] and the letdown line are isolated.

In the same safety evaluation, the NRC further concluded that the change to TS Bases allowing the NCP to inject to the RCS during COMS applicability was consistent with the TS LCO and ''therefore allows a centrifugal charging pump and the 'normal' charging pump to be operable under these modes of operation.''

The proposed change clarifies TS 3.4.12 to allow an ECCS CCP and the NCP to be capable of injecting into the RCS during low RCS pressures and temperatures, consistent with Callaway's NRC-approved licensing basis, and also removes unnecessary page number references from TS Table 3.3.1–1. The proposed change is thus an editorial one that does not involve a change to the design or operation of the plant, including the plant's safety analysis.

Accordingly, the proposed change does not adversely affect accident initiators or

precursors nor does it alter any design assumptions, conditions, or allowed configurations of the facility. In addition, the proposed change does not affect the manner in which the plant is operated and maintained. Finally, the proposed change does not adversely affect the ability of structures, systems and components (SSC) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits, nor does it increase the types and amounts of radioactive effluent that may be released offsite or significantly increase individual or cumulative occupational/public radiation exposure.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

As noted in the response to question 1, the proposed change will not physically alter the plant (i.e., no new or different type of equipment will be installed), nor does it change the methods governing normal plant operation. Accordingly, the proposed change does not introduce new accident initiators or impact assumptions made in the safety analysis.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined, nor are the safety analysis acceptance criteria impacted by this change. The intent of the proposed change is for TS 3.4.12 to continue to reflect the provisions and limitations of the mass transient analysis that was performed for ensuring cold overpressure protection of the RCPB [reactor coolant pressure boundary] and which is already part of the NRC-approved licensing basis for the facility. Consequently, there is no change to the margin of safety, and the proposed change will not result in plant operation or a configuration that is outside the design basis.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John O'Neill, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street NW., Washington, DC 20037.

NRC Branch Chief: Michael T. Markley.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Accessing Information and Submitting Comments'' section of this document.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: January 11, 2013, as supplemented by letter dated September 27, 2013.

Brief description of amendment: The amendment revised the Fermi 2 Updated Final Safety Analysis Report to describe the methodology and results of the analysis performed to evaluate the protection of the plant's structures, systems and components from tornado-generated missiles. The analysis utilized a probabilistic approach implemented through the application of the TORMIS computer code.

Date of issuance: March 10, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 197.

Facility Operating License No. NPF–43: Amendment revised the Updated Final Safety Analysis Report.

Date of initial notice in ***Federal Register****:* March 19, 2013 (78 FR 16880). The supplemental letter dated September 27, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 2014.

No significant hazards consideration comments received: No.

Entergy Gulf States Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: July 16, 2013.

Brief description of amendment: The amendment adopts Technical Specifications Task Force (TSTF) Change Traveler TSTF–535, Revision 0, ''Revise Shutdown Margin Definition to Address Advanced Fuel Designs.'' The Shutdown Margin (SDM), the amount of reactivity by which the reactor is subcritical, is calculated under the conservative conditions that the reactor is Xenon-free, the most reactive control rod is outside the reactor core, and the moderator temperature produces the maximum reactivity. For standard fuel designs, maximum reactivity occurs at a moderator temperature of 68 degrees Fahrenheit (°F), which is reflected in the temperature specified in the Technical Specifications (TSs). New, advanced Boiling Water Reactor fuel designs can have a higher reactivity at moderator shutdown temperatures above 68 °F. Therefore, consistent with TSTF–535, Revision 0, the amendment modified the TSs to require the SDM to be calculated at whatever temperature produces the maximum reactivity (i.e., temperatures at or above 68 °F). This TS improvement is part of the Consolidated Line Item Improvement Process and was requested with no modifications.

Date of issuance: March 5, 2014.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 180.

Facility Operating License No. NPF–47: The amendment revised the Facility

Operating License and Technical Specifications.

Date of initial notice in Federal Register: August 20, 2013 (78 FR 51226).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 5, 2014.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Date of application for amendment: October 10, 2013.

Brief description of amendment: The change revises the date for the performance of the Braidwood Station, Unit 2, Type A or integrated containment leakage rate test (ILRT) described in Technical Specification 5.5.16, ''Containment Leakage Rate Testing Program.'' from ''no later than May 4, 2014,'' to ''prior to entering MODE 4 at the start of Cycle 18.'' Additionally, a requirement is established for Braidwood Station, Unit 2, to exit the MODEs of applicability for containment as described in Technical Specification 3.6.1, ''Containment'' (i.e., MODEs 1–4), no later than May 4, 2014.

Date of issuance: March 19, 2014.

Effective date: As of the date of issuance and shall be implemented within 14 days.

Amendment Nos.: 175 and 175.

Facility Operating License Nos. NPF–37 and NPF–66: The amendment revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register***: December 10, 2013 (78 FR 74183).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2014.

No significant hazards consideration comments received: No.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Date of amendment request: March 13, 2013, supplemented August 8, 2013, and November 22, 2013.

Description of amendment request: The amendment revised the Seabrook Technical Specifications (TSs). The amendment modifies the circuitry that initiates high-head safety injection by adding a new permissive, cold leg injection permissive (P–15). This permissive prevents opening of the high-head safety injection valves until reactor coolant system pressure decreases to the P–15 set point.

Date of issuance: March 6, 2014.

Effective date: As of its date of issuance and shall be implemented within 615 days.

Amendment No.: 140.

Facility Operating License No. NPF–86: The amendment revised the License and TSs.

Date of initial notice in ***Federal Register***: April 30, 2013 (78 FR 25315). The supplements dated August 8, 2013, and November 22, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 6, 2014.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2 (NMP2), Oswego County, New York

Date of application for amendment: July 5, 2013, as supplemented by letter dated December 6, 2013.

Brief description of amendment: The amendment included to NMP2 Technical Specification (TS) 3.1.7, ''Standby Liquid Control (SLC) System,'' to increase the isotopic enrichment of boron-10 in the sodium pentaborate solution utilized in the SLC System and decrease the SLC System tank volume. The following are the changes to the NMP2 TS 3.1.7, ''Standby Liquid Control (SLC) System:''

- Revise the acceptance criterion in [Surveillance Requirement] SR 3.1.7.10 by increasing the sodium pentaborate boron-10 enrichment requirement from ≥ 25 atom percent to ≥ 92 atom percent, and make a corresponding change in TS Figure 3.1.7–1, ''Sodium Pentaborate Solution Volume/Concentration Requirements.''
- Revise TS Figure 3.1.7–1 to account for the decrease in the minimum volume of the SLC system tank. At a sodium pentaborate concentration of 13.6% the minimum volume changes from 4,558.6 gallons to 1,600 gallons. At a sodium pentaborate concentration of 14.4%, the minimum volume changes from 4,288 gallons to 1,530 gallons.

Date of issuance: March 14, 2014.

Effective date: As of the date of issuance to be implemented prior to the startup from the spring 2014 NMP2 refueling outage.

Amendment No.: 143.

Renewed Facility Operating License No. NPF–69: Amendment revised the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** September 3, 2013 (78 FR 54284). The supplement dated December 6, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the Nuclear Regulatory Commission (NRC) staff's initial proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 14, 2014.

No significant hazards consideration comments received: No.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of application for amendment: April 3, 2013.

Brief description of amendment: This amendment revised the control room emergency filtration system Technical Specification (TS) 3/4.7.6.

Date of issuance: March 11, 2014.

Effective date: This license amendment is effective as of the date of its issuance.

Amendment No.: 197.

Renewed Facility Operating License No. NPF–12: Amendment revised the License.

Date of initial notice in ***Federal Register:*** August 6, 2013 (78 FR 47791).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 11, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 24th day of March 2014.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–06956 Filed 3–31–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on April 9, 2014, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a

portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, April 9, 2014—12:00 p.m. until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301–415–5844 or Email: *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013, (78 CFR 67205–67206).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240–888–9835) to be escorted to the meeting room.

Date: March 20, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–07246 Filed 3–31–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on April 10–11, 2014, 11545 Rockville Pike, Rockville, Maryland.

Thursday, April 10, 2014, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:00 a.m.: Economic Simplified Boiling Water Reactor (ESBWR) Supplemental Final Safety Evaluation Report (FSER) (Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the supplemental FSER associated with the ESBWR design. **Note:** This meeting will be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4).

10:15 a.m.–11:45 a.m.: Overview of the NRC Operating Experience Program (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the NRC Operating Experience Program.

12:45 p.m.–2:45 p.m.: Overview of the B&W mPower Small Modular Reactor Design (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Generation mPower on the mPower small modular reactor design for an integral pressurized water reactor. **Note:** A portion of this meeting may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4).

3:00 p.m.–4:00 p.m.: *NRC Staff Activities regarding Small Modular Research Program* (Open) The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding an overview of NRC activities associated with small modular reactors.

4:00 p.m.–5:15 p.m.: Biennial Review of the NRC Safety Research Program (Open)—The Committee will discuss the draft report on the biennial ACRS review of the NRC Safety Research Program.

5:15 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. The Committee will also consider a response to the February 24, 2014, letter from the Executive Director for Operations regarding Chapters 6 and 7 of the Safety Evaluation Report with Open Items for certification of the US–APWR design and related long term core cooling issues. **Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4).

Friday, April 11, 2014, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:30 a.m.: Thermal Conductivity Degradation (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the evaluation of the impact of thermal conductivity degradation in PWRs.

9:45 a.m.–11:15 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. **Note:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

11:15 a.m.–11:30 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

1:30 p.m.–5:30 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports on matters discussed during this meeting. The Committee will also consider a response to the February 24, 2014, letter from the Executive Director for Operations regarding Chapters 6 and 7 of the Safety Evaluation Report with Open Items for certification of the US–APWR design and related long term core cooling issues. **Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4).

5:30 p.m.–6:00 p.m.: Miscellaneous (Open)—The Committee will continue its discussion of matters related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013 (78 FR 67205–67206). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) Public Law 92–463, and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's Agencywide Documents Access and Management System which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/*.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: March 26, 2014.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2014–07245 Filed 3–31–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee On Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Advanced Boiling Water Reactor; Notice of Meeting

The ACRS Subcommittee on Advanced Boiling Water Reactor (ABWR) will hold a meeting on April 9, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed to protect information that is propriety pursuant to 5 U.S.C. 552(c)(4). The agenda for the subject meeting shall be as follows:

Wednesday, April 9, 2014—8:30 a.m. Until 2:00 p.m.

The Subcommittee will review implementation of the Fukushima Lessons Learned Items 2.1, 7.1 and 9.3, and Section 2.5 (seismic) of the Safety Evaluation Report associated with the combined license application (COLA) for South Texas Project (STP) Units 3 and 4. The Subcommittee will hear presentations by and hold discussions with the applicant, Nuclear Innovation North America (NINA), the NRC staff and other interested persons regarding these matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Maitri Banerjee (Telephone 301–415–6973 or Email: *Maitri.Banerjee@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013, (78 FR 67205–67206).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: March 20, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–07253 Filed 3–31–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on AP1000; Notice of Meeting

The ACRS Subcommittee on AP1000 will hold a meeting on April 9, 2014, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of portions that may be closed to protect proprietary information pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Wednesday, April 9, 2014—1:00 p.m. Until 5:00 p.m.

The Subcommittee will review the issues related to AP1000 condensate return cooling system design change. The Subcommittee will hear presentations by and hold discussions with the NRC staff, Westinghouse, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Mr. Peter Wen (Telephone 301–415–2832 or Email: Peter.Wen@nrc.gov) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD-2-containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2014, (78 FR 67205–67206).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs*. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Date: March 20, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–07248 Filed 3–31–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, April 3, 2014 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Stein as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

institution and settlement of administrative proceedings;

an adjudicatory matter; and

other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: March 27, 2014.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–07281 Filed 3–28–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71809; File No. SR–EDGX–2014–007]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to the Clearly Erroneous Execution Rule for EDGX Exchange, Inc.

March 26, 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 March 18, 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 and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to extend a pilot program related to Rule 11.13, entitled ''Clearly Erroneous Executions.''

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com* [sic], at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions. Portions of Rule 11.13, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[5] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[6]

On September 10, 2010, the Commission approved, on a pilot basis, changes to Exchange Rule 11.13 to provide for uniform treatment: (1) of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[7] The Exchange also adopted additional changes to Rule 11.13 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11.13,[8] and in 2013, adopted a provision designed to address the operation of the Plan.[9]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[10] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[11] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that the Financial Industry Regulatory Authority (''FINRA'') and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6)(iii) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed

[5] *See* Securities Exchange Act Release No. 70511 (Sept. 26, 2013), 78 FR 60941 (Oct. 2, 2013) (SR–EDGX–2013–35).

[6] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[7] Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–EDGX–2010–03).

[8] *Id.*

[9] *See* Securities Exchange Act Release No. 68814 (Feb. 1, 2013), 78 FR 9086 (Feb. 7, 2013) (SR–EDGX–2013–06); *see also* Exchange Rule 11.13(i).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of 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.

rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–2014–007 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–EDGX–2014–007. 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–EDGX–2014–007, and should be submitted on or before April 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07192 Filed 3–31–14; 8:45 am]

BILLING CODE 8011–01–P

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71808; File No. SR- EDGA–2014–006]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to the Clearly Erroneous Execution Rule for EDGA Exchange, Inc.

March 26, 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 March 18, 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 and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to extend a pilot program related to Rule 11.13, entitled ''Clearly Erroneous Executions.''

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com* [sic], at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions. Portions of Rule 11.13, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[5] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[6]

On September 10, 2010, the Commission approved, on a pilot basis, changes to Exchange Rule 11.13 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[7] The Exchange also adopted additional changes to Rule 11.13 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11.13,[8] and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Securities Exchange Act Release No. 70512 (Sept. 26, 2013), 78 FR 60965 (Oct. 2, 2013) (SR–EDGA–2013–28).

[6] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[7] Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–EDGA–2010–03).

[8] *Id.*

in 2013, adopted a provision designed to address the operation of the Plan.[9]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[10] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[11] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that the Financial Industry Regulatory Authority (''FINRA'') and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6)(iii) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–2014–006 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–EDGA–2014–006. 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

[9] *See* Securities Exchange Act Release No. 68813 (Feb. 1, 2013), 78 FR 9073 (Feb. 7, 2013) (SR–EDGA–2013–06); *see also* Exchange Rule 11.13(i).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of 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.

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2014–006, and should be submitted on or before April 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07191 Filed 3–31–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71804; File No. SR–NYSEArca–2013–141]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Adopt New NYSE Arca Equities Rule 7.25 To Create a Crowd Participant Program on a Pilot Basis To Incent Competitive Quoting and Trading Volume in Exchange-Traded Products by Market Makers Qualified With the Exchange as CPs

March 26, 2014.

On December 6, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt the Crowd Participant Program (''CP Program'' or ''Program''), a one-year pilot program, to incent competitive quoting and trading volume in exchange-traded products (''ETPs'') by Market Makers qualified with the Exchange as Crowd Participants (''CPs''). The proposed rule change was published for comment in the **Federal Register** on December 26, 2013.[3] The Commission received no comment letters on the proposal. On February 5, 2014, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On March 19, 2014, the Exchange submitted Amendment No. 2 to the proposed rule change.[6] The Commission is publishing this notice to solicit comments on Amendment No. 2 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 2 thereto, on an accelerated basis.[7]

I. Description of the Amended Proposal

As set forth in more detail in the Notice,[8] the Exchange is proposing to adopt new NYSE Arca Equities Rule 7.25 and to amend its fee schedules to set forth the requirements for the CP Program, which will be a voluntary one-year pilot program for issuers of certain ETPs listed on the Exchange. The Exchange states that the CP Program is designed to incentivize Market Makers[9] qualified with the Exchange as CPs[10] to quote and trade in certain low-volume ETPs by offering issuers an alternative fee program funded by participating issuers and credited to CPs from the Exchange's general revenues.[11] In addition, the Exchange states that the Program is designed to add competition among existing qualified Market Makers on the Exchange.[12] The Exchange states that the CP Program will offer an alternative to the existing Lead Market Maker program on the Exchange and the ETP Incentive Program (under NYSE Arca Equities Rule 8.800)[13] for issuers to consider when determining where to list their securities.[14] The Exchange states that under the voluntary CP Program, multiple CPs would compete for daily rebates, which would be funded from the Exchange's general revenues and offset by charging issuers a non-refundable ''CP Program Fee,'' which would be credited to the Exchange's general revenues.[15]

A. Eligible Products; Issuer and CP Application Process

An ETP will be eligible to participate in the CP Program if (i) it is listed on the Exchange as of the commencement of the pilot period or becomes listed during the pilot period; (ii) the listing is under NYSE Arca Equities Rules 5.2(j)(3) (Investment Company Units), 5.2(j)(5) (Equity Gold Shares), 8.100 (Portfolio Depositary Receipts), 8.200 (Trust Issued Receipts), 8.201 (Commodity-Based Trust Shares), 8.202 (Currency Trust Shares), 8.203 (Commodity Index Trust Shares), 8.204 (Commodity Futures Trust Shares), 8.300 (Partnership Units), 8.600 (Managed Fund Shares), or 8.700 (Managed Trust Securities); (iii) it is neither participating in the ETP Incentive Program under Rule 8.800 nor has a Lead Market Maker assigned to it; (iv) with respect to an ETP that was listed on the Exchange before the commencement of the CP Program, the ETP has a CADV of one million shares or less for at least the preceding three months; and (v) if the ETP is added to the CP Program after listing on the Exchange, it is compliant with continuing listing standards.[16]

An issuer that wishes to have an ETP participate in the CP Program and pay the Exchange a non-refundable CP Program Fee will be required to submit a written application in a form prescribed by the Exchange for each

[15] 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. 71146 (Dec. 19, 2013), 78 FR 78426 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] Securities Exchange Act Release No. 71479 (Feb. 5, 2014), 79 FR 8225 (Feb. 11, 2014). The Commission determined that it was appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission designated March 26, 2014 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] Amendment No. 1 was filed by the Exchange on March 18, 2014 and withdrawn by the Exchange on March 19, 2014 due to a technical error. In Amendment No. 2, the Exchange proposes to: (i) Change, from two-million shares to one-million shares, the consolidated average daily volume (''CADV'') threshold applicable to participation eligibility in the proposed CP Program; (ii) change the CP Program Fee (as described below) from a fixed amount of $50,000 to a range of $50,000 to $100,000, as determined exclusively by the issuer; and (iii) clarify that the CP Program Fee cannot be refunded to an issuer.

[7] Today the Commission also is granting exemptive relief from Rule 102 under Regulation M concerning the CP Program. See Securities Exchange Act Release No. 71805 (Mar. 26, 2014) (Order Granting a Limited Exemption from Rule 102 of Regulation M Concerning the NYSE Arca, Inc.'s Crowd Participant Program Pilot).

[8] *See* Notice, *supra* note 3.

[9] A Market Maker is an Equity Trading Permit Holder that acts as a Market Maker pursuant to NYSE Arca Equities Rule 7. *See* NYSE Arca Equities Rule 1.1(v). An Equity Trading Permit Holder is a sole proprietorship, partnership, corporation, limited liability company, or other organization in good standing that has been issued an Equity Trading Permit. *See* NYSE Arca Equities Rule 1.1(n).

[10] A ''Crowd Participant'' is defined as an Equity Trading Permit Holder that: (1) Is qualified as a Market Maker, and in good standing, on the Exchange; (2) electronically enters quotes and orders into the systems and facilities of the Exchange; and (3) is obligated to maintain a displayed bid or offer at the National Best Bid (''NBB'') or the National Best Offer (''NBO''), respectively, in each assigned ETP consistent with paragraph (g) of the proposed rule. *See* proposed NYSE Arca Equities Rule 7.25(a).

[11] *See* Notice, *supra* note 3, at 78427.

[12] *Id.*

[13] *See* Securities Exchange Act Release No. 69706 (June 6, 2013), 78 FR 35340 (June 12, 2013) (SR–NYSEArca–2013–34).

[14] *See* Notice, *supra* note 3, at 78427.

[15] *Id.*

[16] *See* proposed NYSE Arca Equities Rule 7.25(b). *See also* Amendment No. 2, *supra* note 6.

ETP.[17] An issuer may apply to have its ETP participate at the time of listing or thereafter at the beginning of each quarter during the pilot period.[18] The Exchange may, on a CP Program-wide basis, limit the number of ETPs that any one issuer may have in the CP Program.[19] In addition, in order for its ETP to be eligible to participate in the CP Program, an issuer must be current in all payments due to the Exchange.[20]

The Exchange will communicate the ETP(s) proposed for inclusion in the CP Program on a written solicitation that will be sent to all qualified CPs along with the CP Program Fee the issuer will pay the Exchange for each ETP, which will be determined by the issuer based on the range of fees set forth in the Exchange's Schedule of Fees and Charges for Exchange Listing Services (''Listing Fee Schedule'').[21]

To qualify as a CP, an Exchange Trading Permit Holder must (i) be qualified as a Market Maker, and in good standing, on the Exchange; and (ii) have adequate information barriers between the business unit of the Exchange Trading Permit Holder acting as a CP in a proprietary capacity and the Exchange Trading Permit Holder's customer, research and investment banking business, if any.[22] To become a CP, an Exchange Trading Permit Holder must submit a CP application form with all supporting documentation to the Exchange.[23] Exchange staff will determine whether an applicant is qualified to become a CP based on the qualifications described in the proposed rule and shall notify the applicant of its decision.[24] If an applicant is approved by the Exchange to receive CP status, such applicant will be required to have connectivity with relevant Exchange systems before it will be permitted to quote and trade as a CP on the Exchange.[25] If approved to receive CP status, a CP shall be assigned to participating ETPs in the same manner that Market Makers are currently assigned to securities listed on the Exchange.[26] If an applicant is disapproved by the Exchange, the applicant may seek review under NYSE Arca Equities Rule 10.13[27] and/or reapply for CP status at least three calendar months following the month in which the applicant received the disapproval notice from the Exchange.[28]

B. Disclosure Relating to the CP Program

Pursuant to proposed NYSE Arca Equities Rule 7.25(c)(4), the Exchange will provide notification on a dedicated page on its Web site regarding: (i) The ETPs participating in the CP Program; (ii) the date a particular ETP begins participating and ceases participating in the CP Program; (iii) the date the Exchange receives written notice of an issuer's intent to withdraw its ETP from the CP Program, or a CP's intent to withdraw from its ETP assignment(s) in the CP Program, and, in each case, the intended withdrawal date, if provided; (iv) the CPs assigned to each ETP participating in the CP Program; and (v) the amount of the CP Program Fee for each ETP. This page will also include a fair and balanced description of the CP Program, including: (i) A description of the CP Program's operation as a pilot, including the effective date thereof; (ii) the potential benefits that may be realized by an ETP's participation in the CP Program; (iii) the potential risks that may be attendant with an ETP's participation in the CP Program; (iv) the potential impact resulting from an ETP's entry into and exit from the CP Program; and (v) how interested parties can request additional information regarding the CP Program and/or the ETPs participating therein.[29]

Under proposed NYSE Arca Equities Rule 7.25(c)(5), an issuer of an ETP that is approved to participate in the CP Program will be required to issue a press release to the public when an ETP commences or ceases participation in the CP Program. The press release will be in a form and manner prescribed by the Exchange, and if practicable, will be issued at least two days before the ETP commences or ceases participation in the CP Program.[30] The issuer also will be required to dedicate space on its Web site, or, if it does not have a Web site, on the Web site of the adviser or sponsor of the ETP, to (i) include any such press releases and (ii) provide a hyperlink to the dedicated page on the Exchange's Web site that describes the CP Program.[31]

C. CP Program Fee

An issuer (or sponsor on behalf of the issuer) of an ETP that is participating in the CP Program will be required to pay the Exchange a non-refundable ''CP Program Fee'' in accordance with the Exchange's Listing Fee Schedule, which fee will be credited to the Exchange's general revenues.[32] The Exchange proposes to amend its Listing Fee Schedule to provide that the CP Program Fee under NYSE Arca Rule 7.25 will be determined by the issuer within a range of $50,000–$100,000.[33] The CP Program Fee for each ETP will be paid by the issuer to the Exchange in quarterly installments at the beginning of each quarter and prorated if the issuer commences participation for an ETP in the CP Program after the beginning of a quarter.[34] If the ETP has a sponsor, the sponsor may pay the CP Program Fee to the Exchange.[35] The CP Program Fee paid by an issuer will be credited to the Exchange's general revenues.[36] The issuer will not receive a credit from the Exchange, even if the assigned CPs did not satisfy their daily or monthly quoting requirements in any given month in such quarter for the ETP.[37] The precise amount of the CP Program

[17] *See* proposed NYSE Arca Equities Rule 7.25(c)(2). *See also* Amendment No. 2, *supra* note 6.

[18] *Id.*

[19] *Id.*

[20] *See* proposed NYSE Arca Equities Rule 7.25(c)(1).

[21] *See* proposed NYSE Arca Equities Rule 7.25(c)(3).

[22] *See* proposed NYSE Arca Equities Rule 7.25(d)(1).

[23] *See* proposed NYSE Arca Equities Rule 7.25(d)(2).

[24] *See* proposed NYSE Arca Equities Rule 7.25(d)(3)–(4).

[25] *See* proposed NYSE Arca Equities Rule 7.25(d)(5).

[26] *Id.* The Exchange does not anticipate placing a limit on the number of CPs assigned to a particular ETP or on the number of ETPs to which a particular CP would be assigned. *See* Notice, *supra* note 3, at 78429.

[27] NYSE Arca Equities Rule 10.13 provides the procedure for persons aggrieved by certain actions taken by the Exchange to apply for an opportunity to be heard and to have the action reviewed.

[28] *See* proposed NYSE Arca Equities Rule 7.25(d)(6).

[29] *See* proposed NYSE Arca Equities Rule 7.25(c)(4).

[30] The issuer's press release will be required to include language describing, for example, that while the impact of participation in or exit from the CP Program, which is optional, cannot be fully understood until objective observations can be made in the context of the CP Program, potential impacts on the market quality of the issuer's ETP may result, including with respect to the average spread and average quoted size for the ETP. *See* Notice, *supra* note 3, at 78429, n.13.

[31] *See* proposed NYSE Arca Equities Rule 7.25(c)(5). The disclosure requirements set forth in the proposal would be in addition to, and would not supersede, the prospectus disclosure requirements under the Securities Act of 1933 or the Investment Company Act of 1940. *See* Notice, *supra* note 3, at 78429, n.14.

[32] *See* proposed NYSE Arca Equities Rule 7.25(e). *See also* Amendment No. 2, *supra* note 6. An ETP shall not be permitted to begin participation in the CP Program, and therefore will not be charged the CP Program Fee, unless there are eligible CPs assigned to such ETP. *See* Amendment No. 2, *supra* note 6.

[33] *See* proposed Listing Fee Schedule; *see also* Amendment No. 2, *supra* note 6. An issuer participating in the CP Program will still be required to pay applicable listing and annual fees. *See* Notice, *supra* note 3, at 78429, n.20.

[34] *See* proposed Listing Fee Schedule.

[35] *Id.* The term ''sponsor'' means the registered investment adviser that provides investment management services to an ETP or any of such investment adviser's parents or subsidiaries. *Id.*

[36] *Id.*

[37] *Id. See also* Amendment No. 2, *supra* note 6.

Fee to be paid for an ETP in the CP Program will be determined by the issuer.[38]

D. CP Performance Measurement

The Exchange will measure the performance of a CP in an assigned ETP by calculating Size Event Tests (''SETs'') during Core Trading Hours [39] on every day on which the Exchange is open for business.[40] The Exchange will measure the quoted displayed size at the NBB (NBO) of each CP at least once per second to determine bid (offer) SETs (a ''Bid (Offer) SET'').[41] A CP will be considered to have a winning Bid (Offer) SET (a ''Winning Bid (Offer) SET'') for a particular ETP if, at the time of the SET, the CP: (i) Is quoting at least 500 shares of the ETP at the NBB (NBO); (ii) has the greatest aggregate displayed size at the NBB (NBO); and (iii) is quoting an offer (bid) of at least 100 shares at a price at or within 1.2% of the CP's best bid (offer).[42]

E. CP Quoting Requirements

Each CP that is assigned to one or more ETPs in the CP Program will be required to maintain continuous, two-sided displayed quotes or orders in accordance with existing NYSE Arca Equities Rule 7.23(a)(1) for each such ETP.[43] In addition, CPs have additional daily and monthly quoting requirements under the proposal. First, a CP must have Winning Bid (Offer) SETs equal to at least 10% of the total Bid (Offer) SETs on any trading day in order to meet its daily quoting requirement and be eligible for the daily CP Payments for an ETP (described in the Exchange's Schedule of Fees and Charges for Exchange Services (''Trading Fee Schedule'')).[44] Furthermore, a CP must have displayed quotes or orders of at least 100 shares at the NBB (NBO) at least 10% of the time that the Exchange calculates Bid (Offer) SETs to meet its monthly quoting requirement.[45] For purposes of meeting these daily and monthly quoting requirements, CP quotes may be for the account of the CP in either a proprietary capacity or a principal capacity on behalf of an affiliated or unaffiliated person.[46] For purposes of measuring CP quoting, the Exchange will include all Market Maker quotes and orders in assigned ETPs of an Equity Trading Permit Holder that is a CP.[47]

F. CP Payment

Proposed NYSE Arca Equities Rule 7.25(h) provides that the Exchange will credit a CP for a ''CP Payment'' from its general revenues in accordance with the Exchange's Trading Fee Schedule.

The Exchange proposes to amend its Trading Fee Schedule to specify the amount of the total daily rebate, which would be an amount not to exceed the CP Program Fee paid to the Exchange by an issuer under Rule 7.25, less a 5% Exchange administration fee, divided by the number of trading days in the calendar year.[48] Half of this amount will be allocated to bid SETs and half will be allocated to offer SETs.[49]

Furthermore, 70% of the bid (offer) SET amount will be credited to the CP with the highest number of Winning Bid (Offer) SETs and 30% of the bid (offer) SET amount will be credited to the CP with the second-highest number of Winning Bid (Offer) SETs.[50] If only one CP is eligible for the bid (offer) SET amount, 100% of such rebate will be provided to such CP.[51] If more than two CPs have an equal number of Winning Bid (Offer) SETs, the CP with the higher executed volume in the ETP on the Exchange on the particular trading day will be awarded the applicable daily CP Payment.[52] A rebate will not be provided if no eligible CPs exist (*e.g.,* if CPs are assigned to the ETP but do not satisfy the requirements to have a Winning Bid or Winning Offer).[53]

The Exchange will credit a CP for the CP Payment at the end of each month.[54] If the ETP is withdrawn from the CP Program pursuant to proposed Rule 7.25(i) (as described below) during the month, then the CP will not be eligible for a CP Payment after the date of such withdrawal.[55] Furthermore, if an issuer does not pay its quarterly installments to the Exchange on time and the ETP continues to be included in the CP Program, the Exchange will continue to credit CPs in accordance with the Exchange's Trading Fee Schedule.[56]

G. Withdrawal

The Exchange will withdraw an ETP from the CP Program upon request from the issuer.[57] If an ETP liquidates or suspends the redemption of shares, it will be automatically withdrawn from the CP Program as of the ETP liquidation or suspension date.[58] An ETP will be automatically removed from the CP Program if the issuer is not current in all payments due to the Exchange after two consecutive quarters.[59] Finally, if an ETP maintains a CADV of one million shares or more for three consecutive months, it will be automatically withdrawn from the CP Program within one month thereafter.[60]

A CP that does not satisfy the monthly quoting requirement for three consecutive months will be subject to the potential withdrawal of its CP status.[61] Any such withdrawal determinations would be for a specific ETP.[62] A CP can also initiate withdrawal from an ETP assignment in the CP Program by giving notice to the Exchange.[63] The Exchange will effect such withdrawal as soon as practicable, but no later than 30 days after the date the notice is received by the Exchange.[64] Such withdrawal can be for a specific ETP or for all ETPs to which the CP is assigned.[65]

[38] *See* proposed Listing Fee Schedule; *see also* Amendment No. 2, *supra* note 6.

[39] *See* NYSE Arca Equities Rule 1.1(j).

[40] *See* proposed NYSE Arca Equities Rule 7.25(f)(1).

[41] *See* proposed NYSE Arca Equities Rule 7.25(f)(2).

[42] *See* proposed NYSE Arca Equities Rule 7.25(f)(3).

[43] *See* proposed NYSE Arca Equities Rule 7.25(g)(1).

[44] *See* proposed NYSE Arca Equities Rule 7.25(g)(2).

[45] *See* proposed NYSE Arca Equities Rule 7.25(g)(3).

[46] *See* proposed NYSE Arca Equities Rule 7.25(g)(4). A CP's quotes in a principal capacity could include quotes submitted to the Exchange on behalf of customers or other unaffiliated or affiliated persons. *See* Notice, supra note 3, at 78430, n.26.

[47] *See* proposed NYSE Arca Equities Rule 7.25(g)(4).

[48] *See* proposed Trading Fee Schedule.

[49] *Id.*

[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] *Id.*

[54] *Id.*

[55] *Id.*

[56] *Id.*

[57] *See* proposed NYSE Arca Equities Rule 7.25(i)(2).

[58] *See* proposed NYSE Arca Equities Rule 7.25(i)(1).

[59] *See* proposed NYSE Arca Equities Rule 7.25(i)(3). Only the ETP for which an issuer is not current in payments would be subject to withdrawal. For example, if an issuer listed two ETPs on the Exchange that participated in the CP Program and was current in payments for one but not for the other, only the latter ETP would be subject to withdrawal from the CP Program. *See* Notice, *supra* note 3, at 78430, n.32.

[60] *See* proposed NYSE Arca Equities Rule 7.25(i)(4); *see also* Amendment No. 2, *supra* note 6. If after such automatic withdrawal the ETP fails to maintain a CADV of one million shares or more for three consecutive months, the issuer of the ETP may reapply for the CP Program one month thereafter. *See* proposed NYSE Arca Equities Rule 7.25(i)(4).

[61] *See* proposed NYSE Arca Equities Rule 7.25(j)(1).

[62] *Id.* For example, if a CP satisfied its monthly quoting requirement for one ETP but not for another ETP that it was assigned to, the CP would be subject to withdrawal for the latter ETP but not the former. *See* Notice, *supra* note 3, at 78431, n.35.

[63] *See* proposed NYSE Arca Equities Rule 7.25(j)(2).

[64] *Id.*

[65] *Id.*

H. Implementation of Pilot

The CP Program will be offered to issuers from the date of implementation, which will occur no later than 90 days after Commission approval of the filing, until one calendar year after implementation.[66] During the pilot period, the Exchange will assess the CP Program and may expand the criteria for ETPs that are eligible to participate.[67] At the end of the pilot period, the Exchange will determine whether to continue or discontinue the CP Program or make it permanent.[68]

During the pilot period, the Exchange will provide the Commission with certain market quality reports each month, which will also be posted on the Exchange's Web site.[69] Such reports will include the Exchange's analysis regarding the CP Program and whether it is achieving its goals,[70] as well as market quality data such as, for all ETPs listed as of the date of implementation of the CP Program and listed during the pilot period (for comparative purposes, including comparable ETPs that are listed on the Exchange but not participating in the CP Program): volume (CADV and NYSE Arca average daily volume); NBBO bid/ask spread differentials; CP participation rates; NYSE Arca market share; CP time spent at the inside; CP time spent within $0.03 of the inside; percent of time NYSE Arca had the best price with the best size; CP quoted spread; CP quoted depth; and Rule 605 statistics (one-month delay).[71] These reports will also compare, to the extent practicable, ETPs before and after they are in the CP Program, and will further provide data and analysis about the market quality of ETPs that exceed the one million share CADV threshold and ''graduate,'' or are otherwise withdrawn or terminated from, the CP Program.[72] These reports will also compare, to the extent practicable, the CP Program against the ETP Incentive Program, including with respect to the potential impact that one program may have on the other and how the analysis described above with respect to the CP Program compares to the Exchange's similar analysis with respect to the ETP Incentive Program.[73] In connection with the proposal, the Exchange will provide other data and information related to the CP Program as may be periodically requested by the Commission.[74] In addition, the Exchange states that issuers may utilize ArcaVision to analyze and replicate data on their own.[75]

I. Surveillance

The Exchange represents that its surveillance procedures will be adequate to properly monitor the trading of ETPs participating in the CP Program on the Exchange during all trading sessions and to detect and deter violations of Exchange rules and applicable federal securities laws.[76] The Exchange states that trading of the ETPs through the Exchange will be subject to the Financial Industry Regulatory Authority's (''FINRA'') surveillance procedures for derivative products including ETFs,[77] and that the Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges that are members or affiliates of the ISG; and from issuers and public and non-public data sources such as, for example, Bloomberg.[78]

II. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, as modified by Amendment No. 2 thereto, and finds that the proposed rule change, as modified by Amendment No. 2 thereto, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges. In particular, as discussed below, the Commission finds that the proposed rule change, as modified by Amendment No. 2 thereto, is consistent with Section 6(b)(4) of the Act,[79] which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and with Section 6(b)(5) of the Act,[80] which requires, among other things, that the rules of a national securities 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, and that the rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Further, as required by Section 3(f) of the Act, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation.[81]

The CP Program, as proposed to be implemented on a pilot basis, is designed to enhance the market quality for certain lower volume ETPs participating in the program by incentivizing Market Makers to take CP assignments in such ETPs by offering an alternative fee structure for such CPs. As proposed by the Exchange, each CP must comply with a monthly quoting requirement in order to remain a CP, and must comply with a daily quoting requirement in order to be eligible for the daily CP Payments, which are higher than the standard quoting requirements applicable to Market Makers on the Exchange. Specifically, in addition to satisfying the requirements of NYSE Arca Equities Rule 7.23, with respect to the daily quoting requirement, the CP with the greatest aggregate size at the NBB or NBO at each SET will be considered to have the Winning Bid (Offer) SET, provided the CP is quoting at least 500 shares of the ETP at the NBB (NBO) and is quoting at least 100 shares on the other side of the market at a price at or within 1.2% of the CP's best bid (offer). The CPs with the highest and second highest number of Winning Bid (Offer) SETs each day will receive a portion of the daily rebate, provided

[66] *See* Notice, *supra* note 3, at 78431.

[67] *Id.* The Commission notes that any modifications to the terms of the proposal would require a rule filing with the Commission pursuant to Section 19(b) of the Exchange Act and Rule 19b–4 thereunder.

[68] The Commission notes that any proposed continuance of the CP Program or proposal to make the CP Program permanent would require a rule filing with the Commission pursuant to Section 19(b) of the Exchange Act and Rule 19b–4 thereunder.

[69] *See* Notice, *supra* note 3, at 78431.

[70] The Exchange believes that an initial indicator of the success of the CP Program will be the extent to which issuers elect to have their ETPs participate therein, as well as the number of Market Makers that choose to act as CPs. *See* Notice, *supra* note 3, at 78431, n. 36.

[71] *See* Notice, *supra* note 3, at 78431.

[72] *Id. See also* Amendment No. 2, *supra* note 6.

[73] *See* Notice, *supra* note 3, at 78431.

[74] *Id.*

[75] *Id.* NYSE Arca provides ArcaVision free of charge to the public via the Web site *www.ArcaVision.com.* According to the Exchange, ArcaVision offers a significant amount of trading data and market quality statistics for every Regulation NMS equity security traded in the United States, including all ETPs. Publicly available reports within ArcaVision, which include relevant comparative data, are the Symbol Summary, Symbol Analytics, Volume Comparison and Quotation Comparison reports, among others. In addition, users can create the reports on a per-symbol basis over a flexible time frame and can also take advantage of predefined symbol sets based on type of ETP or issuer. Users can also create their own symbol lists. The Exchange states that ArcaVision allows an ETP issuer to see additional information specific to its CPs and other Market Makers in each ETP via the ''ArcaVision Market Maker Summary'' reporting mechanism. *Id.* at 78431, n.37.

[76] *See* Notice, *supra* note 3, at 78433.

[77] FINRA surveils trading on the Exchange, including ETP trading, pursuant to a Regulatory Services Agreement (''RSA''). The Exchange is responsible for FINRA's performance under this RSA. *Id.* at 78432, n.39.

[78] *Id.* at 78433.

[79] 15 U.S.C. 78f(b)(4).

[80] 15 U.S.C. 78f(b)(5).

[81] *See* 15 U.S.C. 78c(f).

that such CPs have Winning Bid (Offer) SETs equal to at least 10% of the total Winning Bid (Offer) SETs on any trading day. With respect to the monthly quoting requirement, a CP must be quoting at least 100 shares at the NBB or NBO at least 10% of the time that the Exchange is calculating Bid (Offer) SETs. Thus, the proposal is designed to incentivize both quoting frequency at the NBBO and quoted size at the NBBO, by conditioning eligibility for CP status, eligibility for the daily CP Payment, and allocation of the daily CP Payment on whether a CP meets or exceeds various quoting requirements. In addition, the Program is separately designed to incentivize CPs to compete with each other to receive the CP Payments, as only the eligible CPs with the highest and second highest numbers of Winning Bid (Offer) SETs will receive a portion of the daily CP Payment, and if more than two CPs have an equal number of Winning Bid (Offer) SETs, the CP with the higher executed volume in the ETP on the Exchange on the particular trading day will be awarded the applicable portion of the daily CP Payment. As a result, the proposal has the potential to improve the market quality of the ETPs that participate in the CP Program by encouraging CPs to provide liquidity in such ETPs consistent with the performance standards. This potential improved market quality, were it to occur, could benefit investors in the form of enhanced liquidity, narrowed spreads, and reduced transaction costs.

In addition, because the quoted bid-ask spread in a security represents one of the main drivers of transaction costs for investors, and because high price volatility should generally deter investors from trading low-liquidity ETPs, the CP Program, were the potential benefits of the program to occur, should facilitate a more-efficient and less-uncertain trading environment for investors.[82] Furthermore, were the potential benefits of the CP Program to occur, improving the liquidity of certain low-volume ETPs may lead to both an overall increase in ETP trading volume and a redistribution of trading volume toward lower-volume ETPs that would not otherwise attract sufficient liquidity to successfully participate in the market.

While the Commission believes that the CP Program has the potential to improve market quality of the ETPs participating in the Program, the Commission is concerned about unintended consequences of the CP Program. For example, the CP Program could have the potential to distort market forces because the CP Program may act to artificially influence trading in ETPs that otherwise would not be traded. Similarly, the Commission recognizes concerns about the potential negative impact on an ETP participating in the Program, such as reduced liquidity and wider spreads, when an ETP is withdrawn or terminated from the CP Program. While the Commission is mindful of these concerns, the Commission believes, for the reasons described below, that certain aspects of the CP Program could help mitigate these concerns.

First, the proposal contains disclosure provisions that will help to alert and educate potential and existing investors in the ETPs participating in the Program about the Program. Specifically, the Exchange will disclose on its Web site the following information: (i) The ETPs participating in the CP Program and the CPs assigned to each participating ETP; (ii) the date a particular ETP begins participating or ceases participating in the CP Program; (iii) the date the Exchange receives written notice of an issuer's intent to withdraw its ETP from the CP Program, or a CP's intent to withdraw from its ETP assignment(s) in the CP Program, and, in each case, the intended withdrawal date, if provided; and (iii) the amount of the CP Program Fee for each ETP. The Exchange also will include on its Web site a fair and balanced description of the CP Program, including a description of the potential benefits and risks that may be attendant with an ETP's participation in the Program. Furthermore, an issuer of an ETP that is approved to participate in the CP Program will be required to issue a press release to the public when an ETP commences or ceases participation in the CP Program, to post such press release on its Web site, and to provide on its Web site a hyperlink to the Exchange's Web page describing the CP Program. This disclosure will help to inform investors and other market participants which ETPs are participating in the CP Program, which CPs are assigned to each ETP, the amount of CP Program Fee an issuer will incur as a result of participating in the CP Program, the amount of the daily CP Payments that CPs may be eligible to receive from the Exchange under the CP Program, and the potential benefits and risks of the Program. A wide variety of ETPs are currently listed and trading today, and the Commission believes that such disclosure could be helpful for investors and other market participants to discern which ETPs listed on the Exchange are and are not subject to the CP Program and to make informed investment decisions with respect to ETPs.[83]

Second, the CP Program is targeted at a subset of ETPs, namely those ETPs that are generally less liquid and which the Exchange believes might benefit most from the CP Program. Specifically, as proposed, ETPs that are otherwise eligible for the CP Program will not be eligible if they have a CADV of more than 1,000,000 shares for three consecutive months. Likewise, the CP Program will terminate with respect to a particular ETP if the ETP sustains a CADV of 1,000,000 shares or more for three consecutive months.

Finally, as proposed by the Exchange, the CP Program will be limited to a one-year pilot. The Commission believes that it is important to implement the CP Program as a pilot. Operating the CP Program as a pilot will allow assessment of whether the Program is in fact achieving its goal of improving the market quality of ETPs by increasing the supply of Market Makers seeking to take on CP assignments in ETPs, prior to any proposal or determination to make the program permanent.[84] In addition, approval on a pilot basis will allow the assessment, prior to any proposal or determination to make the Program permanent, of whether the Program has any unintended impact on the participating ETPs, securities not participating in the Program, or the market or market participants generally.

The Exchange has represented that during the pilot it will submit monthly reports to the Commission about market quality in respect of the CP Program and

[82] Transaction costs are generally defined as the penalty that an investor pays for transacting. Transaction costs have four components: Commissions; bid/ask spread; market impact; and opportunity cost. *See* Grinold, Kahn. *Active Portfolio Management,* Second Edition, Chapter 16. An increase in bid-ask spreads will inevitably increase the transaction costs of an investor. In addition, transactions in low-liquidity securities have a higher market impact when compared to other more liquid securities. *See* Albert Kyle's (1985) measure of market impact (Kyle's Lambda), defining an inverse relationship between volume and price impact. Therefore, the lower the volume of the ETP or stock, the higher the market impact of any transaction in that stock. This last effect acts as a disincentive to trading that security. Therefore, an environment where an ETP trades more often and with a larger number of shares will reduce transaction costs both through the narrowing of spreads and lower market impact.

[83] The concurrent exemptive relief the Commission is issuing today from Rule 102 under Regulation M concerning the CP Program also contains additional disclosure requirements. *See* Securities Exchange Act Release No. 71805 (Mar. 26, 2014), *supra* note 7.

[84] The Exchange would be required to file with the Commission any proposal to extend the CP Program beyond the pilot period or to make the program permanent pursuant to Section 19(b) of the Exchange Act and the rules and regulations thereunder. Such a filing would be published for comment in the **Federal Register** pursuant to Section 19(b) and Rule 19b–4.

that these reports will be posted on the Exchange's public Web site. The Exchange has represented that such reports will include the Exchange's analysis regarding the CP Program and whether it is achieving its goals, as well as market quality data for all ETPs listed as of the date of implementation of the CP Program and listed during the pilot period (for comparative purposes, including comparable ETPs that are listed on the Exchange but not participating in the CP Program) such as volume (CADV and NYSE Arca average daily volume), NBBO bid/ask spread differentials, CP participation rates, NYSE Arca market share, CP time spent at the inside, CP time spent within $0.03 of the inside, percent of time NYSE Arca had the best price with the best size, CP quoted spread, CP quoted depth, and Rule 605 statistics (one-month delay). In addition, the Exchange has represented that it will provide in the monthly public report to the Commission data and analysis on the market quality of ETPs after they exceed the one million CADV threshold and ''graduate'' from the Program or are otherwise withdrawn or terminated from the Program. The Exchange has also represented that the monthly public reports to the Commission will also compare the CP Program against the ETP Incentive Program, including with respect to the potential impact that one program may have on the other and how the analysis described above with respect to the CP Program compares to the Exchange's similar analysis with respect to the ETP Incentive Program. The Exchange also has represented that it will provide to the Commission any other data and information related to the CP Program as may be periodically requested by the Commission in connection with the proposal. Furthermore, the Exchange has represented that issuers may utilize ArcaVision to analyze and replicate data on their own.[85] This information will help the Commission, the Exchange, and other interested persons to evaluate whether the CP Program has resulted in the intended benefits it is designed to achieve, any unintended consequences resulting from the CP Program, and the extent to which the CP Program alleviates or aggravates the concerns the Commission has noted, including previously-stated Commission concerns relating to issuer payments to market makers.[86]

For example, the Exchange and the Commission will look to assess what impact, if any, there is on the market quality of ETPs that withdraw or are otherwise terminated from the CP Program. One way for an ETP to be terminated from the CP Program is if it exceeds the 1,000,000 CADV threshold included within the rules. The Commission recognizes that the CP Program may not, in the one-year pilot period, produce sufficient data (*i.e.,* a large number of ETPs that enter and exit the Program) to allow a full assessment of whether termination (or withdrawal) of an ETP from the Program has resulted in any unintended consequences on the market quality of the ETP or otherwise. However, the Commission believes that the proposal strikes a reasonable balance between (i) setting the threshold for ''graduation'' from the CP Program high enough to encourage participation in the Program and (ii) setting the threshold low enough to have a sufficient number of ETPs graduate from the CP Program within the pilot period so that the Exchange, the Commission, and other interested persons can assess the impact, if any, of the CP Program, including ''graduation'' of ETPs from the Program.

Furthermore, the pilot structure of the CP Program will provide information to help determine whether any provisions of the CP Program should be modified. For example, based on data from the pilot, the Exchange may determine that the 1,000,000 CADV termination threshold is not an appropriate threshold on which to base eligibility for the Program or that the Program should be time-limited.

The Commission believes that the design of the CP Program and the public disclosure requirements, coupled with implementation of the proposal on a pilot basis, should help mitigate potential concerns the Commission has noted above relating to any unintended or negative effects of the CP Program on the ETP market and investors.

The Commission has previously expressed concerns relating to payments by issuers to market makers. FINRA Rule 5250 (formerly NASD Rule 2460) prohibits FINRA members and their associated persons from directly or indirectly accepting any payment from an issuer for acting as a market maker.[87] FINRA Rule 5250 was implemented, in part, to address concerns about issuers paying market makers, directly or indirectly, to improperly influence the price of an issuer's stock and because of conflict of interest concerns between issuers and market makers.[88] FINRA Rule 5250 was designed to preserve ''the integrity of the marketplace by ensuring that quotations accurately reflect a broker-dealer's interest in buying or selling a security.'' [89] Specifically, in the NASD Rule 2460 Approval Order, the Commission found that the

> decision by a firm to make a market in a given security and the question of price generally are dependent on a number of factors, including, among others, supply and demand, the firm's expectations toward the market, its current inventory position, and exposure to risk and competition. This decision should not be influenced by payments to the member from issuers or promoters. Public investors expect broker-dealers' quotations to be based on the factors described above. If payments to broker-dealers by promoters and issuers were permitted, investors would not be able to ascertain which quotations in the marketplace are based on actual interest and which quotations are supported by issuers or promoters. This structure would harm investor confidence in the overall integrity of the marketplace.[90]

The Commission also added that ''such payments may be viewed as a conflict of interest since they may influence the member's decision as to whether to quote or make a market in a security and, thereafter, the prices that the member would quote.'' [91]

The Commission believes that a number of aspects of the CP Program mitigate the concerns that FINRA Rule 5250 was designed to address. First, the Commission believes that the terms of the CP Program are generally objective, clear, and transparent. The standards for the CP Program are set forth in proposed NYSE Arca Equities Rule 7.25 and the Exchange's Listing Fee Schedule and Trading Fee Schedule (further described above) [92] and describe the ETP eligibility criteria, application process, fee and payment structure, CP performance standards, CP Payment allocation, and withdrawal standards. These requirements apply to all ETPs, issuers, and CPs participating in the CP Program.[93]

[85] *See supra* note 75 and accompanying text.

[86] *See infra* notes 88–91 and accompanying text.

[87] FINRA has amended Rule 5250 to create an exception for payments to members that are expressly provided for under the rules of a national securities exchange that are effective after being filed with, or filed with and approved by, the Commission pursuant to the requirements of the Act. *See* Securities Exchange Act Release No. 69398 (Apr. 18, 2013), 78 FR 24261 (Apr. 24, 2013). This amendment to FINRA Rule 5250 became effective May 15, 2013.

[88] *See* Securities Exchange Act Release No. 38812 (July 3, 1997), 62 FR 37105 (July 10, 1997) (SR–NASD–97–29) (''NASD Rule 2460 Approval Order''), at 37107.

[89] *See id.* at 37107.

[90] *See id.*

[91] *See id.* at 37106.

[92] *See supra* Section I.

[93] While the Exchange will have some amount of discretion pursuant to the proposed rules to limit the number of ETPs that any one issuer may have in the CP Program, the Commission believes such limit would not be unfairly discriminatory, as it would be imposed on a Program-wide basis.

Second, the Exchange also will provide notification on its public Web site regarding the various aspects of the CP Program. As discussed above, this disclosure will include: (i) The ETPs participating in the CP Program and the CPs assigned to each participating ETP; (ii) the date a particular ETP begins participating or ceases participating in the CP Program; (iii) the date the Exchange receives written notice of an issuer's intent to withdraw its ETP from the CP Program, or a CP's intent to withdraw from its ETP assignment(s) in the CP Program, and, in each case, the intended withdrawal date, if provided; (iv) the amount of the CP Program Fee for each ETP; and (v) a fair and balanced description of the CP Program, including the potential benefits and risks that may be attendant with an ETP's participation in the Program. In addition, an issuer of an ETP participating in the CP Program will be required to issue a press release when an ETP commences or ceases participation in the CP Program, to post such press release on its Web site, and to provide on its Web site a hyperlink to the Exchange's Web page describing the CP Program.

And third, ETPs participating in the CP Program will be traded on the Exchange, which is a regulated market, pursuant to the current trading and reporting rules of the Exchange, and pursuant to the Exchange's established market surveillance and trade monitoring procedures. The Exchange will administer the application and acceptance of the ETPs and CPs into the CP Program, as well as the continuation in and withdrawal from the Program. The Exchange will collect the CP Program Fees from issuers and credit them to the Exchange's general revenues. A CP will be eligible to receive a CP Payment from the Exchange's general revenues only after it meets the proposed CP quoting requirements, as determined by the Exchange. Furthermore, the CP Program Fees will be paid into the Exchange's general revenues, and the CP Payments will be paid out of the Exchange's general revenues. If no eligible CP exists for particular ETP on a particular day, no CP Payment will be provided on that day. If the assigned CPs in a particular ETP do not satisfy their daily or monthly quoting requirements in any given day or month in a quarter, the issuer will not receive any credit from the Exchange following the end of the quarter. If an issuer does not pay its quarterly installment of the CP Program Fee for a particular ETP to the Exchange on time and the ETP continues to be included in the CP Program, the Exchange will continue to credit CPs in accordance with the Trading Fee Schedule. The Commission believes that these factors, taken together, should help to mitigate the conflict of interest and other concerns that the Commission has previously identified [94] relating to issuers paying for market making.

The Commission believes that it is reasonable and consistent with the Act for the Exchange to limit the CP Program to certain types of securities to allow the Exchange, through a pilot, to assess whether the Program will have the desired effect of improving the market quality of these securities before implementing the Program on a permanent basis. The Commission believes that it is reasonable and consistent with the Act for the Exchange to limit the CP Program to products under the 1,000,000 CADV threshold, to support the Exchange's stated purpose to ''incentivize Market Makers on the Exchange to quote and trade in certain low-volume ETPs.'' [95]

The Commission believes that the CP Program Fees are an equitable allocation of reasonable fees. First, participation in the CP Program is voluntary. An entity is free to determine whether it would be economically desirable to pay the CP Program Fee, given the permitted range of the fee, the trading characteristics of the ETP, and the anticipated benefit. If an issuer chooses to participate in the CP Program with respect to an ETP, it will have the discretion to determine the amount of the CP Program Fee it will pay, between $50,000 and $100,000. The CP Program Fee will be paid for by either the issuer that has an ETP participating in the CP Program or the sponsor associated with such issuer. Thus, the CP Program Fee will be incurred and paid for by an entity that has chosen to participate in, and that may potentially benefit from, the CP Program.[96] An entity that chooses not to participate will not be required to pay any additional fee beyond the standard listing and annual fees. Further, the permitted range of CP Program Fees will be the same for any issuer wishing to participate in the Program. The Commission also believes that allowing the issuer some discretion when determining the amount of the CP Program Fee amount is consistent with the Act. Not all ETPs are alike, and trading in certain products may be riskier or more costly than trading in others. The Commission believes that it is reasonable to allow each issuer to choose to participate in the Program and to determine the amount, subject to a permitted range, at which it is desirable to incentivize CPs through the CP Program Fee to improve the market quality of ETPs participating in the Program. Finally, as discussed above, the payment of the CP Program Fee will be transparent to the marketplace, as this information will be disclosed on the Exchange's Web site.

Section 11(d)(1) of the Exchange Act

Section 11(d)(1) of the Exchange Act [97] generally prohibits a broker-dealer from extending or maintaining credit, or arranging for the extension or maintenance of credit, on shares of new issue securities, if the broker-dealer participated in the distribution of the new issue securities within the preceding 30 days. The Commission's view is that shares of open-end investment companies and unit investment trusts registered under the 1940 Act, such as ETP shares, are distributed in a continuous manner, and broker-dealers that sell such securities are therefore participating in the ''distribution'' of a new issue for purposes of Section 11(d)(1).[98]

The Division of Trading and Markets, acting under delegated authority, granted an exemption from Section 11(d)(1) and Rule 11d1–2 thereunder for broker-dealers that have entered into an agreement with an exchange-traded fund's distributor to place orders with

[94] *See* NASD Rule 2460 Approval Order, *supra* note 88, and *supra* notes 88–91. *See also* Securities Act Release No. 6334 (Aug. 6, 1981), 46 FR 42001 (Aug. 18, 1981), at Section IV.B (Treatment as Statutory Underwriter).

[95] *See* Notice, *supra* note 3, at 78427.

[96] Issuers of exchange-traded funds registered under the 1940 Act are prohibited from paying directly or indirectly for distribution of their shares (*i.e.,* directly or indirectly financing any activity that is primarily intended to result in the sale of shares), unless such payments are made pursuant to a plan that meets the requirements of Rule 12b–1 under the 1940 Act. Although the services at issue could be primarily intended to result in the sale of fund shares, the Commission has stated that such a determination will depend on the surrounding circumstances. *See Payment of Asset-Based Sales Loads by Registered Open-End Management Investment Companies,* Investment Company Act Release No. 16431 (June 13, 1988) (''1988 12b–1 Release''). As the Commission has noted previously, if a fund makes payments that are ostensibly for a non-distribution purpose, and the recipient of those payments finances distribution, the question arises whether the fund's assets are being used indirectly for distribution. The Commission has stated that there can be no precise definition of what types of expenditures constitute indirect use of fund assets, and this determination is based on the facts and circumstances of each individual case. In addition, fund directors, particularly independent directors bear substantial responsibility for making that judgment. *See Bearing of Distribution Expenses by Mutual Funds,* Investment Company Act Release No. 11414 (October 28, 1980).

[97] 15 U.S.C. 78k(d)(1)

[98] *See, e.g.,* Exchange Act Release Nos. 6726 (Feb. 8, 1962), 27 FR 1415 (Feb. 15, 1962) and 21577 (Dec. 18, 1984), 49 FR 50174 (Dec. 27, 1984).

the distributor to purchase or redeem the exchange-traded fund's shares (''Broker-Dealer APs).[99] The SIA Exemption allows a Broker-Dealer AP to extend or maintain credit, or arrange for the extension or maintenance of credit, to or for customers on the shares of qualifying exchange-traded funds subject to the condition that neither the Broker-Dealer AP, nor any natural person associated with the Broker-Dealer AP, directly or indirectly (including through any affiliate of the Broker-Dealer AP), receives from the fund complex any payment, compensation, or other economic incentive to promote or sell the shares of the exchange-traded fund to persons outside the fund complex, other than non-cash compensation permitted under NASD Rule 2830(l)(5)(A), (B), or (C). This condition is intended to eliminate special incentives that Broker-Dealer APs and their associated persons might otherwise have to ''push'' exchange-traded fund shares.[100]

The CP Program will permit certain ETPs to voluntarily incur increased listing fees payable to the Exchange. In turn, the Exchange will use the fees to make CP Payments to market makers that improve the liquidity of participating issuers' securities, and thus enhance the market quality for the participating issuers. CP Payments will be accrued for, among other things, maintaining continuous, two-sided displayed quotes or orders. Receipt of the CP Payments by certain broker-dealers will implicate the conditions of the SIA Exemption [101] from the new issue lending restriction in Section 11(d)(1) of the Exchange Act discussed above. The Commission's view is that the CP Payments market makers will receive under the proposal are indirect payments from the fund complex to the market maker and that those payments are compensation to promote the shares of the ETP. Therefore, a market maker that is also a broker-dealer receiving the incentives will not be able to rely on the SIA Exemption from Section 11(d)(1).[102] This does not mean that broker-dealers cannot participate in the CP Program; it merely means they cannot rely on the SIA Exemption [103] while doing so. Thus, broker-dealers that participate in the CP Program will need to comply with Section 11(d)(1) unless there is another applicable exemption.

[99] *See* Letter from Catherine McGuire, Chief Counsel, Division of Trading and Markets, Securities and Exchange Commission to Securities Industry Association (Nov. 21, 2005) (''SIA Exemption'').

[100] Trading and markets staff provided no-action relief from Section 11(d)(1) for broker-dealers engaging in secondary market proprietary or customer transactions in securities of Commodity-based Exchange-Traded Trusts (''CBETTs'') similar to the Commission's SIA Exemption. This relief is conditioned on the broker-dealer and any natural person associated with the broker-dealer not receiving from the Fund complex, directly or indirectly, any payment, compensation or other economic incentive to promote or sell Shares to persons outside of the Fund complex, other than non-cash compensation permitted under NASD Rule 2830(1)(5)(A), (B), or (C). *See* No-Action Letter re: DB Commodity Index Tracking Fund and DB Commodity Services LLC (Jan. 19, 2006); No-Action Letter re: Rydex Specialized Products LLC (Dec. 5, 2005); No-Action Letter re: streetTRACKS Gold Trust (Dec. 12, 2005); and No-Action Letter re: iShares COMEX Gold Trust (Dec. 12, 2005).

[101] *See also* note 100, *supra.*

[102] *Id.*

[103] *Id.*

III. Solicitation of Comments on Amendment No. 2

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 2 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2013–141 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–141. 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–NYSEArca–2013–141 and should be submitted on or before April 22, 2014.

IV. Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 2

As discussed above, the Exchange submitted Amendment No. 2 to (i) change, from two-million shares to one-million shares, the CADV threshold applicable to participation eligibility in the proposed CP Program; (ii) change the CP Program Fee from a fixed amount of $50,000 to a range of $50,000 to $100,000, as determined exclusively by the issuer; and (iii) clarify that the CP Program Fee cannot be refunded to an issuer. The Commission believes that the modification to the CADV threshold and the clarification regarding the CP Program Fee in Amendment No. 2 cause the proposed CP Program to more closely mirror the respective features of the Exchange's existing pilot ETP Incentive Program under NYSE Arca Equities Rule 8.800. In addition, the modification in Amendment No. 2 to the CP Program Fee causes it to be similar to the fee imposed by another exchange in a similar program.[104] Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[105] for approving the proposed rule change, as modified by Amendment No. 2, prior to the 30th day after the date of publication of notice in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[106] that the proposed rule change (SR–NYSEArca–2013–141), as modified by Amendment No. 2 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[107]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07187 Filed 3–31–14; 8:45 am]

BILLING CODE 8011–01–P

[104] *See* Nasdaq Rule 5950(b)(2).

[105] 15 U.S.C. 78s(b)(2).

[106] 15 U.S.C. 78s(b)(2).

[107] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71805]

Order Granting a Limited Exemption From Rule 102 of Regulation M Concerning the NYSE Arca, Inc.'s Crowd Participant Program Pilot

March 26, 2014.

The Securities and Exchange Commission (''Commission'') approved a proposed rule change of the NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') to add new NYSE Arca Equities Rule 7.25 (''New Rule 7.25'') which establishes the Crowd Participant (''CP'') Program (''CP Program'' or ''Program'') effective for one year on a pilot basis. The CP Program permits certain market makers to become CPs, a new class of equity trading permit holders.[1] The Exchange states that the CP Program is designed to incentivize quoting and trading volume in certain low-volume exchange-traded products (''ETPs'') by providing credit to CPs for certain market making activity that is funded by participating issuers and credited to CPs from the Exchange's general revenues.[2] Participating issuers (or sponsors on behalf of the issuer) fund the Program by paying non-refundable ''CP Program Fees,'' which are then credited to the Exchange's general revenues.[3] The Commission believes that payment of the CP Program Fee by the issuer (or a sponsor on behalf of the issuer) for the purpose of incentivizing market makers to participate as a CP in the issuer's securities would constitute an indirect attempt by the issuer to induce a bid for or a purchase of a covered security during a restricted period.[4] As a result, absent exemptive relief, participation in the CP Program by an issuer (or sponsor on behalf of the issuer) would violate Rule 102 of Regulation M.[5] This order grants a limited exemption from Rule 102 of Regulation M solely to permit issuers and sponsors to participate in the Program during the pilot, subject to certain conditions described below.

NYSE Arca stated that the CP Program is designed to incentivize market makers to quote and trade in certain low-volume ETPs.[6] In addition, the Exchange states that the Program is designed to add competition among existing qualified Market Makers on the Exchange.[7] The Exchange states that the CP Program will offer an alternative to the existing Lead Market Maker program on the Exchange and the ETP Incentive Program (under NYSE Arca Equities Rule 8.800) for issuers to consider when determining where to list their securities.[8]

An issuer of an ETP that participates in the CP Program would elect to pay a ''CP Program Fee'' to NYSE Arca in an amount ranging from $50,000 to $100,000 per year, with the actual amount to be determined by the issuer.[9] The CP Program Fee is in addition to the current listing and annual fees applicable to the ETP and is paid by the issuer to the Exchange's general revenues.[10] Subject to the requirements set forth in New Rule 7.25, a CP participating in the CP Program would receive a payment monthly from NYSE Arca (''CP Payment'') in an amount not to exceed the CP Program Fee, less a 5% NYSE Arca administration fee, divided by the number of trading days in the calendar year.[11] The payment structure of the CP Payment is specified in the Trading Fee Schedule and tied to the performance of the CP.[12] If no CP is eligible to receive a CP Payment because the CP Program performance standards were not met by any CP, no CP would receive a CP Payment.[13] The voluntary Program established by New Rule 7.25 will be effective for one year on a pilot basis.[14]

Under New Rule 7.25, NYSE Arca will be required to provide notification on its Web site regarding: (i) The ETPs participating in the CP Program, (ii) the date a particular ETP begins participating in the CP Program, (iii) the date the Exchange receives written notice of an issuer's intent to withdraw its ETP from the CP Program, and the intended withdrawal date, if provided, (iv) the date a particular ETP ceases participating in the CP Program, (v) the CPs assigned to each ETP participating in the CP Program, (vi) the date the Exchange receives written notice of a CP's intent to withdraw from its ETP assignment(s) in the CP Program, and the intended withdrawal date, if provided, and (vii) the amount of the CP Program Fee for each ETP.[15] This page would also include a fair and balanced description of the CP Program, including (i) a description of the CP Program's operation as a pilot, including the effective date thereof, (ii) the potential benefits that may be realized by an ETP's participation in the CP Program, (iii) the potential risks that may be attendant with an ETP's participation in the CP Program, (iv) the potential impact resulting from an ETP's entry into and exit from the CP Program, and (v) how interested parties can request additional information regarding the CP Program and/or the ETPs participating therein.[16] Furthermore, an issuer that is approved to participate in the CP Program shall issue a press release to the public, in a form and manner prescribed by the Exchange, when it commences participation or ceases to participate in the CP Program.[17] Such press release would be issued, if practicable, at least two days before the ETP commences or ceases participation in the CP Program.[18] The issuer also will be required to dedicate space on its Web site, or, if it does not

[1] *See* New Rule 7.25(a) (establishing the requirements to be a CP); *see also* NYSE Arca Equities Rule 1.1(m) and (n) (defining equity trading permits/ETPs and ETP holders) and Securities Exchange Act Release No. 71804 (March 26, 2014) (NYSE Arca 2013–141) (''Approval Order'') (providing more details regarding the Program).

[2] *See* Approval Order. The Approval Order contains a detailed description of the Program. The proposed rule change was published for comment in the **Federal Register** on December 26, 2013. Securities Exchange Act Release No. 71146 (Dec. 19, 2013), 78 FR 78426 (Dec. 26, 2013). The Approval Order grants approval of the proposed rule change, as modified by Amendment No. 2.

[3] The program is similar to other programs, such as NYSE Arca's ''ETP Incentive Program'' and NASDAQ Stock Market LLC's ''Market Quality Program,'' designed to permit ETP issuers to pay incentives to those who make markets in their ETPs. *See* Securities Exchange Act Release No. 69706 (June 6, 2013); 78 FR 35340 (June 12, 2013) (NYSEArca 2013–34) and Securities Exchange Act Release No. 69195 (Mar. 20, 2013); 78 FR 18393 (Mar. 26, 2013) (NASDAQ 2012–137); *see also* Securities Exchange Act Release No. 69707 (June 6, 2013); 78 FR 35330 (June 12, 2013) (approving a limited exception from Rule 102 of Regulation M concerning NYSE Arca's ETP Incentive Program pilot) and Securities Exchange Act Release No. 69196 (Mar. 20, 2013); 78 FR 18410 (Mar. 26, 2013) (approving a limited exception from Rule 102 of Regulation M concerning NASDAQ Stock Market LLC's Market Quality Program pilot).

[4] *See* Securities Exchange Act Release No. 67411 (July 11, 2012), 77 FR 42052 (July 17, 2012) (stating that ''[t]he Commission believes that issuer payments made under the [similar ETP Incentive and Market Quality Programs] would constitute an indirect attempt by the issuer of a covered security to induce a purchase or bid in a covered security during a restricted period in violation of Rule 102'' and that ''[u]nder the [similar ETP Incentive Program], the purpose of the Program is 'to create [an incentive program] for issuers of certain ETPs listed' on NYSE Arca, which . . . could induce bids or purchases for the issuer's security during a restricted period''). Similarly, the issuer pays for the CP Program for the stated purpose of incentivizing market makers to quote and trade in certain low-volume ETPs, which also could induce bids or purchases for the issuer's security during a restricted period. *See* Approval Order.

[5] 17 CFR 242.102.

[6] *See* Approval Order.

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] Preamble to New Rule 7.25.

[15] New Rule 7.25(c)(4).

[16] *Id.*

[17] New Rule 7.25(c)(5).

[18] *Id.*

have a Web site, on the Web site of the adviser or sponsor of the ETP, to (i) include any such press releases and (ii) provide a hyperlink to the dedicated page on NYSE Arca's Web site that describes the Program.[19]

The Commission received no comments on the proposal.[20] However, certain commenters expressed concerns about similar ETP Incentive and Market Quality Programs,[21] including the departure from rules precluding market makers from directly or indirectly accepting payment from an issuer of a security for acting as a market maker.[22] In particular, commenters to those similar proposals discussed the potential distortive impact on the natural market forces of supply and demand.[23] Commenters to those proposals also discussed what they viewed as the failure of those programs, as originally conceived, to adequately mitigate their potential negative impacts.[24]

One commenter stated that ''[i]ssuer payments to market makers have the potential to distort market forces, resulting in spreads and prices that do not reflect actual supply and demand.'' [25] One commenter questioned whether any safeguards could alleviate their concerns regarding issuer payments to market makers.[26] Another commenter questioned whether information relating to the similar Market Quality Program posted to that exchange's Web site in a similar manner as required in New Rule 7.25(c)(4) by NYSE Arca would adequately address investor protection and market integrity concerns because investors may not search an exchange Web site for important information about a particular ETP.[27]

Rule 102 of Regulation M

Rule 102 of Regulation M prohibits issuers, selling security holders, or any affiliated purchaser of such persons, directly or indirectly, from bidding for, purchasing, or attempting to induce any person to bid for or purchase a covered security [28] during the applicable restricted period in connection with a distribution of securities effected by or on behalf of an issuer or selling security holder, except as specifically permitted in the rule.[29] As mentioned above, the Commission believes that the payment of the CP Program Fee would constitute an indirect attempt to induce a bid for or purchase of a covered security during the applicable restricted period.[30] As a result, absent exemptive relief, participation in the Program by a sponsor or issuer would violate Rule 102.

On the basis of the conditions set out below and the requirements set forth in New Rule 7.25, which in general are designed to help inform investors about the potential impact of the Program, the Commission finds that it is appropriate in the public interest, and is consistent with the protection of investors, to grant a limited exemption from Rule 102 of Regulation M solely to permit the payment of the CP Program Fee as set forth in New Rule 7.25 during the pilot.[31] This limited exemption is conditioned on a requirement that the security participating in the Program is an ETP and the secondary market price for shares of the ETP must not vary substantially from the net asset value of such ETP shares during the duration of the ETP's participation in the Program. This condition is designed to limit the Program to ETPs that have a pricing mechanism that is expected to keep the price of the ETP shares tracking the net asset value of the ETP shares, which should make the shares less susceptible to price manipulation.

This limited exemption is further conditioned on disclosure requirements, as set forth below, which are designed to alert potential investors that the trading market for the otherwise less liquid securities in the Program may be affected by participation in the Program. By making it easier for investors to be able to distinguish which quotations may have been influenced by the CP Program Fee from those that have not, and by requiring the issuers and sponsors to provide information on the potential effect of Program participation on the price and liquidity of a security participating in the Program, the required enhanced disclosure requirements are designed to inform potential investors about the potential distortive impact of the CP Program Fee on the natural market forces of supply and demand. The general disclosures required by New Rule 7.25, while helpful, may not be sufficient to obtain this result.[32] The required enhanced disclosures are expected to promote greater investor protection by helping to ensure that investors will have easier access to important information about a particular ETP.[33]

As a practical matter, these requirements are not intended to be duplicative with the issuer disclosures required by New Rule 7.25. These requirements can be satisfied via the press release and dedicated Web page

[19] *Id.*

[20] *See* Approval Order.

[21] *See* note 2, *supra.*

[22] *See, e.g.,* Letter from Gus Sauter, Managing Director and Chief Investment Officer, Vanguard, dated June 7, 2012 (citing to his comment letter regarding the similar NASDAQ Market Quality Program, in which he stated, ''The additional factor of payments by an issuer to a market maker would probably be viewed as a conflict of interest since it would undoubtedly influence, to some degree, a firm's decision to make a market and thereafter, perhaps, the prices it would quote. Hence, what might appear to be independent trading activity may well be illusory.''). In addition, another commenter noted ''that market maker incentive programs, such as the [then-proposed Program], represent a departure from the current rules precluding market makers from accepting payment from an issuer of a security for acting as a market marker'' yet supported the concept of market maker incentive programs on a pilot basis. Letter from Ari Burstein, Investment Company Institute (''ICI''), dated June 7, 2012. In a subsequent letter, however, the same commenter noted that certain of its members opposed the Program as originally proposed and stated that it ''could create a 'pay-to-play' environment.'' Letter from Ari Burstein, ICI, dated Aug. 16, 2012. The Approval Order also notes that a number of aspects of the Program mitigate the concerns that the rule in question, FINRA Rule 5250 (Payments for Market Making), were designed to address.

[23] *See, e.g.,* Letter from F. William McNabb, Chairman and Chief Executive Officer, Vanguard, dated Aug. 16, 2012.

[24] *See, e.g.,* Letter from Gus Sauter, Managing Director and Chief Investment Officer, Vanguard, dated June 7, 2012.

[25] Letter from F. William McNabb, Chairman and Chief Executive Officer, Vanguard, dated Aug. 16, 2012.

[26] Letter from Ari Burstein, ICI, dated Aug. 16, 2012 (stating that ''ICI members who oppose the Programs believe any fixes to the proposed parameters will be insufficient to address their overall concerns with market maker incentive programs'').

[27] Letter from Gus Sauter, Managing Director and Chief Investment Officer, Vanguard, dated (May 3, 2012) (asking whether it is likely that investors would consult NASDAQ's Web site for information about which ETFs and market makers are participating in the NASDAQ Market Quality Program given what is known about investor behavior and, if not, asserting that ''most investors would not be able to distinguish quotations that reflect true market forces from quotations that have been influenced by issuer payments'').

[28] Covered security is defined as any security that is the subject of a distribution, or any reference security. 17 CFR 242.100(b).

[29] 17 CFR 242.102(a).

[30] *See* note 3, *supra.*

[31] Rule 102(e) allows the Commission to grant an exemption from the provision of Rule 102, either unconditionally or on specified terms and conditions, to any transaction or class of transactions, or to any security or class of securities.

[32] New Rule 7.25(c)(5) does not contain any specific content requirements for issuer or sponsor disclosure, other than a ''press release'' when entering or leaving the Program and a hyperlink on a dedicated issuer, advisor, or sponsor's Web page to the Exchange's Web site that contains a number of specific disclosures about the program. As outlined below, the enhanced disclosures required of the issuer or sponsor as conditions to this order require that the issuer's or sponsor's press release and Web page directly contain a number of helpful disclosures for investors, including risks of the program.

[33] The required Web site and press release disclosures should be less burdensome than other methods of notifying investors of a security's participation in the Program, such as requiring a ticker symbol identifier or flagging participating CP quotes and trades.

required by New Rule 7.25(c)(5), however. These materials must contain all the required disclosures outlined below, and be in the manner stated in the condition, in addition to any requirements of the Exchange. Issuers or sponsors of products that are not registered under the Investment Company Act of 1940, as amended (''1940 Act''), may also meet the press release requirements of these enhanced disclosures in a manner compliant with Regulation FD (other than Web site only disclosure).[34] We also note that, to the extent that information about participation in the Program is material, disclosure of this kind may already be required by the federal securities laws and rules.

Conclusion

It is therefore ordered, that issuers or sponsors who pay a CP Program Fee are hereby exempted from Rule 102 of Regulation M solely to permit the payment of the CP Program Fee as set forth in New Rule 7.25 in connection with a security participating in the Program during the pilot, subject to the conditions contained in this order and compliance with the requirements of New Rule 7.25.

This exemption is subject to the following conditions:

1. The security participating in the Program is an ETP and the secondary market price for shares of the ETP must not vary substantially from the net asset value of such ETP shares during the duration of the security's participation in the Program;

2. The issuer of the participating ETP, or sponsor on behalf of the issuer, must provide prompt notice to the public by broadly disseminating a press release prior to entry (or upon re-entry) into the Program. This press release must disclose:

a. The payment of a CP Program Fee is intended to generate more quotes and trading than might otherwise exist absent this payment, and that the security leaving the Program may adversely impact a purchaser's subsequent sale of the security; and

b. A hyperlink to the Web page described in condition (5) below;

3. The issuer of the participating ETP, or sponsor on behalf of the issuer, must provide prompt notice to the public by broadly disseminating a press release prior to a security leaving the Program for any reason, including termination of the Program. This press release must disclose:

a. The date that the security is leaving the Program and that leaving the Program may have a negative impact on the price and liquidity of the security which could adversely impact a purchaser's subsequent sale of the security; and

b. A hyperlink to the Web page described in condition (5) below;

4. In place of the press releases required by conditions (2) and (3) above, an issuer of a participating ETP that is not registered under the 1940 Act, or sponsor on behalf of the issuer, may provide prompt notice to the public through the use of such other written Regulation FD compliant methods (other than Web site disclosure only) that is designed to provide broad public dissemination as provided in 17 CFR 243.101(e), *provided, however,* that such other methods must contain all the information required to be disclosed by conditions (2) and (3) above;

5. The issuer of the participating ETP, or sponsor on behalf of the issuer, must provide prompt, prominent and continuous disclosure on its Web site in the location generally used to communicate information to investors about a particular security participating in the Program, and for a security that has a separate Web site, the security's Web site of:

a. The security participating in the Program and ticker, date of entry into the Program, and the amount of the CP Program Fee;

b. Risk factors investors should consider when making an investment decision, including that participation in the Program may have potential impacts on the price and liquidity of the security; and

c. Termination date of the pilot, anticipated date (if any) of the security leaving the Program for any reason, date of actual exit (if applicable), and that the security leaving the Program could adversely impact a purchaser's subsequent sale of the security; and

6. The Web site disclosure in condition (5) above must be promptly updated if a material change occurs with respect to any information contained in the disclosure.

This exemptive relief expires when the pilot terminates, and is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. This exemptive relief is limited solely to the payment of the CP Program Fee as set forth in New Rule 7.25 for a security that is an ETP participating in the Program,[35] and does not extend to any other activities, any other security of the trust related to the participating ETP, or any other issuers.[36] In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a) and 10(b), and Rule 10b–5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This order does not represent Commission views with respect to any other question that the proposed activities may raise, including, but not limited to the adequacy of the disclosure required by federal securities laws and rules, and the applicability of other federal or state laws and rules to, the proposed activities.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Kevin M. O'Neill,

Deputy Secretary.

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[34] *See* condition (4), *infra.*

[35] All ETPs that are allowed to participate in the Program have a pool of underlying assets. *See* New Rule 7.25(b)(2). Should the program be modified to include other ETPs, such as exchange-traded notes, that do not have a pool of underlying assets, the Commission would consider this a material change and outside the scope of this exemptive relief.

[36] Other activities, such as ETP redemptions, are not covered by this exemptive relief.

[37] 17 CFR 200.30–3(a)(6).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71811; File No. SR–EDGA–2014–007]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 12.6 to Conform to FINRA Rule 5320, BATS Rule 12.6 and BATS–Y Rule 12.6 Relating to Trading Ahead of Customer Orders

March 26, 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 March 21, 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 and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 is filing with the Commission a proposal to amend Rule 12.6, Customer Priority, to make it substantially similar to Financial Industry Regulatory Authority, Inc. (''FINRA'') Rule 5320, BATS Exchange, Inc. (''BATS'') Rule 12.6 and BATS–Y Exchange, Inc. (''BYX'') Rule 12.6. 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 12.6, which limits trading ahead of customer orders by Members,[3] to make the rule substantially similar to FINRA Rule 5320,[4] BATS Rule 12.6 and BYX Rule 12.6.[5]

On January 31, 2014, Direct Edge Holdings LLC (''DE Holdings''), the former parent company of the Exchange, completed its business combination with BATS Global Markets, Inc., the parent company of BATS and BYX.[6] As part of its effort to reduce regulatory duplication and relieve firms that are members of the Exchange, BATS, and BYX of conflicting or unnecessary regulatory burdens, the Exchange is now engaged in the process of reviewing and amending certain Exchange, BATS, and BYX Rules.

In addition, pursuant to Rule 17d–2 under the Act,[7] the Exchange and FINRA entered into an agreement to allocate regulatory responsibility for common rules (the ''17d–2 Agreement''). The 17d–2 Agreement covers common members of the Exchange and FINRA and allocates to FINRA regulatory responsibility, with respect to common members, for the following: (i) Examination of common members of the Exchange and FINRA for compliance with federal securities laws, rules and regulations and rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules; (ii) investigation of common members of EDGA and FINRA for violations of federal securities laws, rules or regulations, or Exchange rules that the Exchange has certified as identical or substantially identical to a FINRA rule; and (iii) enforcement of compliance by common members with the federal securities laws, rules and regulations, and the rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules.[8] The 17d–2 Agreement included a certification by the Exchange that states that the requirements contained in certain Exchange rules are identical to, or substantially similar to, certain FINRA rules that have been identified as comparable.

To conform to comparable FINRA rules for purposes of the 17d–2 Agreement, as well as BATS and BYX rules for purposes of its harmonization efforts due to its business combination, the Exchange proposes to amend Rule 12.6, Customer Priority, to align with FINRA Rule 5320, BATS Rule 12.6, and BYX Rule 12.6.

As with FINRA Rule 5320, BATS Rule 12.6 and BYX Rule 12.6, amended Rule 12.6 would prohibit Members from trading ahead of customer orders, subject to specified exceptions. The amended rule would include exceptions for large orders and institutional accounts, proprietary transactions effected by a trading unit of a Member with no knowledge of customer orders held by another trading unit of the Member, riskless principal transactions, intermarket sweep orders (''ISOs''), and odd lot and bona fide error transactions, discussed in detail below. Amended Rule 12.6 would also provide the same guidance as FINRA Rule 5320, BATS Rule 12.6 and BYX Rule 12.6, on minimum price improvement standards, order handling procedures, and trading outside normal market hours.

Background

Current Rule 12.6, the customer order protection rule, generally prohibits Members from trading on a proprietary basis ahead of, or along with, customer orders that are executable at the same price as the proprietary order. The rule contains several exceptions that make it permissible for a Member to enter a proprietary order while representing a customer order that could be executed at the same price, including permitting transactions for the purposes of facilitating the execution, on a riskless principal basis, of one or more customer orders.

Proposal To Adopt Text of FINRA Rule 5320, BATS Rule 12.6 and BYX Rule 12.6

To harmonize its rules with FINRA, BATS, and BYX, the Exchange proposes to delete the current text of Rule 12.6 and its supplementary material and adopt the text and supplementary material of FINRA Rule 5320, with certain technical changes, as Rule 12.6. The proposed text of proposed Rule 12.6 would be identical to the text of BATS Rule 12.6 and BYX Rule 12.6. FINRA Rule 5320, BATS Rule 12.6, and BYX Rule 12.6 generally provide that a member that accepts and holds an order in an equity security from its own customer, or a customer of another broker-dealer, without immediately executing the order is prohibited from trading that security on the same side of the market for its own account at a price that would satisfy the customer order, unless it immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account.

Exceptions

Amended Rule 12.6 would include exceptions to the prohibition against trading ahead of customer orders. That

[3] The term ''Member'' is defined 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. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 63895 (February 11, 2011), 76 FR 9386 (February 17, 2011) (SR–FINRA–2009–090).

[5] *See* Securities Exchange Act Release No. 70952 (November 27, 2013), 78 FR 72949 (December 4, 2013) (SR–BATS–2013–056) (order approving proposal to amend BATS Rule 12.6); *see also* Securities Exchange Act Release No. 70951 (November 27, 2013), 78 FR 72944 (December 4, 2013) (SR–BYX–2013–036) (order approving proposal to amend Rule 12.6).

[6] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGA–2013–34). Upon completion of the Combination, DE Holdings and BATS Global Markets, Inc. each became intermediate holding companies, held under a single new holding company. The new holding company, formerly named ''BATS Global Markets Holdings, Inc.,'' changed its name to ''BATS Global Markets, Inc.''

[7] 17 CFR 240.17d-2.

[8] *See* Securities Exchange Act Release No. 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (approving File No. 10–196).

is, a Member that meets the conditions of an exception would be permitted to trade a security on the same side of the market for its own account at a price that would satisfy a customer order in certain circumstances. The exceptions are set out below.

Large Orders and Institutional Accounts

One exception would permit a Member to negotiate terms and conditions with respect to the acceptance of certain large-sized orders (orders of 10,000 shares or more unless such orders are less than $100,000 in value) or orders from institutional accounts. The term ''institutional account'' will be defined in accordance with FINRA Rule 4512(c) and Interpretation and Policy .01 under both BATS and BYX Rules 12.6. That is, an institutional account will be defined as the account of: (1) A bank, savings and loan association, insurance company or registered investment company; (2) an investment adviser registered either with the SEC under Section 203 of the Investment Advisers Act or with a state securities commission (or any agency or office performing like functions); or (3) any other person (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million. This exception would require the Member to provide clear and comprehensive written disclosure to each customer at account opening and annually thereafter that: (a) States that the Member may trade proprietarily at prices that would satisfy the customer order, and (b) provides the customer with a meaningful opportunity to opt in to the Rule 12.6 protections with respect to all or any portion of its order. If a customer does not opt in to the protections with respect to all or any portion of its order, the Member may reasonably conclude that such customer has consented to the Member trading a security on the same side of the market for its own account at a price that would satisfy the customer's order.[9]

In lieu of providing written disclosure to customers at account opening and annually thereafter, the proposed rule would permit Members to provide clear and comprehensive oral disclosure to, and obtain consent from, a customer on an order-by-order basis. The Member would be required to document who provided such consent and that such consent evidences the customer's understanding of the terms and conditions of the order. If a customer opted in to the Rule 12.6 protections, a Member could still obtain consent on an order-by-order basis to trade ahead of or along with an order from that customer, provided that the Member documented who provided such consent and that such consent evidenced the customer's understanding of the terms and conditions of the order.

No-Knowledge Exception

The Exchange is also proposing to include in Interpretation and Policy .02 a ''no-knowledge'' exception to its customer order protection rule. The proposed exception would allow one trading unit of a Member to trade in a proprietary capacity and at prices that would satisfy customer orders held by another, separate trading unit of the Member. The No-Knowledge Exception would be applicable with respect to NMS stocks, as defined in Rule 600 of Regulation NMS under the Act.

To avail itself of the No-Knowledge Exception, a Member would be required to meet certain conditions. First, it would have to implement and utilize an effective system of internal controls (such as appropriate information barriers) that operate to prevent the proprietary trading unit from obtaining knowledge of the customer orders held by a separate trading unit. As proposed, Interpretation and Policy .02 will make clear that appropriate information barriers must, at a minimum, comply with the Exchange's existing requirements regarding the prevention of the misuse of material, non-public information, which are set forth in Exchange Rule 5.5. Second, the Member would have to provide, at account opening and annually thereafter, a written description of how it handles customer orders and the circumstances under which it may trade proprietarily, including in a market-making capacity, at prices that would satisfy the customer order. A Member must maintain records indicating which orders rely on the no-knowledge exception and produce these records to the Exchange upon request. The onus will be on the Member to produce sufficient documentation justifying reliance on the No-Knowledge exception for any given trade. To ensure clarity and transparency regarding this exception and others, the Exchange will be issuing a regulatory notice informing Members of these proposed rule changes. The Exchange will include in the regulatory notice the effective date for the rule as amended, which shall be at least 30 days after the effectiveness of the amendments to Rule 12.6 in order to allow Members to make any necessary changes to their internal policies or processes.

Riskless Principal Exception

Amended Rule 12.6 would not apply to a proprietary trade made by the Member to facilitate the execution, on a riskless principal basis, of another order from a customer (whether its own customer or the customer of another broker-dealer). To take advantage of this exception, the Member would have to: (a) Submit a report, contemporaneously with the execution of the facilitated order, identifying the trade as riskless principal to the Exchange, and (b) have written policies and procedures to ensure that riskless principal transactions relied upon for this exception comply with applicable Exchange rules. At a minimum, these policies and procedures would have to require: (1) Receipt of the customer order before execution of the offsetting principal transaction, and (2) execution of the offsetting principal transaction at the same price as the customer order, exclusive of any markup or markdown, commission equivalent, or other fee and allocation to a riskless principal or customer account in a consistent manner and within 60 seconds of execution.

Members would have to have supervisory systems in place that produce records that enable the Member and the Exchange to reconstruct accurately, readily, and in a time-sequenced manner all orders on which the Member relies in claiming this exception.

ISO Exception

The proposed rule change would also exempt a Member from the obligation to execute a customer order in a manner consistent with Rule 12.6 with regard to trading for its own account when the Member routed an ISO in compliance with Rule 600(b)(30)(ii) of Regulation NMS if the customer order is received after the Member routed the ISO. If a Member routes an ISO to facilitate a customer order, and that customer has consented to not receiving the better prices obtained by the ISO, the Member would also be exempt with respect to any trading for its own account that is the result of the ISO as it pertains to the consenting customer's order.

Odd Lot and Bona Fide Error Exception

The Exchange proposes to except a Member's proprietary trade that: (1) To offset a customer order that is an amount less than a normal unit of trading (*i.e.,* an order less than one round lot, which is typically 100 shares), or (2) corrects a bona fide error.

[9] A customer would retain the right to withdraw consent at any time. Therefore, a Member's reasonable conclusion that a customer has consented to the Member trading along with such customer's order is subject to further instruction and modification from the customer.

With respect to bona fide errors, the Member would be required to demonstrate and document the basis upon which a transaction meets the bona fide error exception. For purposes of this proposed Rule, the Exchange will adopt the definition of ''bona fide error'' found in Regulation NMS's exemption for error correction transactions.[10] Thus, a bona fide error is:

(i) The inaccurate conveyance or execution of any term of an order including, but not limited to, price, number of shares or other unit of trading; identification of the security; identification of the account for which securities are purchased or sold; lost or otherwise misplaced order tickets; short sales that were instead sold long or vice versa; or the execution of an order on the wrong side of a market; (ii) the unauthorized or unintended purchase sale or allocation of securities or the failure to follow specific client instructions; (iii) the incorrect entry of data into relevant systems, including reliance on incorrect cash positions, withdrawals, or securities positions reflected in an account; or (iv) a delay, outage, or failure of a communication system used to transmit market data prices or to facilitate the delivery or execution of an order. [11]

Minimum Price Improvement Standards

The proposed rule change establishes the minimum amount of price improvement necessary for a Member to execute an order on a proprietary basis when holding an unexecuted limit order in that same security without being required to execute the held limit order.

In addition, if the minimum price improvement standards set forth in proposed Interpretation and Policy .06, paragraphs (a) through (g) would trigger the protection of a pending customer limit order, any better-priced customer limit order(s) must also be protected under this Rule, even if those better-priced limit orders would not be directly triggered under these minimum price improvement standards.

Order Handling Procedures

The proposed rule change provides that a Member must make every effort to execute a marketable customer order that it receives fully and promptly. A Member holding a marketable customer order that has not been immediately executed would have to make every effort to cross such order with any other order received by the Member on the other side of the market, up to the size of such order at a price that is no less than the best bid and no greater than the best offer at the time that the subsequent order is received by the Member and that is consistent with the terms of the orders. If a Member were holding multiple orders on both sides of the market that have not been executed, the Member would have to make every effort to cross or otherwise execute such orders in a manner reasonable and consistent with the objectives of the proposed Rule and with the terms of the orders. A Member could satisfy the crossing requirement by contemporaneously buying from the seller and selling to the buyer at the same price.

Trading Outside Normal Market Hours

Under the proposed amendments to Rule 12.6, a Member generally could limit the life of a customer order to the period of normal market hours of 9:30 a.m. to 4:00 p.m. Eastern Time. However, if the customer and Member agreed to the processing of the customer's order outside normal market hours, the protections of amended Rule 12.6 would apply to that customer's order at all times the customer order is executable by the Member.

Statutory Basis

The Exchange believes that its proposal 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 promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that amending the rule to conform to FINRA Rule 5320, BATS Rule 12.6 and BYX Rule 12.6 will contribute to investor protection by defining important parameters by which Members must abide when trading proprietarily while holding customer limit and market orders, and foster cooperation by harmonizing requirements across self-regulatory organizations. The Exchange also believes that including this rule will reinforce the importance of and ensure that Members are aware of these requirements.

Members who are also members of FINRA, BATS, or BYX are subject to different regulatory standards when seeking to comply with applicable rules regarding customer protection. The Exchange believes that the proposed rule change will provide greater harmonization between similar Exchange and FINRA, BATS, and BYX rules, resulting in greater uniformity and, less burdensome and more efficient regulatory compliance for common members. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would 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 not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposal enhances cooperation among markets and other trading venues to promote fair and orderly markets and to protect the interests of the public and of investors. Specifically, by aligning the Exchange's customer protection rules with those of FINRA, BATS, BYX and other exchanges,[14] the proposed rule change will reduce the complexity of the customer order protection rules for those Members that are also subject to the customer order protection rules of FINRA and other exchanges. As a result, the proposed rule will help assure the protection of customer orders without imposing undue regulatory costs on industry participants. In addition, the proposed rule change is not designed to address any competitive issues but rather is designed to provide greater harmonization among similar 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 under the 17d–2 Agreement.

[10] Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926, 32927 (June 14, 2007) (Order Exempting Certain Error Correction Transactions from Rule 611 of Regulation NMS under the Securities Exchange Act of 1934).

[11] *Id.*

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *See, e.g.,* Securities Exchange Act Release No. 64418 (May 6, 2011), 76 FR 27735 (May 12, 2011) (SR–CHX–2011–08) (notice of filing and immediate effectiveness of proposed rule change of Chicago Stock Exchange, Inc. to adopt customer order protection language consistent with FINRA Rule 5320); Securities Exchange Act Release No. 65165 (August 18, 2011), 76 FR 53009 (August 24, 2011) (SR–NYSEAmex–2011–59) (notice of filing and immediate effectiveness of proposed rule change of NYSE Amex LLC (now known as NYSE MKT LLC) to adopt customer order protection language that is substantially the same as FINRA Rule 5320); and Securities Exchange Act Release No. 65166 (August 18, 2011), 76 FR 53012 (August 24, 2011) (SR–NYSEArca–2011–57) (notice of filing and immediate effectiveness of proposed rule change of NYSE Arca, Inc. to adopt customer order protection language that is substantially the same as FINRA Rule 5320).

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–2014–007 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–EDGA–2014–007. 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–2014–007 and should be submitted on or before April 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07194 Filed 3–31–14; 8:45 am]

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[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of 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.

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71812; File No. SR–EDGX–2014–008]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 12.6 To Conform to FINRA Rule 5320, BATS Rule 12.6 and BATS–Y Rule 12.6 Relating to Trading Ahead of Customer Orders

March 26, 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 March 21, 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 and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 12.6, Customer Priority, to make it substantially similar to Financial Industry Regulatory Authority, Inc. (''FINRA'') Rule 5320, BATS Exchange, Inc. (''BATS'') Rule 12.6 and BATS–Y Exchange, Inc. (''BYX'') Rule 12.6. 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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.

[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

The Exchange proposes to amend Rule 12.6, which limits trading ahead of customer orders by Members,[3] to make the rule substantially similar to FINRA Rule 5320,[4] BATS Rule 12.6 and BYX Rule 12.6.[5]

On January 31, 2014, Direct Edge Holdings LLC (''DE Holdings''), the former parent company of the Exchange, completed its business combination with BATS Global Markets, Inc., the parent company of BATS and BYX.[6] As part of its effort to reduce regulatory duplication and relieve firms that are members of the Exchange, BATS, and BYX of conflicting or unnecessary regulatory burdens, the Exchange is now engaged in the process of reviewing and amending certain Exchange, BATS, and BYX Rules.

In addition, pursuant to Rule 17d–2 under the Act,[7] the Exchange and FINRA entered into an agreement to allocate regulatory responsibility for common rules (the ''17d–2 Agreement''). The 17d–2 Agreement covers common members of the Exchange and FINRA and allocates to FINRA regulatory responsibility, with respect to common members, for the following: (i) examination of common members of the Exchange and FINRA for compliance with federal securities laws, rules and regulations and rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules; (ii) investigation of common members of EDGX and FINRA for violations of federal securities laws, rules or regulations, or Exchange rules that the Exchange has certified as identical or substantially identical to a FINRA rule; and (iii) enforcement of compliance by common members with the federal securities laws, rules and regulations, and the rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules.[8] The 17d–2 Agreement included a certification by the Exchange that states that the requirements contained in certain Exchange rules are identical to, or substantially similar to, certain FINRA rules that have been identified as comparable.

To conform to comparable FINRA rules for purposes of the 17d–2 Agreement, as well as BATS and BYX rules for purposes of its harmonization efforts due to its business combination, the Exchange proposes to amend Rule 12.6, Customer Priority, to align with FINRA Rule 5320, BATS Rule 12.6, and BYX Rule 12.6.

As with FINRA Rule 5320, BATS Rule 12.6 and BYX Rule 12.6, amended Rule 12.6 would prohibit Members from trading ahead of customer orders, subject to specified exceptions. The amended rule would include exceptions for large orders and institutional accounts, proprietary transactions effected by a trading unit of a Member with no knowledge of customer orders held by another trading unit of the Member, riskless principal transactions, intermarket sweep orders (''ISOs''), and odd lot and bona fide error transactions, discussed in detail below. Amended Rule 12.6 would also provide the same guidance as FINRA Rule 5320, BATS Rule 12.6 and BYX Rule 12.6, on minimum price improvement standards, order handling procedures, and trading outside normal market hours.

Background

Current Rule 12.6, the customer order protection rule, generally prohibits Members from trading on a proprietary basis ahead of, or along with, customer orders that are executable at the same price as the proprietary order. The rule contains several exceptions that make it permissible for a Member to enter a proprietary order while representing a customer order that could be executed at the same price, including permitting transactions for the purposes of facilitating the execution, on a riskless principal basis, of one or more customer orders.

Proposal to Adopt Text of FINRA Rule 5320, BATS Rule 12.6 and BYX Rule 12.6

To harmonize its rules with FINRA, BATS, and BYX, the Exchange proposes to delete the current text of Rule 12.6 and its supplementary material and adopt the text and supplementary material of FINRA Rule 5320, with certain technical changes, as Rule 12.6. The proposed text of proposed Rule 12.6 would be identical to the text of BATS Rule 12.6 and BYX Rule 12.6. FINRA Rule 5320, BATS Rule 12.6, and BYX Rule 12.6 generally provide that a member that accepts and holds an order in an equity security from its own customer, or a customer of another broker-dealer, without immediately executing the order is prohibited from trading that security on the same side of the market for its own account at a price that would satisfy the customer order, unless it immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account.

Exceptions

Amended Rule 12.6 would include exceptions to the prohibition against trading ahead of customer orders. That is, a Member that meets the conditions of an exception would be permitted to trade a security on the same side of the market for its own account at a price that would satisfy a customer order in certain circumstances. The exceptions are set out below.

Large Orders and Institutional Accounts

One exception would permit a Member to negotiate terms and conditions with respect to the acceptance of certain large-sized orders (orders of 10,000 shares or more unless such orders are less than $100,000 in value) or orders from institutional accounts. The term ''institutional account'' will be defined in accordance with FINRA Rule 4512(c) and Interpretation and Policy .01 under both BATS and BYX Rules 12.6. That is, an institutional account will be defined as the account of: (1) A bank, savings and loan association, insurance company or registered investment company; (2) an investment adviser registered either with the SEC under Section 203 of the Investment Advisers Act or with a state securities commission (or any agency or office performing like functions); or (3) any other person (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million. This exception would require the Member to provide clear and comprehensive written disclosure to

[3] The term ''Member'' is defined 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. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 63895 (February 11, 2011), 76 FR 9386 (February 17, 2011) (SR–FINRA–2009–090).

[5] *See* Securities Exchange Act Release No. 70952 (November 27, 2013), 78 FR 72949 (December 4, 2013) (SR–BATS–2013–056) (order approving proposal to amend BATS Rule 12.6); *see also* Securities Exchange Act Release No. 70951 (November 27, 2013), 78 FR 72944 (December 4, 2013) (SR–BYX–2013–036) (order approving proposal to amend Rule 12.6).

[6] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43). Upon completion of the Combination, DE Holdings and BATS Global Markets, Inc. each became intermediate holding companies, held under a single new holding company. The new holding company, formerly named ''BATS Global Markets Holdings, Inc.,'' changed its name to ''BATS Global Markets, Inc.''

[7] 17 CFR 240.17d–2.

[8] *See* Securities Exchange Act Release No. 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (approving File No. 10–196).

each customer at account opening and annually thereafter that: (a) States that the Member may trade proprietarily at prices that would satisfy the customer order, and (b) provides the customer with a meaningful opportunity to opt in to the Rule 12.6 protections with respect to all or any portion of its order. If a customer does not opt in to the protections with respect to all or any portion of its order, the Member may reasonably conclude that such customer has consented to the Member trading a security on the same side of the market for its own account at a price that would satisfy the customer's order.[9]

In lieu of providing written disclosure to customers at account opening and annually thereafter, the proposed rule would permit Members to provide clear and comprehensive oral disclosure to, and obtain consent from, a customer on an order-by-order basis. The Member would be required to document who provided such consent and that such consent evidences the customer's understanding of the terms and conditions of the order. If a customer opted in to the Rule 12.6 protections, a Member could still obtain consent on an order-by-order basis to trade ahead of or along with an order from that customer, provided that the Member documented who provided such consent and that such consent evidenced the customer's understanding of the terms and conditions of the order.

No-Knowledge Exception

The Exchange is also proposing to include in Interpretation and Policy .02 a ''no-knowledge'' exception to its customer order protection rule. The proposed exception would allow one trading unit of a Member to trade in a proprietary capacity and at prices that would satisfy customer orders held by another, separate trading unit of the Member. The No-Knowledge Exception would be applicable with respect to NMS stocks, as defined in Rule 600 of Regulation NMS under the Act.

To avail itself of the No-Knowledge Exception, a Member would be required to meet certain conditions. First, it would have to implement and utilize an effective system of internal controls (such as appropriate information barriers) that operate to prevent the proprietary trading unit from obtaining knowledge of the customer orders held by a separate trading unit. As proposed, Interpretation and Policy .02 will make clear that appropriate information barriers must, at a minimum, comply with the Exchange's existing requirements regarding the prevention of the misuse of material, non-public information, which are set forth in Exchange Rule 5.5. Second, the Member would have to provide, at account opening and annually thereafter, a written description of how it handles customer orders and the circumstances under which it may trade proprietarily, including in a market-making capacity, at prices that would satisfy the customer order. A Member must maintain records indicating which orders rely on the no-knowledge exception and produce these records to the Exchange upon request. The onus will be on the Member to produce sufficient documentation justifying reliance on the No-Knowledge exception for any given trade. To ensure clarity and transparency regarding this exception and others, the Exchange will be issuing a regulatory notice informing Members of these proposed rule changes. The Exchange will include in the regulatory notice the effective date for the rule as amended, which shall be at least 30 days after the effectiveness of the amendments to Rule 12.6 in order to allow Members to make any necessary changes to their internal policies or processes.

Riskless Principal Exception

Amended Rule 12.6 would not apply to a proprietary trade made by the Member to facilitate the execution, on a riskless principal basis, of another order from a customer (whether its own customer or the customer of another broker-dealer). To take advantage of this exception, the Member would have to: (a) Submit a report, contemporaneously with the execution of the facilitated order, identifying the trade as riskless principal to the Exchange, and (b) have written policies and procedures to ensure that riskless principal transactions relied upon for this exception comply with applicable Exchange rules. At a minimum, these policies and procedures would have to require: (1) receipt of the customer order before execution of the offsetting principal transaction, and (2) execution of the offsetting principal transaction at the same price as the customer order, exclusive of any markup or markdown, commission equivalent, or other fee and allocation to a riskless principal or customer account in a consistent manner and within 60 seconds of execution.

Members would have to have supervisory systems in place that produce records that enable the Member and the Exchange to reconstruct accurately, readily, and in a time-sequenced manner all orders on which the Member relies in claiming this exception.

ISO Exception

The proposed rule change would also exempt a Member from the obligation to execute a customer order in a manner consistent with Rule 12.6 with regard to trading for its own account when the Member routed an ISO in compliance with Rule 600(b)(30)(ii) of Regulation NMS if the customer order is received after the Member routed the ISO. If a Member routes an ISO to facilitate a customer order, and that customer has consented to not receiving the better prices obtained by the ISO, the Member would also be exempt with respect to any trading for its own account that is the result of the ISO as it pertains to the consenting customer's order.

Odd Lot and Bona Fide Error Exception

The Exchange proposes to except a Member's proprietary trade that: (1) To offset a customer order that is an amount less than a normal unit of trading (*i.e.,* an order less than one round lot, which is typically 100 shares), or (2) corrects a bona fide error. With respect to bona fide errors, the Member would be required to demonstrate and document the basis upon which a transaction meets the bona fide error exception. For purposes of this proposed Rule, the Exchange will adopt the definition of ''bona fide error'' found in Regulation NMS's exemption for error correction transactions.[10] Thus, a bona fide error is:

(i) The inaccurate conveyance or execution of any term of an order including, but not limited to, price, number of shares or other unit of trading; identification of the security; identification of the account for which securities are purchased or sold; lost or otherwise misplaced order tickets; short sales that were instead sold long or vice versa; or the execution of an order on the wrong side of a market; (ii) the unauthorized or unintended purchase sale or allocation of securities or the failure to follow specific client instructions; (iii) the incorrect entry of data into relevant systems, including reliance on incorrect cash positions, withdrawals, or securities positions reflected in an account; or (iv) a delay, outage, or failure of a communication system used to transmit market data prices or to facilitate the delivery or execution of an order.[11]

[9] A customer would retain the right to withdraw consent at any time. Therefore, a Member's reasonable conclusion that a customer has consented to the Member trading along with such customer's order is subject to further instruction and modification from the customer.

[10] Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926, 32927 (June 14, 2007) (Order Exempting Certain Error Correction Transactions from Rule 611 of Regulation NMS under the Securities Exchange Act of 1934).

[11] *Id.*

Minimum Price Improvement Standards

The proposed rule change establishes the minimum amount of price improvement necessary for a Member to execute an order on a proprietary basis when holding an unexecuted limit order in that same security without being required to execute the held limit order.

In addition, if the minimum price improvement standards set forth in proposed Interpretation and Policy .06, paragraphs (a) through (g) would trigger the protection of a pending customer limit order, any better-priced customer limit order(s) must also be protected under this Rule, even if those better-priced limit orders would not be directly triggered under these minimum price improvement standards.

Order Handling Procedures

The proposed rule change provides that a Member must make every effort to execute a marketable customer order that it receives fully and promptly. A Member holding a marketable customer order that has not been immediately executed would have to make every effort to cross such order with any other order received by the Member on the other side of the market, up to the size of such order at a price that is no less than the best bid and no greater than the best offer at the time that the subsequent order is received by the Member and that is consistent with the terms of the orders. If a Member were holding multiple orders on both sides of the market that have not been executed, the Member would have to make every effort to cross or otherwise execute such orders in a manner reasonable and consistent with the objectives of the proposed Rule and with the terms of the orders. A Member could satisfy the crossing requirement by contemporaneously buying from the seller and selling to the buyer at the same price.

Trading Outside Normal Market Hours

Under the proposed amendments to Rule 12.6, a Member generally could limit the life of a customer order to the period of normal market hours of 9:30 a.m. to 4:00 p.m. Eastern Time. However, if the customer and Member agreed to the processing of the customer's order outside normal market hours, the protections of amended Rule 12.6 would apply to that customer's order at all times the customer order is executable by the Member.

Statutory Basis

The Exchange believes that its proposal 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 promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that amending the rule to conform to FINRA Rule 5320, BATS Rule 12.6 and BYX Rule 12.6 will contribute to investor protection by defining important parameters by which Members must abide when trading proprietarily while holding customer limit and market orders, and foster cooperation by harmonizing requirements across self-regulatory organizations. The Exchange also believes that including this rule will reinforce the importance of and ensure that Members are aware of these requirements.

Members who are also members of FINRA, BATS, or BYX are subject to different regulatory standards when seeking to comply with applicable rules regarding customer protection. The Exchange believes that the proposed rule change will provide greater harmonization between similar Exchange and FINRA, BATS, and BYX rules, resulting in greater uniformity and, less burdensome and more efficient regulatory compliance for common members. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would 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 not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposal enhances cooperation among markets and other trading venues to promote fair and orderly markets and to protect the interests of the public and of investors. Specifically, by aligning the Exchange's customer protection rules with those of FINRA, BATS, BYX and other exchanges,[14] the proposed rule change will reduce the complexity of the customer order protection rules for those Members that are also subject to the customer order protection rules of FINRA and other exchanges. As a result, the proposed rule will help assure the protection of customer orders without imposing undue regulatory costs on industry participants. In addition, the proposed rule change is not designed to address any competitive issues but rather is designed to provide greater harmonization among similar 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 under the 17d–2 Agreement.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18]

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *See, e.g.,* Securities Exchange Act Release No. 64418 (May 6, 2011), 76 FR 27735 (May 12, 2011) (SR–CHX–2011–08) (notice of filing and immediate effectiveness of proposed rule change of Chicago Stock Exchange, Inc. to adopt customer order protection language consistent with FINRA Rule 5320); Securities Exchange Act Release No. 65165 (August 18, 2011), 76 FR 53009 (August 24, 2011) (SR–NYSEAmex–2011–59) (notice of filing and immediate effectiveness of proposed rule change of NYSE Amex LLC (now known as NYSE MKT LLC) to adopt customer order protection language that is substantially the same as FINRA Rule 5320); and Securities Exchange Act Release No. 65166 (August 18, 2011), 76 FR 53012 (August 24, 2011) (SR–NYSEArca–2011–57) (notice of filing and immediate effectiveness of proposed rule change of NYSE Arca, Inc. to adopt customer order protection language that is substantially the same as FINRA Rule 5320).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–2014–008 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–EDGX–2014–008. 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–2014–008 and should be submitted on or before April 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07195 Filed 3–31–14; 8:45 am]

BILLING CODE 8011–01–P

Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of 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.

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71806; File No. SR–ISE–2014–19]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend ISE Rule 2128 Relating to Clearly Erroneous Trades

March 26, 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 March 25, 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. 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 is proposing to extend a pilot program related to Rule 2128, entitled ''Clearly Erroneous Trades.'' 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Trades. Portions of Rule 2128, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[3] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[4]

On September 10, 2010, the Commission approved, on a pilot basis, changes to ISE Rule 2128 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[5] The Exchange also adopted additional changes to Rule 2128 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 2128,[6] and in

[3] *See* Securities Exchange Act Release No. 70510 (Sept. 26, 2013). 78 FR 60991 (Oct. 2, 2013) (SR–ISE–2013–49).

[4] *See* Securities Exchange Act Release No. 67091 (May 31, 2012). 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[5] Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–ISE–2010–62).

[6] *Id.*

2013, adopted a provision designed to address the operation of the Plan.[7]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[9] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that the Financial Industry Regulatory Authority (''FINRA'') and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

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 proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[12]

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.

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–ISE–2014–19 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–2014–19. 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 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 offices of the Exchange. All comments received will

[7] *See* Securities Exchange Act Release No. 68822 (Feb. 4, 2013), 78 FR 9440 (Feb. 8, 2013) (SR–ISE–2013–12); *see also* ISE Rule 2128(i).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(b)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of 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.

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2014–19, and should be submitted on or before April 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07189 Filed 3–31–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71810; File No. SR–ICC–2014–02]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change To Update ICC's Liquidity Thresholds for Euro Denominated Products

March 26, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] notice is hereby given that on March 12, 2014, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to update ICC's liquidity thresholds for Euro denominated products.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed revisions are intended to update ICC's liquidity thresholds for Euro denominated products. ICC will require the first 65% of Clearing Participant Non-Client Initial Margin and Guaranty Fund Liquidity Requirements (''Non-Client Liquidity Requirements'') to be satisfied with collateral in the currency of the underlying instrument. Accordingly, ICC proposes updating the liquidity thresholds for Euro denominated products, listed in Schedule 401 of the ICC Rules, to require the first 65% of Non-Client Liquidity Requirements for Euro denominated products to be satisfied with Euro cash.

ICC believes such changes will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. The proposed changes are described in detail as follows.

For United States Dollar (''USD'') denominated products, the first 65% of Non-Client Liquidity Requirements must be satisfied with USD denominated collateral. Specifically, the first 45% of Non-Client Liquidity Requirements must be posted in USD cash and the next 20% may be posted in USD denominated assets (USD cash and/or US Treasury securities). Currently, for Euro denominated products, 45% of Non-Client Liquidity Requirements must be posted in Euro cash and the next 20% may be posted in Euro cash, USD cash, and/or US Treasury securities.

ICC proposes to require the first 65% of Non-Client Liquidity Requirements for both USD and Euro denominated products to be satisfied with collateral in the currency of the underlying instrument. Accordingly, ICC is updating its liquidity thresholds for Euro denominated products so that the first 65% of Non-Client Liquidity Requirements for Euro denominated products must be satisfied with Euro cash. This change will increase the Euro cash Non-Client Liquidity Requirements for Euro denominated products and create more consistent liquidity requirements across USD and Euro denominated products.

Redundant references to ''US cash'' in Schedule 401 of the ICC Rules have been removed, as US cash is included in all ''G7 cash'' references.

The ICC Treasury Operations Policies and Procedures have been updated to reflect the update to ICC's Non-Client Liquidity Requirements for Euro denominated products. The changes to the Euro cash Non-Client Liquidity Requirements do not require any operational changes.

Section 17A(b)(3)(F) of the Act[3] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),[4] because ICC believes that the update to its liquidity thresholds for Euro denominated products will facilitate the prompt and accurate settlement of securities, specifically security-based swaps, and contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible. This change will increase available liquidity and make liquidity requirements consistent across USD and Euro denominated products.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed update to ICC's liquidity thresholds for Euro denominated products applies consistently across all market participants and the implementation of the proposed liquidity thresholds for Euro denominated products does not preclude the implementation of similar changes by other market participants. Therefore, ICC does not believe the update to its liquidity thresholds for Euro denominated products imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78q–1(b)(3)(F).

[4] Id.

Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2014–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2014–02. 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 filings will also be available for inspection and copying at the principal office of ICC and on ICC's Web site at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2014–02 and should be submitted on or before April 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07193 Filed 3–31–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71813; File No. SR–NASDAQ–2014–009]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Amendment No. 1 and Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of the Shares of the First Trust Tactical High Yield ETF of First Trust Exchange-Traded Fund IV

March 26, 2014.

On January 22, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the description of certain investments for the First Trust Tactical High Yield ETF (formerly known as the First Trust High Yield Long/Short ETF) (''Fund''). The proposed rule change was published for comment in the **Federal Register** on February 10, 2014.[3] The Commission has received no comments on the proposal. On March 11, 2014, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change, as modified by Amendment No. 1 thereto and to designate a longer period for Commission action on the proposed rule change, as modified by Amendment No. 1 thereto.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to list and trade the shares of the First Trust Tactical High Yield ETF (formerly known as the First Trust High Yield Long/Short ETF) of First Trust Exchange-Traded Fund IV (the ''Trust'') under Nasdaq Rule 5735 (''Managed Fund Shares''). The shares of the Fund are collectively referred to herein as the ''Shares.''

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item III below, and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reflect changes to the means of achieving the investment objectives of the Fund.[5] The Commission has approved the listing and trading of Shares under NASDAQ

[5] 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. 71473 (Feb. 4, 2014), 79 FR 7728 (''Notice'').

[4] In Amendment No. 1, which amended and replaced the proposed rule change in its entirety, the Exchange: (a) Clarified the types of Derivative Instruments (as defined herein) as proposed to be used by the Fund; (b) provided specific representations relating the use of these Derivative Instruments; (c) provided additional information as to the valuation of these Derivative Instruments for purposes of determining NAV (as defined herein); (d) provided additional information as to the availability of pricing for the Derivative Instruments to market participants, as well as information relating to the Derivative Instruments as part of the Disclosed Portfolio (as defined herein); and (e) provided additional details as to the Exchange's surveillance procedures with respect to the Derivative Instruments.

[5] *See* Securities Exchange Act Release No. 68972 (February 22, 2013), 78 FR 13721 (February 28, 2013) (SR–NASDAQ–2012–147) (order approving listing and trading of First Trust High Yield Long/Short ETF).

Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange.[6] The Exchange believes the proposed rule change reflects no significant issues not previously addressed in the Prior Release. The Fund is an actively managed exchange-traded fund (''ETF''). The Shares are offered by the Trust, which was organized as a Massachusetts business trust on September 15, 2010. The Trust, which is registered with the Commission as an investment company, has filed a registration statement on Form N–1A (''Registration Statement'') relating to the Fund with the Commission.[7] First Trust Advisors L.P. (''First Trust Advisors'') is the investment adviser (''Adviser'') to the Fund.

The Exchange now proposes two modifications to the description of the measures the Adviser would utilize to implement the Fund's investment objectives.[8] The Adviser seeks to make the modifications described below to certain representations in the Prior Release.

The Adviser represents that there is no change to the Fund's investment objectives. Except for the changes proposed herein, all other facts presented and representations made in the Rule 19b–4 [9] filings underlying the Prior Release remain unchanged. The Fund would continue to comply with all initial and continued listing requirements under NASDAQ Rule 5735.

The Fund's Investments in Bank Loans

First, the Exchange proposes to modify a representation reflected in the Prior Release by increasing the percentage of the Fund's net assets that may be invested in bank loans. In accordance with the Prior Release, the Fund may invest up to 15% of its net assets in ''bank loans,'' which, as described in the Prior Release, may include loan interests that are not secured by any specific collateral of the borrower, loan interests that have a lower than first lien priority on collateral of the borrower, loans to foreign borrowers, loans in foreign currencies and other loans with characteristics that the Adviser believes qualify as bank loans. Going forward, the Exchange proposes that the Fund would be permitted to invest up to 40% of its net assets in bank loans.

The proposed change is intended to provide greater flexibility to the Adviser as it tactically allocates proceeds across the high yield debt market and across the debt capital structure of select companies. Additionally, this proposed change would provide the Adviser with increased flexibility to manage the Fund's duration in periods of rising rates. The Adviser represents that the Fund would continue to invest 85% or more of the portfolio in securities that the Adviser deems to be sufficiently liquid at the time of investment. In addition, consistent with the Prior Release, the Adviser would continue to monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained.

The Fund's Use of Derivative Instruments

Second, the Exchange proposes to delete a representation reflected in the Prior Release, which states that consistent with the Exemptive Order, the Fund would not invest in options contracts, futures contracts or swap agreements (the ''Derivatives Representation'').

On December 6, 2012, the staff of the Commission's Division of Investment Management (''Division'') issued a no-action letter (''No-Action Letter'') relating to the use of derivatives by actively-managed ETFs.[10] The No-Action Letter noted that, in March of 2010, the Commission announced in a press release that the staff was conducting a review to evaluate the use of derivatives by mutual funds, ETFs, and other investment companies and that, pending completion of this review, the staff would defer consideration of exemptive requests under the 1940 Act relating to, among others, actively-managed ETFs that would make significant investments in derivatives.

The No-Action Letter stated that the Division staff will no longer defer consideration of exemptive requests under the 1940 Act relating to actively-managed ETFs that make use of derivatives provided that they include representations to address some of the concerns expressed in the Commission's March 2010 press release. These representations are: (i) That the ETF's board periodically will review and approve the ETF's use of derivatives and how the ETF's investment adviser assesses and manages risk with respect to the ETF's use of derivatives; and (ii) that the ETF's disclosure of its use of derivatives in its offering documents and periodic reports is consistent with relevant Commission and staff guidance (together, the ''No-Action Letter Representations''). The No-Action Letter stated that the Division would not recommend enforcement action to the Commission under sections 2(a)(32), 5(a)(1), 17(a), 22(d), and 22(e) of the 1940 Act, or rule 22c–1 under the 1940 Act if actively-managed ETFs operating in reliance on specified orders (which include the Trust's Exemptive Order [11]) invest in options contracts, futures contracts or swap agreements provided that they comply with the No-Action Letter Representations.[12]

In view of the No-Action Letter, the Exchange is proposing to delete the Derivatives Representation. The Exchange now proposes that, to pursue its investment objectives, the Fund be permitted to invest in U.S. exchange-traded options on futures contracts and U.S. exchange-traded futures contracts (collectively, ''Derivative Instruments''). The use of Derivative Instruments may allow the Fund to seek to enhance return, to hedge some of the risks of its investments in securities, as a substitute for a position in an underlying asset, to reduce transaction costs, to maintain full market exposure (which means to adjust the characteristics of its investments to more closely

[6] The Commission approved NASDAQ Rule 5735 (formerly Nasdaq Rule 4420(o)) in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). The Commission previously approved the listing and trading of the Shares of the Fund. *See* Securities Exchange Act Release No. 68972 (February 22, 2013), 78 FR 13721 (February 28, 2013) (SR–NASDAQ–2012–147) (''Prior Order''). *See also* Securities Exchange Act Release No. 68581 (January 4, 2013), 78 FR 2295 (January 10, 2013) (SR–NASDAQ–2012–147) (''Prior Notice,'' and together with the Prior Order, the ''Prior Release'').

[7] *See* Post-Effective Amendment No. 60 to Registration Statement on Form N–1A for the Trust, dated February 28, 2014 (File Nos. 333–174332 and 811–22559). The descriptions of the Shares and the Fund contained herein are based, in part, on information in the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (the ''1940 Act''). *See* Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812–13795) (the ''Exemptive Order'').

[8] The Adviser represents that it has managed and will continue to manage the Fund in the manner described in the Prior Release, and will not implement the changes, as described herein, until the instant proposed rule change is operative.

[9] 17 CFR 240.19b–4.

[10] *See* No-Action Letter dated December 6, 2012 from Elizabeth G. Osterman, Associate Director, Office of Exemptive Applications, Division of Investment Management.

[11] *See* footnote 7.

[12] The Adviser acknowledges that for the Fund to rely on the No-Action Letter, the Fund must comply with the No-Action Letter Representations. In this regard, the Adviser represents that (i) it would request that the Board of Trustees of the Trust (the ''Trust Board'') periodically review and approve the Fund's use of derivatives and how the Adviser assesses and manages risk with respect to the Fund's use of derivatives and (ii) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports would be consistent with relevant Commission and staff guidance.

approximate those of the markets in which it invests), to manage cash flows, to preserve capital or to manage its foreign currency exposures.[13]

Under normal market conditions, the Fund expects that, not including Derivative Instruments used solely for hedging purposes, no more than 30% of the value of the Fund's net assets would be invested in Derivative Instruments; however, there would be no limitation on the Fund's investments in Derivative Instruments to be used by the Fund solely for hedging purposes.[14]

To the extent applicable, the Fund would seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. As applicable, the Adviser would evaluate the creditworthiness of counterparties on an ongoing basis. In addition to utilizing information provided by credit agencies, the Adviser's analysis would be based on various methods of analysis and may consider the Adviser's past experience with the counterparty, its known disciplinary history and its share of market participation.

The Prior Release stated that the Fund's investments would not be used to enhance leverage. In view of the Exchange's proposal to permit the Fund to use Derivative Instruments, the Fund's investments in Derivative Instruments could potentially be used to enhance leverage. However, the Fund's investments in Derivative Instruments would be consistent with the Fund's investment objectives and would not be used to seek to achieve a multiple or inverse multiple of an index.

Investments in Derivative Instruments would be made in accordance with the 1940 Act and consistent with the Fund's investment objectives and policies. The Fund would comply with the regulatory requirements of the Commission to maintain assets as ''cover,'' maintain segregated accounts, and/or make margin payments when it takes positions in Derivative Instruments involving obligations to third parties (*i.e.,* instruments other than purchase options). If the applicable guidelines prescribed under the 1940 Act so require, the Fund would earmark or set aside cash, U.S. government securities, high grade liquid debt securities and/or other liquid assets permitted by the Commission in a segregated custodial account in the amount prescribed.[15]

The Fund would include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of Derivative Instruments, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.[16]

Based on the above, the Exchange seeks this modification regarding the Fund's use of Derivative Instruments. The Adviser believes that the ability to invest in U.S. exchange-traded options on futures contracts and U.S. exchange-traded futures contracts would provide it with additional flexibility to meet the Fund's investment objectives.

Valuation of Derivative Instruments for Purposes of Calculating Net Asset Value

As indicated in the Prior Release, the net asset value (''NAV'') of the Fund's Shares generally is calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4:00 p.m. Eastern time. The NAV per Share is calculated by dividing the Fund's net assets by the number of Shares outstanding.

For purposes of calculating NAV, the Fund's investments are valued daily at market value or, in the absence of market value with respect to any such investment, at fair value, in each case in accordance with valuation procedures (which may be revised from time to time) adopted by the Trust Board (the ''Valuation Procedures'') and in accordance with the 1940 Act. All valuations are subject to review by the Trust Board or its delegate. A market valuation generally means a valuation (i) obtained from an exchange, an independent pricing service (''Pricing Service''), or a major market maker (or dealer) or (ii) based on a price quotation or other equivalent indication of value supplied by an exchange, a Pricing Service, or a major market maker (or dealer). The information summarized below is based on the Valuation Procedures as currently in effect; however, as noted above, the Valuation Procedures are amended from time to time and, therefore, such information is subject to change.

The Derivative Instruments held by the Fund would consist of U.S. exchange-traded futures contracts and U.S. exchange-traded options on futures contracts and, as such, would typically be valued at the closing price in the market where such instruments are principally traded. Certain Derivative Instruments, however, may not be able to be priced by pre-established pricing methods. Such Derivative Instruments may be valued by the Trust Board or its delegate at fair value. The use of fair value pricing by the Fund would be governed by the Valuation Procedures and conducted in accordance with the provisions of the 1940 Act. Valuing the Fund's Derivative Instruments using fair value pricing would result in using prices for those Derivative Instruments that may differ from official closing prices on the applicable exchange.

Availability of Information for Derivative Instruments

As described in the Prior Release, on each business day, before commencement of trading in the Regular Market Session on the Exchange, the Trust discloses on its Web site the identities and quantities of the portfolio of securities and other assets (the ''Disclosed Portfolio'') held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.

In addition, as described in the Prior Release, the ''Intraday Indicative Value'' (defined in NASDAQ Rule 5735(c)(3)), based on the current value for the components of the Disclosed Portfolio is updated and widely disseminated and broadly displayed at least every 15 seconds during the Regular Market session. For the purposes of determining the Intraday Indicative Value, the Fund's holdings in Derivative Instruments, which would be exchange-traded derivatives, would be valued

[13] The Adviser currently expects that, initially, all of the futures contracts and options on futures contracts that the Fund buys and/or sells would be futures and options on futures, respectively, on U.S. Treasury obligations. In particular, the Adviser contemplates that the Fund would sell futures on U.S. Treasury obligations as an alternative to engaging in short sales to gain short exposure to the U.S. Treasury market.

[14] The Fund would limit its direct investments in futures and options on futures to the extent necessary for the Adviser to claim the exclusion from regulation as a ''commodity pool operator'' with respect to the Fund under Rule 4.5 promulgated by the Commodity Futures Trading Commission (''CFTC''), as such rule may be amended from time to time. Under Rule 4.5 as currently in effect, the Fund would limit its trading activity in futures and options on futures (excluding activity for ''bona fide hedging purposes,'' as defined by the CFTC) such that it will meet one of the following tests: (i) Aggregate initial margin and premiums required to establish its futures and options on futures positions will not exceed 5% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions; or (ii) aggregate net notional value of its futures and options on futures positions will not exceed 100% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions.

[15] With respect to guidance under the 1940 Act, *see* 15 U.S.C. 80a–18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); *Dreyfus Strategic Investing,* Commission No-Action Letter (June 22, 1987); *Merrill Lynch Asset Management, L.P.,* Commission No-Action Letter (July 2, 1996).

[16] To mitigate leveraging risk, the Fund would segregate or ''earmark'' liquid assets or otherwise cover the transactions that may give rise to such risk.

intraday using the relevant exchange data.

Disclosed Portfolio

The Fund's disclosure of derivative positions in the Disclosed Portfolio would include information that market participants can use to value these positions intraday. This information would vary by line item, and, as applicable, may include tickers or other identifiers which would identify the listing exchange, strike price(s), underlying asset, and quantities or exposure. For example, a Treasury future would require only a ticker/identifier and quantity.

Surveillance

The Exchange represents that trading in the Shares would continue to be subject to the existing trading surveillances, administered by both NASDAQ and also the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[17] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the Derivative Instruments with other markets or other entities that are members of the Intermarket Surveillance Group (''ISG''), and FINRA may obtain trading information regarding trading in the Shares and the Derivative Instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the Derivative Instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[18]

Moreover, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[19] in general and Section 6(b)(5) of the Act[20] 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.

The Exchange believes that the proposed rule changes are designed to prevent fraudulent and manipulative acts and practices in that the Shares would continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NASDAQ Rule 5735. The first proposed rule change would permit the Fund to invest up to 40% (rather than up to 15%) of its net assets in bank loans; however, the Adviser represents that the Fund would continue to invest 85% or more of its portfolio in securities that the Adviser deems to be sufficiently liquid at the time of investment and would continue to monitor portfolio liquidity on an ongoing basis.

The second proposed rule change is consistent with the No-Action Letter and, provided that the Fund satisfy the No-Action Letter Representations, would permit the Fund to invest in U.S. exchange-traded options on futures contracts and U.S. exchange-traded futures contracts. Under normal market conditions, the Fund expects that, not including Derivative Instruments used solely for hedging purposes, no more than 30% of the value of the Fund's net assets would be invested in Derivative Instruments; however, there would be no limitation on the Fund's investments in Derivative Instruments to be used by the Fund solely for hedging purposes. The Fund's investments in Derivative Instruments would be consistent with the Fund's investment objectives and would not be used to seek to achieve a multiple or inverse multiple of an index. Investments in Derivative Instruments would be made in accordance with the 1940 Act and consistent with the Fund's investment objectives and policies.

The Derivative Instruments held by the Fund would consist of U.S. exchange-traded futures contracts and U.S. exchange-traded options on futures contracts and, as such, would typically be valued at the closing price in the market where such instruments are principally traded. Certain Derivative Instruments, however, may not be able to be priced by pre-established pricing methods. Such Derivative Instruments may be valued by the Trust Board or its delegate at fair value. The use of fair value pricing by the Fund would be governed by the Valuation Procedures and conducted in accordance with the provisions of the 1940 Act.

The proposed rule changes are designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser represents that there is no change to the Fund's investment objectives. The Adviser represents that the purpose of the proposed changes is to provide it with greater flexibility in meeting the Fund's investment objectives by permitting (1) the Fund to invest a greater portion of its net assets in bank loans and (2) the Fund to invest a portion of its net assets in Derivative Instruments. In addition, consistent with the Prior Release, NAV per Share would continue to be calculated daily and the NAV and Disclosed Portfolio would be made available to all market participants at the same time.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an actively managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the additional flexibility to be afforded to the Adviser under the proposed rule change is intended to enhance the Adviser's ability to meet the Fund's investment objectives. Further, as noted in the Prior Release and in the proposed rule change the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as indicated in

[17] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[18] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(5).

the Prior Release and in the proposed rule change, investors would have ready access to information regarding the Fund's holdings (including Derivative Instruments), the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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 Exchange believes the proposed rule change will permit the Adviser additional flexibility in achieving the Fund's investment objectives, thereby offering investors additional investment options.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1 thereto, 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–NASDAQ–2014–009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASDAQ–2014–009. 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 Nasdaq. 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–NASDAQ–2014–009 and should be submitted on or before April 22, 2014.

IV. Designation of a Longer Period for Commission Action

Section 19(b)(2) of the Act [21] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The proposed rule change, as modified by Amendment No. 1 thereto, would permit the Fund to invest up to 40% of its net assets in bank loans and up to 30% of its net assets in Derivative Instruments (excluding Derivative Instruments used solely for hedging purposes). The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change, as modified by Amendment No. 1 thereto, so that it has sufficient time to consider the proposed rule change and Amendment No. 1.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[22] designates May 9, 2014, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NASDAQ–2014–009), as modified by Amendment No. 1 thereto.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07232 Filed 3–31–14; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78s(b)(2).

[22] *Id.*

DEPARTMENT OF STATE

[Public Notice 8678]

Determination by the Secretary of State Relating to Iran Sanctions

AGENCY: Department of State.

This notice is to inform the public that the Secretary of State determined on March 4, 2014, pursuant to Section 1245(d)(4)(D) of the National Defense Authorization Act for Fiscal Year 2012 (NDAA) (Pub. L. 112–81), as amended by the Iran Threat Reduction and Syria Human Rights Act (Pub. L. 112–158), that as of March 4, 2014, each of the following purchasers of oil from Iran has qualified for the 180-day exception outlined in section 1245(d)(4)(D): Belgium, the Czech Republic, France, Germany, Greece, Italy, Netherlands, Poland, Spain, and the United Kingdom. The Secretary of State last made exception determinations under Section 1245(d)(4)(D) of the NDAA regarding these purchasers on September 6, 2013.

FOR FURTHER INFORMATION CONTACT: Carlos Pascual, Special Envoy and Coordinator, Bureau of Energy Resources, (202) 647–8543.

Dated: March 25, 2014.

Amos Hochstein,

Acting, Bureau of Energy Resources, Department of State.

[FR Doc. 2014–07251 Filed 3–31–14; 8:45 am]

BILLING CODE 4710–07–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Charter Reestablishment of the Intergovernmental Policy Advisory Committee on Trade (IGPAC); Request for Nominations

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Reestablishment of the Charter and Request for Nominations.

[22] *Id.*

SUMMARY: The Office of the United States Trade Representative (''USTR''), pursuant to Section 135 of the Trade Act of 1974 (19 U.S.C. 2155(c)(3)(A)), as amended, the Federal Advisory Committee Act (5 U.S.C. App.), as amended, announces the reestablishment of the charter of the Intergovernmental Policy Advisory Committee on Trade (IGPAC), a federal advisory committee established to provide overall policy advice on trade policy matters that have a significant relationship to the affairs of state and local governments within the jurisdiction of the United States. The Charter will be effective for four years from the date the charter is filed, unless otherwise extended. USTR is seeking nominations for membership on the Committee.

DATES: In order to receive full consideration, nominations for current vacancies should be received not later than May 1. Nominations will be accepted after that date until the expiration of the charter term, which is four years from the date of filing, for appointments on a rolling basis as vacancies arise.

ADDRESSES: Submissions should be sent to the Office of the U.S. Trade Representative, Office of Intergovernmental Affairs and Public Engagement at *IAPE@ustr.eop.gov.* For alternatives to email submission, please contact Cece Jones at (202) 395–6120.

FOR FURTHER INFORMATION CONTACT: Questions regarding this request for nominations should be directed to Karen Lezny, Office of the U.S. Trade Representative, Office for Intergovernmental Affairs and Public Engagement, at (202) 395–6120.

SUPPLEMENTARY INFORMATION:

Background

Section 135 of the Trade Act of 1974, as amended (*19 U.S.C. 2155*), established a trade advisory system to obtain information and advice from the private and public sectors to ensure that the development, implementation, and administration of U.S. trade policy, operation of any trade agreements once entered into, and trade negotiation objectives before entering into a trade agreement adequately reflect U.S. commercial and economic interests.

Section 135(a)(1) directs the President to:

Seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to

(A) negotiating objectives and bargaining positions before entering into a trade agreement under title I of the Trade Act of 1974 (19 U.S.C. 2111 *et seq.*) or section 2103 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3808(a)(1)(A).

(B) the operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the United States is a party; and

(C) other matters arising in connection with the development, implementation, and administration of the trade policy of the United States.

Section 135(a)(2) directs the President to:

Consult with representative elements of the private sector and the non-Federal governmental sector on the overall current trade policy of the United States. The consultations shall include, but are not limited to, the following elements of such policy:

(A) The principal multilateral and bilateral trade negotiating objectives and the progress being made toward their achievement.

(B) The implementation, operation, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

(C) The actions taken under the trade laws of the United States and the effectiveness of such actions in achieving trade policy objectives.

(D) Important developments in other areas of trade for which there must be developed a proper policy response.

Section 135(c)(3) provides that:

[t]he President may, if necessary, establish policy advisory committees representing non-Federal governmental interests to provide policy advice on matters referred to in subsection (a) of this section, and with respect to implementation of trade agreements.

Pursuant to these provisions, the United States Trade Representative (USTR) is reestablishing the charter of the Intergovernmental Policy Advisory Committee on Trade (IGPAC).

Functions

The duties of the IGPAC are to advise, consult with, make policy recommendations, and provide information to the USTR on matters that have a significant relationship to the affairs of state and local governments within the jurisdiction of the United States. The Committee will meet as needed at the call of the U.S. Trade Representative or his designee depending on various factors such as the level of activity of trade negotiations and the needs of the U.S. Trade Representative, or at the call of two-thirds of the members of the Committee.

Membership

Members serve without compensation and are responsible for all expenses incurred to attend the meetings. IGPAC members are appointed by the USTR. Appointments are made at the chartering of the IGPAC and periodically throughout the four-year charter term. Members serve at the discretion of the USTR.

Members are selected to represent non-Federal governmental entities' interests, and thus nominees are considered foremost based upon their ability to carry out the goals of section 135(c)(3)(A) of the Trade Act of 1974, as amended. Other criteria considered are the nominee's knowledge of and expertise in international trade issues. Appointments to the IGPAC are made without regard to political affiliation.

All IGPAC members must be able to obtain and maintain a security clearance.

Request for Nominations

USTR is soliciting nominations for membership on the IGPAC. In order to be appointed to the IGPAC, the following eligibility requirements must be met:

1. The applicant must be a U.S. citizen;

2. The applicant must not be a federally-registered lobbyist;

3. The applicant must not be registered with the Department of Justice under the Foreign Agents Registration Act;

4. The applicant must be able to obtain and maintain a security clearance; and

5. The applicant must represent a non-Federal governmental entity.

In order to be considered for IGPAC membership, a nominee should submit:

(1) Name, title, affiliation, and relevant contact information of the individual requesting consideration;

(2) A sponsor letter on the non-federal government entity's letterhead containing a brief description of the manner in which international trade affects the entity and why the applicant should be considered for membership;

(3) The applicant's personal resume;

(4) An affirmative statement that the applicant and the non-federal government entity he or she represents meet all eligibility requirements;

(5) An affirmative statement that the applicant is not a federally registered lobbyist, and that the applicant understands that if appointed, the applicant will not be allowed to continue to serve as an IGPAC member if the applicant becomes a federally registered lobbyist.

As noted, members of the Committee are appointed to represent the views of their non-federal government entities. As such, Committee members will generally serve as representatives of those entities and not as Special Government Employees.

Applicants that meet the eligibility criteria will be considered for membership based on the following criteria: ability to represent the sponsoring non-federal government entity's interests on trade matters; knowledge of and experience in trade matters relevant to the work of the Committee; and ensuring that the Committee members are appointed from and are reasonably representative of the various states and other non-Federal governmental entities within the jurisdiction of the United States, including but not limited to, the executive and legislative branches of state, county, and municipal governments.

Dated: March 27, 2014.

Jewel James,

Assistant U.S. Trade Representative, Intergovernmental Affairs and Public Engagement.

[FR Doc. 2014–07262 Filed 3–31–14; 8:45 am]

BILLING CODE 3290–F4–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–0016]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by June 2, 2014.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 2014–0016 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

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

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David Jones, 202–366–5053, Federal Highway Administration, Department of Transportation, Office of Highway Policy Information, 1200 New Jersey Avenue SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Travel Monitoring Analysis System (TMAS), *formerly Heavy Vehicle Travel Information System (HVTIS).*

OMB Control Number: 2125–0587.

Background: Title 49, United States Code, Section 301, authorizes the DOT to collect statistical information relevant to domestic transportation. The FHWA is continuing to develop the TMAS to house data that will enable analysis of the amount and nature of truck travel at the national and regional levels. The information will be used by the FHWA and other DOT agencies to evaluate changes in truck travel in order to assess impacts on highway safety; the role of travel in economic productivity; impacts of changes in truck travel on infrastructure condition; and maintenance of our Nation's mobility while protecting the human and natural environment. The increasing dependence on truck transport requires that data be available to better assess its overall contribution to the Nation's well-being. In conducting the data collection, the FHWA will be requesting that State Departments of Transportations (SDOTs) provide reporting of traffic volume, vehicle classification, and vehicle weight data which they collect as part of their existing traffic monitoring programs, including other sources such as local governments and traffic operations. States and local governments collect traffic volume, vehicle classification data, and vehicle weight data throughout the year using weigh-in-motion devices. The data should be representative of all public roads within State boundaries. The data will allow transportation professionals at the Federal, State, and metropolitan levels to make informed decisions about policies and plans.

Respondents: 52 SDOTs, including the District of Columbia and Puerto Rico.

Frequency: Annually.

Estimated Average Burden per Response: Each of the SDOTs already collect traffic data for various purposes. In accordance with 23 U.S.C. 303, each State has a Traffic Monitoring System in place so the data collection burden relevant for this notice is the additional burden for each State to provide a copy of their traffic data using the record formats specified in the *Traffic Monitoring Guide.* Automation and online tools continue to be developed in support of the TMAS and the capability now exists for online submission and validation of total volume data. The estimated average monthly burden is 3.5 hours for an annual burden of 42 hours. The annual reporting requirement is estimated to be 6 hours for the States and the District of Columbia and Puerto Rico. The combined burden from the monthly and annual reports is 48 hours per respondent.

Estimated Total Annual Burden Hours: Total burden will be 2,496 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: March 26, 2014.

Michael Howell,

Information Collection Officer.

[FR Doc. 2014–07211 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2014–0013]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that FHWA will submit the collection of information described below to the Office of Management and Budget (OMB) for review and comment. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 17, 2014. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Please submit comments by May 1, 2014.

ADDRESSES: You may submit comments identified by DOT Docket ID 2014–0013 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

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

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Aquilla Carter, (202) 493–2906, Office of the Chief Financial Officer, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Voucher for Federal-aid Reimbursements.

OMB Control Number: 2125–0507.

Background: The Federal-aid Highway Program provides for the reimbursement to States for expenditure of State funds for eligible Federal-aid highway projects. The Voucher for Work Performed under Provisions of the Federal Aid and Federal Highway Acts as amended is utilized by the States to provide project financial data regarding the expenditure of State funds and to request progress payments from the FHWA. Title 23 U.S.C. 121(b) requires the submission of vouchers. The specific information required on the voucher is contained in 23 U.S.C. 121 and 117. Two types of submissions are required by recipients. One is a progress voucher where the recipient enters the amounts claimed for each FHWA appropriation, and the other is a final voucher where project costs are classified by work type. An electronic version of the Voucher for Work Performed under Provisions of the Federal Aid Highway Acts, as amended, Form PR–20, is used by all recipients to request progress and final payments.

Respondents: 50 State Transportation Departments, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

Frequency: Annually.

Estimated Average Burden per Response: The respondents electronically submit an estimated total of 12,900 vouchers each year. Each voucher requires an estimated average of 30 minutes to complete.

Estimated Total Annual Burden Hours: 6,450 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: March 26, 2014.

Michael Howell,

Information Collection Officer.

[FR Doc. 2014–07247 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2014–0012]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that FHWA will submit the collection of information described below to the Office of Management and Budget (OMB) for review and comment. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 17, 2014. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Please submit comments by May 1, 2014.

ADDRESSES: You may submit comments identified by DOT Docket ID 2014–0012 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

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

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Petty, (202) 366–6654, Office of Planning, Environment, and Realty, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Planning and Research Program Administration.

OMB Control #: 2125–0039.

Background: Under the provisions of Title 23, United States Code, Section

505, 2 percent of Federal-aid highway funds in certain categories that are apportioned to the States are set aside to be used only for State Planning and Research (SPR). At least 25 percent of the SPR funds apportioned annually must be used for research, development, and technology transfer activities. In accordance with government-wide grant management procedures, a grant application must be submitted for these funds. In addition, recipients must submit periodic progress and financial reports. In lieu of Standard Form 424, Application for Federal Assistance, the FHWA uses a work program as the grant application. The information contained in the work program includes task descriptions, assignments of responsibility for conducting the work effort, and estimated costs for the tasks. This information is necessary to determine how FHWA planning and research funds will be utilized by the State Transportation Departments and if the proposed work is eligible for Federal participation. The content and frequency of submission of progress and financial reports specified in 23 CFR Part 420 are specified in OMB Circular A–102 and the companion common grant management regulations.

Respondents: 52 State Transportation Departments, including the District of Columbia and Puerto Rico.

Frequency: Annual.

Estimated Average Annual Burden per Response: 560 hours per respondent.

Estimated Total Annual Burden Hours: 29,120 hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: March 26, 2014.

Michael Howell,

Information Collection Officer.

[FR Doc. 2014–07212 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2014–0014]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that FHWA will submit the collection of information described below to the Office of Management and Budget (OMB) for review and comment. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 17, 2014. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Please submit comments by May 1, 2014.

ADDRESSES: You may submit comments identified by DOT Docket ID 2014–0014 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

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

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Dougherty 202–366–9234, Department of Transportation, Federal Highway Administration, Office of Highway Policy Information, 1200 New Jersey Avenue SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Certification of Enforcement of the Heavy Vehicle Use Tax.

OMB Control #: 2125–0541.

Background: Title 23 United States Code, Section 141(c), provides that a State's apportionment of funds under 23 U.S.C. 104(b)(1) shall be reduced in an amount up to 8 percent of the amount to be apportioned during any fiscal year beginning after September 30, 1984, if vehicles subject to the Federal heavy vehicle use tax are lawfully registered in the State without having presented proof of payment of the tax. The annual certification by the State Governor or designated official regarding the collection of the heavy vehicle use tax serves as the FHWA's primary means of determining State compliance. The FHWA has determined that an annual certification of compliance by each State is the least obtrusive means of administering the provisions of the legislative mandate. In addition, States are required to retain for 1 year a Schedule 1, IRS Form 2290, Heavy Vehicle Use Tax Return (or other suitable alternative provided by regulation). The FHWA conducts compliance reviews at least once every 3 years to determine if the annual certification is adequate to ensure effective administration of 23 U.S.C. 141(c).

The estimated annual reporting burden is 102 hours; the estimated recordkeeping burden is 510 hours for a total of 612 hours. The 50 States and the District of Columbia share this burden. Preparing and processing the annual certification is estimated to require 2 hours per State. Recordkeeping is estimated to require an average of 10 hours per State.

Respondents: 50 State Transportation Departments, and the District of Columbia for a total of 51 respondents.

Frequency: Annually.

Estimated Average Annual Burden per Response: The average burden to submit the certification and to retain required records is 12 hours per respondent.

Estimated Total Annual Burden Hours: Total estimated average annual burden is 612 hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: March 26, 2014.

Michael Howell,

Information Collection Officer.

[FR Doc. 2014–07210 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2014–0011]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that FHWA will submit the collection of information described below to the Office of Management and Budget (OMB) for review and comment. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of

information was published on January 17, 2014. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Please submit comments by May 1, 2014.

ADDRESSES: You may submit comments identified by DOT Docket ID 2014–0011 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

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

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Erin Robertson, (202) 366–4814, Office of the Chief Financial Officer, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Request Forms for Fund Transfers to Other Agencies and Among Title 23 Programs.

OMB Control Number: 2125–0620.

Background: Sections 1108, 1119(b), 1935, and 1936 of Public Law 109–59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) expanded the transferability of funds to other agencies and among programs. This notice establishes requirements for initiating the transferring of apportioned and allocated funds between entities and between projects and programs to carry out these provisions of law. The types of transfers affected by this notice are:

a. Transfer of funds from a State to the FHWA pursuant to U.S.C. Title 23, § 104(k)(3);

b. Transfer of funds from a State to a Federal Agency other than FHWA;

c. Transfer of funds from a State to another State;

d. Transfer of funds from Federal Transit Administration to FHWA;

e. Transfer of funds between programs; and,

f. Transfer of funds between projects.

The party initiating the fund transfer must fill out a FHWA transfer request form. Information required to fill out a transfer form will include the requester's contact information; a description of the program/project the transfer will come from and go to, the fiscal year, the program code, a demo ID or an urban area when applicable, and the amount to be transferred. The form must be approved by the applicable State Department of Transportation and concurred on by the correlating FHWA Division Office.

Respondents: 50 State Transportation Departments, the District of Columbia, and Puerto Rico.

Frequency: As Needed.

Estimated Average Burden per Response: 30 minutes.

Estimated Total Annual Burden Hours: It is estimated that a total of 600 responses will be received annually, which would equal a total annual burden of 300 hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: March 26, 2014.

Michael Howell,

Information Collection Officer.

[FR Doc. 2014–07250 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2014–0015]

Agency Information Collection Activities: Request for Comments for the Renewal of a Previously Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that FHWA will submit the collection of information described below to the Office of Management and Budget (OMB) for review and comment. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 17, 2014. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Please submit comments by May 1, 2014.

ADDRESSES: You may submit comments identified by DOT Docket ID 2014–0015 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

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

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kevin Douglas, 202–366–2601, Office of Human Environment, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Surface Transportation Environment and Planning (STEP) Cooperative Research Program.

Background: Section 5207 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005 (SAFETEA–LU) established a new cooperative research program for environment and planning research in section 507 of Title 23, United States Code, Highways (23 U.S.C. 507). The general objective of the STEP is to improve understanding of the complex relationship between surface transportation, planning, and the environment. The FHWA anticipates that the STEP program will provide resources for national research on issues related to planning, environment and realty. These resources are likely to be included in future surface transportation legislation. The research program established under this section shall ensure that stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees. FHWA will be collecting feedback via a STEP Web site on the 18 emphasis areas. This information will be used to identify potential research for an annual Research Plan. The number of stakeholders with an interest in environment and planning research includes three groups:

I—Federal Agencies and Tribal Governments

II—State and Local Governments

III—Non-governmental Transportation and Environmental Stakeholders

Respondents: An estimated 270 participants annually for a total of approximately 810 participants during the three-year period while the OMB clearance is in effect.

Frequency: Annually.

Estimated Average Burden per Response: 30 minutes each year. Due to the specialized nature of the 18 emphasis areas, most commenters will provide input in only one area.

Estimated Total Annual Burden Hours: Approximately 135 hours annually (405 hours total for the three-year period).

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: March 26, 2014.

Michael Howell,

Information Collection Officer.

[FR Doc. 2014–07214 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2013–0194]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 40 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective April 1, 2014. The exemptions expire on March 31, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov*.

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

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's 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, or other entity). 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).

Background

On February 5, 2013, FMCSA published a notice of receipt of Federal diabetes exemption applications from 40 individuals and requested comments from the public (79 FR 6987). The public comment period closed on March 7, 2014 and no comments were received.

FMCSA has evaluated the eligibility of the 40 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 40 applicants have had ITDM over a range of 1 to 41 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the February 5, 2014, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA received no comments in this proceeding.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA

considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the 40 exemption applications, FMCSA exempts Dana A. Albert (NY), John R. Benshoff (OH), Douglas R. Black, Sr. (OH), Kenneth Bland (NY), George A. Blanda (NY), Terrence K. Cannon (IL), Trisha J. Davis (ME), Brian J. Decker (IA), Joshua A. Enis (MS), Richard R. Epstein (WI), Paul D. Ferris (NY), Tyrone E. Fisher (NJ), Larry Gaskill (RI), Thomas H. Gaskins (NC), Gary A. Grant (WA), Brian C. Halcomb (IL), David H. Hodges (AR), Gerald Lee (CA), Timothy R. Lewis (OR), Gregory J. Littlefield (MN), Marvin E. Marry (KY), Glen H. Miller (MI), Ryan M. Ottis (ND), Steven M. Parsons (WV), Fortino Perry (AL), William L. Reece (ND), Jesus M. Rosario (MA), Jay R. Rude (AZ), Denise D. Ruffin (MS), Richard R. Sterling (WI), Ryan E. Stretch (MO), William F. Sullivan, IV (NY), Paul D. Summerford (MS), John R. Thompson (WI), Everette L. Twyman (MO), Kim L. Watson (MD), Brian D. Weeks (WI), Ammon R. West (ID), Michael A. White (MD), and John F. Whitesides (NC) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: March 18, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–07209 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–29019; FMCSA–2011–0324]

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 6 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 April 12, 2014. Comments must be received on or before May 1, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2007–29019; FMCSA–2011–0324], 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 6 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 6 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

John Chitty (FL)
Donald W. Holt (MA)
Lowell Johnson (MN)
Chet A. Keen (UT)
Julian A. Mancha (TX)
Daniel I. Miller (PA)

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 6 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (72 FR 58362; 72 FR 67344; 74 FR 65845; 77 FR 7233; 77 FR 7657; 77 FR 22059). Each of these 6 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 May 1, 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 6 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–2007–29019; FMCSA–2011–0324 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, and to submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2007–29019; FMCSA–2011–0324 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find

all documents and comments related to the proposed rulemaking.

Issued on: March 18, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–07216 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5578; FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2003–15892; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2009–0303; FMCSA–2009–0321]

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 24 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 April 14, 2014. Comments must be received on or before May 1, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1999–5578; FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2003–15892; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2009–0303; FMCSA–2009–0321], 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 24 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 24 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Bradley T. Alspach (IL)
Scott E. Ames (ME)
Otto J. Ammer, Jr. (PA)
Nick D. Bacon (KY)
Mark A. Baisden (OH)
Johnny W. Bradford, Sr. (KY)
Levi A. Brown (MT)
Charlie F. Cook (GA)
Curtis J. Crowston (ND)
Clifford H. Dovel (WA)
Rupert G. Gilmore III (AL)
Albert L. Gschwind (WI)
Walter R. Hardiman (WV)
Michael W. Jones (IL)
Matthew J. Konecki (MT)
Travis J. Luce (MI)
Jack D. Miller (OH)
Eric M. Moats, Sr. (MD)
Robert W. Nicks (NY)
Joseph S. Nix, IV (MO)
Monte L. Purciful (IN)
Robert V. Sloan (NC)
Steven L. Valley (ME)
Darel G. Wagner (MN)

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 24 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 27027; 64 FR 40404; 64 FR 51568; 64 FR 54948; 64 FR 66962; 64 FR 68195; 65 FR 159; 65 FR 20251; 66 FR 66969; 67 FR 10475; 67 FR 17102; 68 FR 61860; 68 FR 69432; 68 FR 74699; 68 FR 75715; 69 FR 10503; 69 FR 17267; 69 FR 8260; 70 FR 57353; 70 FR 72689; 71 FR 4194; 71 FR 5105; 71 FR 6824; 71 FR 6825; 71 FR 6826; 71 FR 13450; 71 FR 16410; 71 FR 19600; 71 FR 19602; 73 FR 8392; 73 FR 11989; 74 FR 60022; 75 FR 1835; 75 FR 4623; 75 FR 9482; 75 FR 13653; 77 FR 17107). Each of these 24 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 May 1, 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 24 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–1999–5578; FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2003–15892; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2009–0303; FMCSA–2009–0321 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, and to submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–1999–5578; FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2003–15892; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2009–0303; FMCSA–2009–0321 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: March 18, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–07219 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0004]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 66 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before May 1, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management

System (FDMS) Docket No. FMCSA–2014–0004 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 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.'' FMCSA can renew exemptions at the end of each 2-year period. The 66 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Britton J. Anderson

Mr. Anderson, age 22, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, ''I certify this individual has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Anderson reported that he has driven straight trucks for 3 years, accumulating 8,190 miles, and tractor-trailer combinations for 3 years, accumulating 19,110 miles. He holds a Class A commercial driver's license (CDL) from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Rodney R. Anderson

Mr. Anderson, 58, has had a central scar in his right eye since 1974. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Mr. Anderson has sufficient vision to drive commercial vehicles.'' Mr. Anderson reported that he has driven tractor-trailer combinations for 40 years, accumulating 5.6 million miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kenneth R. Anselm

Mr. Anselm, 66, has had ocular histoplasmosis in his right eye since 1993. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''It is my medical opinion that Mr. Kenneth Anselm has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Anselm reported that he has driven straight trucks for 30 years, accumulating 750,000 miles. He holds an operator's license from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James E. Baker

Mr. Baker, 49, has a prosthetic right eye due to a traumatic incident in 1999. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2013, his optometrist stated, ''I feel that this patient can visually operate a commercial vehicle safely.'' Mr. Baker reported that he has driven tractor-trailer combinations for 15 years, accumulating 1.65 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows 1 crash, for which he was not cited, and 1 conviction for a moving violation in a CMV; he exceeded the posted speed limit.

Alphonso A. Barco

Mr. Barco, 41, has had a corneal scar in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''In my professional opinion Mr. Barco has sufficient vision to operate a commercial vehicle.'' Mr. Barco reported that he has driven straight trucks for 5 years, accumulating 150,000 miles. He holds a Class B CDL from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Aaron D. Barnett

Mr. Barnett, 37, has had strabismic amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist stated, ''In my medical opinion, Aaron has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Barnett reported that he has driven straight trucks for 7 years, accumulating 102,200 miles, and tractor-trailer combinations for 7 years, accumulating 14,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Daniel W. Bobb

Mr. Bobb, 38, has had a corneal ulcer in his left eye since 2001. The visual

acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2013, his ophthalmologist stated, ''In my medical opinion, there is sufficient vision to operate a commercial vehicle from here to California and back without any limits other than imposed by the D.O.T. [*sic*] for sleep.'' Mr. Bobb reported that he has driven straight trucks for 12 years, accumulating 24,000 miles, tractor-trailer combinations for 12 years, accumulating 600,000 miles, and buses for 5 years, accumulating 75,000 miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Anatoliy A. Bogdanets

Mr. Bogdanets, 55, has had lens opacity in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2013, his optometrist stated, ''Vision Loss [*sic*] OS should not impair ability to drive with a [*sic*] commercial vehicle safely.'' Mr. Bogdanets reported that he has driven tractor-trailer combinations for 2.5 years, accumulating 540,000 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Stanley R. Cap

Mr. Cap, 78, has had a macular scar in his right eye since 2005. The visual acuity in his right eye is 20/200, and in his left eye, 20/30. Following an examination in 2013, his optometrist stated, ''I certify that, in my medical opinion, this patient has sufficient vision to operate a commercial motor vehicle.'' Mr. Cap reported that he has driven straight trucks for 10 years, accumulating 200,000 miles, and tractor-trailer combinations for 60 years, accumulating 1.5 million miles. He holds a Class A CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Louis Castro

Mr. Castro, 33, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/50, and in his left eye, 20/15. Following an examination in 2014, his optometrist stated, ''Vision is sufficient to perform CMV driving task day and night.'' Mr. Castro reported that he has driven straight trucks for 8 years, accumulating 108,000 miles, and tractor-trailer combinations for 1 year, accumulating 12,000 miles. He holds a Class A CDL from Montana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David F. Cialdea

Mr. Cialdea, 55, has a cataract in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/25, and in his left eye, no light perception. Following an examination in 2013, his ophthalmologist stated, ''Mr. David Cialdea had trauma to his left eye resulting in a traumatic cataract . . . I see no reason in my medical opinion that he could not operate a commercial vehicle.'' Mr. Cialdea reported that he has driven straight trucks for 40 years, accumulating 700,000 miles, and tractor-trailer combinations for 2 years, accumulating 2,000 miles. He holds a Class A CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Bobby E. Collins

Mr. Collins, 51, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist stated, ''I certify the Mr. Collins has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Collins reported that he has driven straight trucks for 5 years, accumulating 175,000 miles, and tractor-trailer combinations for 5 years, accumulating 250,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael T. Craddock

Mr. Craddock, 52, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/300, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''Pt [*sic*] is not color blind and in my opinion, should be able to drive a commercial vehicle safely.'' Mr. Craddock reported that he has driven tractor-trailer combinations for 1 year, accumulating 120,000 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eric C. Dettrey

Mr. Dettrey, 49, has a prosthetic left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist stated, ''Eric has excellent correctable vision in his right eye, sufficient to operate a commercial vehicle.'' Mr. Dettrey reported that he has driven straight trucks for 26 years, accumulating 26,000 miles, and tractor-trailer combinations for 26 years, accumulating 26,000 miles. He holds a Class A CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dean E. Dexter

Mr. Dexter, 71, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''It is my opinion Mr. Dexter has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Dexter reported that he has driven tractor-trailer combinations for 40 years, accumulating 5 million miles. He holds a Class A3 CDL from South Dakota. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 6 mph.

Blaine R. Dickman

Mr. Dickman, 57, has had a prosthetic right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated that Mr. Dickman's condition will not affect his ability to drive a motor vehicle safely and the he should be issued a commercial medical waiver and be permitted to drive a commercial motor vehicle on an intrastate basis. Mr. Dickman reported that he has driven buses for 15 years, accumulating 82,500 miles. He holds a Class B CDL from Nevada. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David C. Dockery

Mr. Dockery, 49, has had a macular scar in his left eye since 2000. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2014, his ophthalmologist stated, ''Mr. Dockery has a visual acuity of 20/20 in the right eye and count [*sic*] fingers at one foot in the left eye . . . I believe he is safe to operate a commercial vehicle.'' Mr. Dockery reported that he has driven tractor-trailer combinations for 24 years, accumulating 1.8 million miles. He holds a Class A CDL from California.

His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Timothy C. Dotson

Mr. Dotson, 46, has a prosthetic left eye due to a traumatic incident in 1998. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist stated, ''It is my opinion that Mr. Dotson possesses adequate vision to operate a commercial motor vehicle safely.'' Mr. Dotson reported that he has driven tractor-trailer combinations for 28 years, accumulating 3.08 million miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Barent H. Eliason

Mr. Eliason, 44, has a macular scar in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist stated, ''He is able in my opinion to operate and maintain a commercial vehicle, and perform the driving tasks required.'' Mr. Eliason reported that he has driven straight trucks for 23 years, accumulating 402,500 miles, and tractor-trailer combinations for 23 years, accumulating 276,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Peter D. J. Ensor

Mr. Ensor, 71, has had congenital amblyopia in his left eye since birth. The visual acuity in his right eye is 20/25, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''I, Dr. Nguyen Ly, certifies [*sic*] Peter Ensor has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Ensor reported that he has driven straight trucks for 53 years, accumulating 424,000 miles. He holds an operator's license from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Paul W. Fettig

Mr. Fettig, 39, has had optic nerve damage in his right eye since childhood. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Based on my examination on 2/10/2014, it is my opinion that Mr. Fettig's optic nerve damage is stable. . .In my professional opinion, I feel the Mr. Fettig is fully capable of safely operating a commercial vehicle.'' Mr. Fettig reported that he has driven straight trucks for 17 years, accumulating 850,000 miles. He holds a Class B CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Roger L. Frazier

Mr. Frazier, 50, has a macular scar in his left eye due to a traumatic incident in 1997. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his ophthalmologist stated, ''Roger Frazier is currently a patient at Graystone Eye. He has a history significant for a macular scar from multiple retinal surgeries of the left eye. . .It is my medical opinion that he should still be able to maintain a commercial drivers' [*sic*] license.'' Mr. Frazier reported that he has driven straight trucks for 14 years, accumulating 126,000 miles. He holds an operator's license from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joey W. Freeman

Mr. Freeman, 52, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2013, his optometrist stated, ''In my professional opinion Mr. Freeman has sufficient vision to operate a commercial vehicle.'' Mr. Freeman reported that he has driven straight trucks for 40 years, accumulating 400,000 miles. He holds an operator's license from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kevin L. Fritz

Mr. Fritz, 35, has had a macular scar in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, 20/100. Following an examination in 2013, his optometrist stated, ''In my opinion, Kevin has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Fritz reported that he has driven straight trucks for 15 years, accumulating 120,000 miles. He holds a Class AM CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Grant G. Gibson

Mr. Gibson, 42, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/15, and in his left eye, counting fingers. Following an examination in 2013, his optometrist stated, ''In my opinion, Mr. Gibson has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Gibson reported that he has driven straight trucks for 9 years, accumulating 304,200 miles. He holds a Class B CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Danny J. Goss

Mr. Goss, 54, has complete loss of vision in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2013, his optometrist stated, ''I certify that, in my medical opinion, this patient has sufficient vision to operate a commercial motor vehicle.'' Mr. Goss reported that he has driven straight trucks for 35 years, accumulating 70,000 miles. He holds a Class B CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Todd C. Grider

Mr. Grider, 33, has a prosthetic right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2013, his optometrist stated, ''In my professional medical opinion Mr. Grider meets the visual requirements needed to perform driving tasks required to operate a commercial vehicle.'' Mr. Grider reported that he has driven straight trucks for 8 years, accumulating 344,000 miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James P. Griffin

Mr. Griffin, 67, has optic nerve damage in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''In my professional opinion, Mr. Griffin has more than sufficient vision to operate a commercial vehicle as he has done safely for 10 years.'' Mr. Griffin reported that he has driven straight trucks for 6.25 years, accumulating 390,625 miles, and tractor-trailer combinations for 2 years,

accumulating 250,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and 1 conviction for a moving violation in a CMV; he was following another vehicle too closely.

Dennis P. Hart

Mr. Hart, 58, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist stated, ''In my opinion Mr. Hart is safe to operate a commercial vehicle with his current level of vision.'' Mr. Hart reported that he has driven straight trucks for 39 years, accumulating 39,000 miles, and tractor-trailer combinations for 5 years, accumulating 1,500 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kyle C. Holschlag

Mr. Holschlag, 23, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2013, his optometrist stated, ''In my opinion, Mr. Holschlag has sufficient vision to perform all of the driving and tasks required to operate a commercial vehicle.'' Mr. Holschlag reported that he has driven straight trucks for 0.5 years, accumulating 400 miles, tractor-trailer combinations for 3 years, accumulating 15,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael T. Huso

Mr. Huso, 52, has had a macular lesion in his right eye since 2006. The visual acuity in his right eye is 20/400, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''In my opinion Michael has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Huso reported that he has driven straight trucks for 5 years, accumulating 300,000 miles, tractor-trailer combinations for 27 years, accumulating 2.03 million miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Earl E. Kennedy III

Mr. Kennedy, 39, has had congenital amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2013, his optometrist stated, ''In my medical opinion, Mr. Kennedy has sufficient vision to perform the tasks required to operate a commercial vehicle.'' Mr. Kennedy reported that he has driven straight trucks for 13 years, accumulating 19,500 miles, and tractor-trailer combinations for 13 years, accumulating 32,500 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James D. Kessler

Mr. Kessler, 49, has a corneal laceration in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/15. Following an examination in 2014, his optometrist stated, ''From my examination with Jim Kessler, it is my medical opinion that he has sufficient vision to drive and operate a commercial vehicle.'' Mr. Kessler reported that he has driven straight trucks for 35 years, accumulating 35,000 miles, and tractor-trailer combinations for 18 years, accumulating 2.16 million miles. He holds a Class A CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eric W. Kopmann

Mr. Kopmann, 29, has had scar tissue in his left eye since 2002. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2014, his optometrist stated, ''In my opinion Eric has sufficient vision to operate a commercial vehicle.'' Mr. Kopmann reported that he has driven straight trucks for 4 years, accumulating 2,000 miles. He holds a Class B CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robin D. Kurtz

Mr. Kurtz, 52, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/70, and in his left eye, 20/25. Following an examination in 2013, his optometrist stated, ''In my opinion, Mr [*sic*] Robin D. Kurtz has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Kurtz reported that he has driven straight trucks for 30 years, accumulating 2.4 million miles. He holds a Class A CDL from Connecticut. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Sherell J. Landry

Mr. Landry, 65, has had refractive amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2013, his optometrist stated, ''As a result of our testing and evaluation, in my medical opinion Mr. Landry has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Landry reported that he has driven straight trucks for 6 months, accumulating 10,000 miles, and tractor-trailer combinations for 20 years, accumulating 500,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

George E. Lewis

Mr. Lewis, 56, has had a macular scar in his right eye since the 1990s. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist stated, ''I do believe this amount of vision would be sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Lewis reported that he has driven tractor-trailer combinations for 27 years, accumulating 3.375 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald N. Lindgren

Mr. Lindgren, 61, has had refractive amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''PT [*sic*] is ok medically to operate a commercial motor vehicle.'' Mr. Lindgren reported that he has driven straight trucks for 36.5 years, accumulating 912,500 miles, tractor-trailer combinations for 5 years, accumulating 50,000 miles, and buses for 7 years, accumulating 175,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James L. Maddox

Mr. Maddox, 72, has complete loss of vision in his left eye due to a traumatic incident in 1975. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an

examination in 2014, his optometrist stated, ''The patient has sufficient vision in the right eye to perform the driving tasks required to operate a commercial vehicle in my opinion.'' Mr. Maddox reported that he has driven straight trucks for 10.5 years, accumulating 147,000 miles. He holds an operator's license from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert P. Malarkey, Sr.

Mr. Malarkey, 58, has had aphakia in his right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist stated, ''His vision should be sufficient to operate a commercial motor vehicle but the final decision should be made by the Department of Transportation.'' Mr. Malarkey reported that he has driven straight trucks for 38 years, accumulating 950,000 miles. He holds a Class BM CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael L. Manning

Mr. Manning, 47, has had a total retinal detachment in his right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''In my medical opinion Michael will have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Manning reported that he has driven tractor-trailer combinations for 25 years, accumulating 375,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Philip D. Mathys

Mr. Mathys, 64, has amblyopia and central corneal scarring in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''He has a history of amblyopia since childhood in the right eye from an injury and has lived with this deficit for 60 years. He should not have problems operating a commercial vehicle.'' Mr. Mathys reported that he has driven tractor-trailer combinations for 18 years, accumulating 1.22 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Rodney J. McMorran

Mr. McMorran, 46, has had a cataract in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2014, his optometrist stated, ''It is my understanding Mr. McMorran has demonstrated past proficicency in driving commercially. Most people with congenital vision loss will function much better for almost all vision tasks compared to those that lose vision as adults. People that lose function at an early age like Mr. McMorran adapt head positions and vision cues that compensate for loss in visual field and binocularity. This adaptation, in many cases, would allow them to function at a satisfactory level for commercial driving.'' Mr. McMorran reported that he has driven straight trucks for 15 years, accumulating 75,000 miles, and tractor-trailer combinations for 15 years, accumulating 75,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Johnny L. Meese

Mr. Meese, 59, has complete loss of vision in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''I believe that Mr. Meese has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Meese reported that he has driven straight trucks for 20 years, accumulating 100,000 miles, and buses for 3.5 years, accumulating 44,450 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Corey L. Morman

Mr. Morman, 43, has had a detached retina in his right eye since 2003. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''I certify that, in my opinion, Mr. Morman has adequate vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Morman reported that he has driven tractor-trailer combinations for 6 years, accumulating 600,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jaime P. Narte, Jr.

Mr. Narte, 59, has had keratoconus in his left eye since 1983. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2013, his ophthalmologist stated, ''There is no question that Mr. Norte [*sic*] has sufficient vision to operate a commercial vehicle.'' Mr. Narte reported that he has driven tractor-trailer combinations for 7 years, accumulating 350,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James M. Nohl

Mr. Nohl, 47, has enucleation in his left eye due to a traumatic incident in 2000. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''With normal visual acuity and vision fields OD, I feel he has sufficient vision to operate a commercial vehicle.'' Mr. Nohl reported that he has driven straight trucks for 4 years, accumulating 187,200 miles. He holds an operator's license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas G. Ohlson

Mr. Ohlson, 56, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/25, and in his left eye, 20/150. Following an examination in 2014, his ophthalmologist stated, ''Although the left eye is amblyopic with a best corrected visual acuity of 20/150, it still retains useful vision and contributes to his peripheral vision that is consistent with a fully functioning normal visual field. I would not hesitate to allow him to retain his status as a commercial driver.'' Mr. Ohlson reported that he has driven straight trucks for 11 years, accumulating 110,000 miles. He holds an operator's license from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jason S. Otto

Mr. Otto, 33, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my medical opinion, the patient has sufficient visual capabilities to perform the tasks required to operate a commercial vehicle.'' Mr. Otto reported that he has driven straight trucks for 5.5 years, accumulating 41,250 miles. He

holds an operator's license from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Nathan J. Price

Mr. Price, 36, has a macular scar in his left eye due to a traumatic incident that occurred in 2006. The visual acuity in his right eye is 20/20, and in his left eye, 20/600. Following an examination in 2014, his optometrist stated, ''Patient has sufficient vision to perform the driving tasks required to operate a commerciail [*sic*] vehicle and has sufficient color vision for traffic light identification.'' Mr. Price reported that he has driven tractor-trailer combinations for 1.7 years, accumulating 34,000 miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert D. Reeder

Mr. Reeder, 55, has had amblyopia secondary to strabismus in his right eye since childhood. The visual acuity in his right eye is 5/400, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''In my opinion Mr. Reeder has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Reeder reported that he has driven tractor-trailer combinations for 9 years, accumulating 675,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ricky L. Rice

Mr. Rice, 49, has complete loss of vision in his left eye due to a traumatic incident in 1988. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated that, in his medical opinion, Mr. Rice does have sufficient vision to operate a commercial motor vehicle. Mr. Rice reported that he has driven straight trucks for 7 years, accumulating 612,500 miles, and tractor-trailer combinations for 15 years, accumulating 1.313 million miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Johnnie K. Richard

Mr. Richard, 53, has had retinal scarring in his left eye due to a traumatic incident in 1983. The visual acuity in his right eye is 20/15, and in his left eye, 20/100. Following an examination in 2013, his optometrist stated, ''It is my professional opinion that Mr. Richard has sufficient vision to operate a commercial vehicle.'' Mr. Richard reported that he has driven tractor-trailer combinations for 30 years, accumulating 1.8 million miles. He holds a Class A CDL from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jorge L. Y. Rivera

Mr. Rivera, 28, has had exotropia with amblyopia and keratoconus in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his optometrist stated that, in his medical opinion, Mr. Rivera does have sufficient vision to operate a commercial motor vehicle. Mr. Rivera reported that he has driven straight trucks for 6 years, accumulating 30,000 miles, and tractor-trailer combinations for 1 year, accumulating 3,000 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Craig Robinson

Mr. Robinson, 53, has a macular hole in his left eye due to a traumatic incident in 1984. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his ophthalmologist stated, ''I, Carl Danzig, MD, state that in my best medical opinion Craig Robinson has significant vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Robinson reported that he has driven tractor-trailer combinations for 5 years, accumulating 175,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael E. Schlachter

Mr. Schlachter, 23, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/15, and in his left eye, 20/50. Following an examination in 2013, his optometrist stated, ''Mr. Schlachter has sufficient vision and visual skills to safely operate a commercial vehicle.'' Mr. Schlachter reported that he has driven straight trucks for 1 year, accumulating 4,000 miles. He holds a Class AM CDL from Wyoming. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kenneth W. Sigl

Mr. Sigl, 48, has had a macular hole, epiretinal membrane, and a cataract in his left eye since 2006. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2013, his ophthalmologist stated that, in his medical opinion, Mr. Sigl does have sufficient vision to operate a commercial motor vehicle. Mr. Sigl reported that he has driven straight trucks for 22 years, accumulating 110,000 miles. He holds a Class ABCDM CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert A. Simpson

Mr. Simpson, 62, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''At this time his best corrected visual acuities are 20/200 right eye and 20/20 left eye . . . Mr. Simpson states he has been driving commercially for about 18 years accident free. Based solely on his solid driving record and visual field results, I believe his vision should allow him to continue along his career path.'' Mr. Simpson reported that he has driven straight trucks for 18 years, accumulating 540,000 miles. He holds a Class A CDL from Mississippi. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jeffrey L. Singley

Mr. Singley, 57, has had congenital retinal damage and coloboma in his right eye since birth. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''In my opinion Mr. Singley has sufficient vision to perform commercial driving tasks.'' Mr. Singley reported that he has driven straight trucks for 3 years, accumulating 60,000 miles. He holds an operator's license from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dennis Torrence

Mr. Torrence, 52, has a central retinal artery occlusion in his left eye since 2009. The visual acuity in his right eye is 20/20, and in his left eye, 20/300. Following an examination in 2013, his optometrist stated, ''I do not foresee any problems with him driving commercially in regard to his visual status.'' Mr. Torrence reported that he has driven straight trucks for 6 years, accumulating 240,000 miles, and

tractor-trailer combinations for 22 years, accumulating 2.2 million miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Julie J. Walsh

Ms. Walsh, 40, has had a congenital cataract in her left eye since birth. The visual acuity in her right eye is 20/20, and in her left eye, light perception. Following an examination in 2013, her optometrist stated, ''She is able to safely perform driving tasks with her right eye vision.'' Ms. Walsh reported that she has driven straight trucks for 1 year, accumulating 10,000 miles. She holds an operator's license from North Dakota. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael T. Wimber

Mr. Wimber, 47, has glaucoma in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2013, his optometrist stated, ''In my medical option [*sic*] his vision is sufficient to perform the driving tasks require [*sic*] to operate a commercial vehicle.'' Mr. Wimber reported that he has driven straight trucks for 7 years, accumulating 700,000 miles, and tractor-trailer combinations for 7 years, accumulating 700,000 miles. He holds a Class A CDL from Montana. His driving record for the last 3 years shows no crashes and 1 conviction for a moving violation in a CMV; he exceeded the speed limit by 10 mph.

Elmer F. Winters

Mr. Winters, 65, has had amblyopia and retinoschisis in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2013, his optometrist stated, ''In conclusion, Mr. Winters has an amblyopic left eye that is well documented, retinoschisis that has also been well documented, and I see no added risk of driving or operating a commercial vehicle.'' Mr. Winters reported that he has driven straight trucks for 10 years, accumulating 50,000 miles, and tractor-trailer combinations for 38 years, accumulating 2.28 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Theodore R. Wolden

Mr. Wolden, 38, has had congenital amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''In summary, Mr. Wolden has myopia with astigmatism in both eyes with mild, longstanding, stable central suppression in the left eye. He has full field of view with both eyes and no limitation to his ability to operate a commercial vehicle.'' Mr. Wolden reported that he has driven straight trucks for 10 years, accumulating 250,000 miles, and tractor-trailer combinations for 10 years, accumulating 250,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eugene T. Wolf

Mr. Wolf, 73, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''It is my opinion, therefore, that Gene Wolf has sufficient vision to safely perform the vision tasks required to continue to operate a commercial vehicle.'' Mr. Wolf reported that he has driven tractor-trailer combinations for 55 years, accumulating 6.4 million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows 1 crash, for which he was cited, and 1 conviction for a moving violation in a CMV; he exceeded the speed limit by 10 mph.

Duane R. Yoder

Mr. Yoder, 28, has had amblyopia and anisometropia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2013, his ophthalmologist stated that, in his medical opinion, Mr. Yoder has sufficient vision to operate a commercial motor vehicle. Mr. Yoder reported that he has driven straight trucks for 5 years, accumulating 175,000 miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

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. The Agency will consider all comments received before the close of business May 1, 2014. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

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–2014–0004 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–2014–0004 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: March 18, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–07215 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0014]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 59 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 May 1, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0014 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 59 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

Carl T. Adams

Mr. Adams, 57, has had ITDM since 1990. 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. Adams understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Adams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Ohio.

Douglas L. Atkins

Mr. Atkins, 47, has had ITDM since 2012. His endocrinologist examined him in 2014 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. Atkins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Atkins meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Bradley E. Bradshaw

Mr. Bradshaw, 30, 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. Bradshaw understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bradshaw 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 North Carolina.

Phillip W. Bulen

Mr. Bulen, 61, 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. Bulen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bulen 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 Idaho.

Robert L. Boul

Mr. Boul, 68, has had ITDM since 2010. His endocrinologist examined him in 2014 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. Boul understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Boul meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Albert B. Burns

Mr. Burns, 61, 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. Burns understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Burns 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.

Suellen M. Civiello

Ms. Civiello, 60, has had ITDM since 2013. 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. Civiello understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Civiello 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 a Class A CDL from Maine.

David C. Clarke

Mr. Clarke, 50, 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. Clarke understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clarke meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Nebraska.

Michael T. Clements

Mr. Clements, 52, 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. Clements understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clements meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Daniel G. Conery

Mr. Conery, 45, has had ITDM since 1983. 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. Conery understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Conery 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.

John A. Conness

Mr. Conness, 76, has had ITDM since 1996. 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. Conness understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Conness meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

John Crosby

Mr. Crosby, 53, has had ITDM since 1986. 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. Crosby understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Crosby meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014

and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

David P. Dengate

Mr. Dengate, 52, has had ITDM since 2013. His endocrinologist examined him in 2014 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. Dengate understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dengate meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Ethan M. Dykstra

Mr. Dykstra, 23, has had ITDM since 2010. His endocrinologist examined him in 2014 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. Dykstra understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dykstra 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 Idaho.

Alan D. Ekberg

Mr. Ekberg, 57, has had ITDM since 1978. His endocrinologist examined him in 2014 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. Ekberg understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ekberg meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Nebraska.

Richard A. Flieth

Mr. Flieth, 63, 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. Flieth understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Flieth 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 Dakota.

Sean P. Flynn

Mr. Flynn, 21, 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. Flynn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Flynn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from California.

Neil G. Ford

Mr. Ford, 42, 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. Ford understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ford meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Alden J. Haskins, Sr.

Mr. Haskins, 57, 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. Haskins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Haskins 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 Maryland.

James Herrada

Mr. Herrada, 49, 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. Herrada understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Herrada meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

Gary W. Hochstein

Mr. Hochstein, 68, has had ITDM since 2011. His endocrinologist examined him in 2014 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. Hochstein understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hochstein meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Harold D. Hoggard, II

Mr. Hoggard, 53, 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. Hoggard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hoggard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Pennsylvania.

Terry L. Horn

Mr. Horn, 45, 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. Horn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Horn 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.

Wayne L. Hurley, Jr.

Mr. Hurley, 46, has had ITDM since 2013. His endocrinologist examined him in 2014 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. Hurley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hurley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Gerald A. Johnson

Mr. Johnson, 51, 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. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Frank T. Katzele

Mr. Katzele, 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. Katzele understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Katzele 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 Wisconsin.

John D. Keller

Mr. Keller, 71, has had ITDM since 2012. His endocrinologist examined him in 2014 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. Keller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Keller 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 New York.

Cory M. Kobernick

Mr. Kobernick, 35, 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. Kobernick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kobernick 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 D CDL from Kentucky.

Thomas G. Lamberton

Mr. Lamberton, 62, 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. Lamberton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lamberton 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 Washington.

Morris H. Lancaster, Jr.

Mr. Lancaster, 63, 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. Lancaster understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lancaster 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.

James M. Lencowski

Mr. Lencowski, 52, has had ITDM since 2013. His endocrinologist examined him in 2014 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. Lencowski understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lencowski meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

Lee H. Lewis

Mr. Lewis, 60, 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. 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 optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Gordon E. Lindley

Mr. Lindley, 70, has had ITDM since 1990. 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. Lindley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lindley 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 Wyoming.

Tracy L. Loudermilk

Mr. Loudermilk, 53, has had ITDM since 2013. His endocrinologist examined him in 2014 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. Loudermilk understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Loudermilk meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Edwin J. Ludwig

Mr. Ludwig, 32, has had ITDM since 1983. 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. Ludwig understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ludwig 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 Ohio.

Edwin H. Maranville

Mr. Maranville, 47, has had ITDM since 1989. 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. Maranville understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Maranville meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Oregon.

Bruce McDaniel

Mr. McDaniel, 47, 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. McDaniel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McDaniel 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 Jersey.

Douglas J. Murray

Mr. Murray, 54, has had ITDM since 2011. His endocrinologist examined him in 2014 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. Murray understands diabetes management and monitoring,

has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Murray 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.

David R. Norton

Mr. Norton, 47, 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. Norton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Norton 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 Ohio.

Jerome Oliver

Mr. Oliver, 56, has had ITDM since 2010. His endocrinologist examined him in 2014 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. Oliver understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Oliver meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Carolina.

Eugene P. OQuendo

Mr. OQuendo, 45, has had ITDM since 2001. His endocrinologist examined him in 2014 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. OQuendo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. OQuendo 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 Massachusetts.

Lester E. Payne

Mr. Payne, 66, has had ITDM since 2011. His endocrinologist examined him in 2014 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. Payne understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Payne meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Oregon.

Curtis J. Pitt

Mr. Pitt, 39, has had ITDM since 2009. His endocrinologist examined him in 2014 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. Pitt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pitt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Oregon.

Rodney L. Porter

Mr. Porter, 62, has had ITDM since 2013. His endocrinologist examined him in 2014 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. Porter understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Porter 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 Oregon.

Larry J. Reese

Mr. Reese, 49, 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. Reese understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Reese 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 Pennsylvania.

James P. Rushing, Jr.

Mr. Rushing, 53, has had ITDM since 2013. His endocrinologist examined him in 2014 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. Rushing understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rushing 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 Virginia.

Nicholas T. Sapounakes

Mr. Sapounakes, 56, 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. Sapounakes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sapounakes 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 a Class A CDL from Virginia.

Scott W. Shindledecker

Mr. Shindledecker, 40, 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. Shindledecker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shindledecker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Ryan D. Simmons

Mr. Simmons, 38, has had ITDM since 2014. His endocrinologist examined him in 2014 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. Simmons understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Simmons meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Shirliann F. Skroch

Ms. Skroch, 50, has had ITDM since 2011. 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. Skroch understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Skroch 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 a Class A CDL from Nevada.

Ross L. Smith, Sr.

Mr. Smith, 56, 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. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith 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 New Jersey.

Allen G. Smuda

Mr. Smuda, 51, has had ITDM since 1981. His endocrinologist examined him in 2014 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. Smuda understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smuda meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Thomas G. Sosnoski

Mr. Sosnoski, 58, 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. Sosnoski understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sosnoski 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 Florida.

Richard L. Stark

Mr. Stark, 59, 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. Stark understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stark meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Philip E. Stegeman

Mr. Stegeman, 36, has had ITDM since 2011. His endocrinologist examined him in 2014 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. Stegeman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stegeman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have

diabetic retinopathy. He holds a Class A CDL from Idaho.

Toby R. Tillett

Mr. Tillett, 45, 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. Tillett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tillett 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 Kentucky.

Kolby L. Van Newkirk

Mr. Van Newkirk, 27, has had ITDM since 1996. 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. Van Newkirk understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Van Newkirk meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Nebraska.

Brandon L. Weaver

Mr. Weaver, 21, 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. Weaver understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Weaver meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Michael B. Wilson

Mr. Wilson, 55, has had ITDM since 2013. His endocrinologist examined him in 2014 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. Wilson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wilson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

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–2014–0014 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

[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.

search box insert the docket number FMCSA–2014–0014 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: March 18, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–07213 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA—2014–0029]

Notice of Buy America Waiver

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Buy America waiver.

SUMMARY: This Notice provides NHTSA's finding that a non-availability waiver of the Buy America requirements is appropriate for the purchase of motorcycle helmets by the Florida Department of Transportation (FDOT), using Federal grant funds. NHTSA has determined that a waiver is appropriate because there are no suitable motorcycle helmets produced in the United States that are designed for consumer-use.

DATES: The effective date of this waiver is May 1, 2014. Written comments regarding this notice may be submitted to NHTSA and must be received on or before: April 16, 2014.

ADDRESSES: Written comments may be submitted using any one of the following methods:

- Mail: Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Fax: Written comments may be faxed to (202) 493–2251.
- Internet: To submit comments electronically, go to the Federal regulations Web site at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Instructions: All comments submitted in relation to this waiver must include the agency name and docket number. Please note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You may also call the Docket at 202–366–9324.

FOR FURTHER INFORMATION CONTACT: For program issues, contact Barbara Sauers, Office of Regional Operations and Program Delivery, NHTSA (phone: 202–366–0144). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202–366–5263). You may send mail to these officials at National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This Notice provides NHTSA's finding that a waiver of the Buy America requirements, 23 U.S.C. 313, is appropriate for the Florida Department of Transportation (FDOT) to purchase consumer-use motorcycle helmets, using grant funds authorized under 23 U.S.C. 403 (section 403). Section 403 funds are available for use by State Highway Safety Research and Development Activities that, among other things, aim to reduce injuries and deaths from motorcycle accidents. 23 U.S.C. 403. The Buy America Act provides that NHTSA ''shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or [Title 23] and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.'' 23 U.S.C. 313. However, NHTSA may waive those requirements if (1) their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent. 23 U.S.C. 313(b). In this instance, NHTSA has determined that a waiver is appropriate for the purchase of the consumer-use motorcycle helmets because there is no sufficient product produced domestically that meets the need identified by FDOT.

FDOT seeks a waiver to purchase motorcycle helmets for use by its program called ''The Demonstration to Promote Motorcycle Helmet Use.'' Although the State of Florida does not require motorcyclists to wear a helmet, Florida aims to increase helmet use through alternate efforts, such as raffles for helmets and exchanges that allow motorcyclists to receive DOT-compliant helmets for trading in non-DOT-compliant helmets. FDOT seeks to expend Federal grant funds to purchase motorcycle helmets for use during these outreach activities at motorcycle rallies and events. FDOT will use the motorcycle helmets to encourage participation in its helmet safety education programs at these events. FDOT states that its proposed helmet drawings and exchange program will incentivize the use of helmets within the segment of the motorcycle rider community that is suspicious of the safety benefits of helmet use.

FDOT seeks to use these motorcycle helmets for its program because they are designed specifically for consumers. FDOT believes that using these motorcycle helmets as an incentive should encourage and increase the use of helmets within the motorcycling community. Florida is unable to identify, however, any motorcycle helmets that meet the Buy America Act requirements. Florida assessed the location of manufacturing for approximately forty helmet brands and manufacturers through phone and internet searches. Despite this assessment, FDOT still was unable to find an American made motorcycle helmet.

NHTSA is aware of only one brand of consumer-use motorcycle helmet that is produced in the United States: Super Seer Corporation (Seer), a Colorado-based custom motorcycle helmet manufacturer. Seer primarily produces helmets for law enforcement. It also makes one model (Seer Touring Helmet) for public use. The Seer helmet is not offered to the general public through retail outlets. These custom motorcycle helmets are not mass produced, rather they are hand-made to order.[1] Consumers may purchase a custom helmet through Seer's Internet Web site. Although these helmets are made in the United States, NHTSA believes they are not produced in sufficient and reasonably available quantities for FDOT's purposes. NHTSA is not aware of any other motorcycle helmets produced in the United States. Though there are other American-based companies in this business, they manufacture their motorcycle helmets overseas. NHTSA assessed approximately forty motorcycle helmet brands and manufacturers, including HJC, Bell, and MHR. NHTSA found that all the companies produce their helmets overseas, in locations such as China, Taiwan, and Italy. Since consumer-use motorcycle helmets are unavailable from an American manufacturer in reasonably available quantities, the Buy

[1] The custom-made Seer touring helmet is much more expensive than other helmets that are sold in stores.

America waiver is appropriate. NHTSA invites public comment on this conclusion.

In light of the above discussion, and pursuant to 23 U.S.C. 313(b)(2), NHTSA finds that it is appropriate to grant a waiver from the Buy America Act requirements to FDOT in order to purchase consumer-use motorcycle helmets. This non-availability waiver applies to Florida and all other States seeking to use section 403 funds to purchase motorcycle helmets for the purposes mentioned herein. The waiver will continue through fiscal year 2014 and will allow the purchase of off-the-shelf consumer motorcycle helmets required for Florida's demonstration motorcycle helmet program. Accordingly, this waiver will expire at the conclusion of fiscal year 2014 (September 30, 2014). In accordance with the provisions of Section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), NHTSA is providing this notice as its finding that a waiver of the Buy America Act requirements is appropriate. Written comments on this finding may be submitted through any of the methods discussed above.

Authority: 23 U.S.C. 313; Pub. L. 110–161.

Issued on: March 26, 2014.

O. Kevin Vincent,

Chief Counsel.

[FR Doc. 2014–07134 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; HONDA

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the American Honda Motor Co., Inc.'s (Honda) petition for an exemption of the Honda Accord vehicle line in accordance with 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of 49 CFR Part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard).

DATES: The exemption granted by this notice is effective beginning with the 2015 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43–439, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated November 18, 2013, Honda requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Accord vehicle line beginning with MY 2015. The petition requested an exemption from parts-marking pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Honda provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its new Accord vehicle line. Honda stated that it will install a passive, transponder-based electronic engine immobilizer antitheft device as standard equipment on its Accord vehicle line. Key components of the antitheft device will include a passive immobilizer, transponder ignition key, ''smart entry'' remote, Powertrain Control Module (PCM) and an Immobilizer Entry System (IMOES). Honda stated that it will install two types of ignition systems (''keyed'' and ''smart entry'' with push button start) on its Accord vehicle line. The ''keyed'' ignition system will be installed on its DX/LX/Sport sedans and LX–S coupe models and the ''smart entry'' system will be installed on its EX/EXL/EXL–V6/Touring sedans, EX/EXL/EXL–V6 coupe models, and its plug-in and EX–L/Touring hybrid models.

Honda stated that its ''keyed'' ignition system vehicles require the use of an ignition key with a correct matching and verified immobilization code to authorize starting of the vehicle.

Honda additionally stated that deactivation of the immobilizer occurs when a valid key and matching immobilization code is verified, allowing the engine to continue normal operations. Specifically, the immobilization system automatically checks for a matching code each time starting of the vehicle is attempted. A matching code must be validated by both the PCM and IMOES in order for the engine to start. Honda stated that if an incorrect key is used to try and start the vehicle, the PCM will prevent fueling of the engine and allow the vehicle to start and run a few seconds before it automatically switches off and the immobilizer telltale indicator begins to flash.

According to Honda, the ''smart entry'' system operates identically to its ''keyed'' ignition system except that ignition for its ''smart entry'' system vehicle is started by pushing the Engine Start/Stop button located to the right of the steering wheel on the vehicle dashboard. Specifically, Honda states that the ''smart entry'' system operates once the remote is within operating range, the start/stop button is pushed, and matching codes are verified by both the PCM and the IMOES allowing the engine to start. Honda further states that if a ''smart entry'' remote without a matching code is placed inside the operating range and the Engine Start/Stop button is pushed, the PCM will prevent fueling and starting of the engine. Deactivation of the device occurs when a ''smart entry'' remote with matching codes is placed within the operating range and verified, allowing the engine to continue normal operations.

In order to attract attention to an unauthorized person attempting to enter its vehicles without the use of a transponder ignition key or a ''smart entry'' remote, Honda stated that it plans to install a vehicle security system as standard equipment on all Accord trim levels except its DX models to monitor attempts of unauthorized entry. Specifically, Honda stated that whenever an attempt is made to open one of its vehicle doors, hood or trunk without turning a key in the key cylinder, or using the key fob to disarm the vehicle, the vehicle's horn will sound and its lights will flash. The security system is armed when all of the doors are locked and the hood and trunk are closed and locked. Honda's security system is deactivated by using the key fob to unlock the vehicle doors or by unlocking the driver's door with the physical ignition key. Honda stated that deactivation of the vehicle's security system feature in its ''smart entry'' vehicles occurs when the ''smart entry'' remote is within operating range and the operator grabs either of the vehicle's front door handles.

Honda stated that its Accord vehicle line will also be installed with other features that have been designed to

prevent unauthorized entry of its vehicles without the use of a key (i.e., ignition key and key cylinders will be designed with special styling features). Honda stated that its key cylinders are designed to be resistant to tampering and its key fob remote utilizes rolling codes for the lock and unlock functions of its vehicles. Honda will also equip its vehicle line with a hood release, counterfeit resistant VIN plates and secondary VINs as standard equipment. Honda further stated that as an additional security measure, key duplication will be strictly controlled by its authorized dealers. Honda's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In addressing the specific content requirements of § 543.6, Honda provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Honda conducted tests based on its own specified standards. Honda provided a detailed list of the tests it uses to validate the integrity, durability and reliability of the device and believes that it follows a rigorous development process to ensure that its antitheft device will be reliable and robust for the life of the vehicle and does not require the presence of a key fob battery to function. Additionally, Honda stated that its antitheft device has no moving parts (i.e., the PCM, IMOES, ignition key, smart entry remote and the electrical components found within its own housing units) which reduces the chance for deterioration or wear resulting from normal use.

In support of its belief that its antitheft device will be as or more effective in reducing and deterring vehicle theft than the parts-marking requirement, Honda referenced data showing several instances of the effectiveness of its proposed immobilizer device. Honda first installed an immobilizer device as standard equipment on it's MY 1998 Accord vehicles and referenced NHTSA's theft rate data showing a decrease in thefts since the installation of its immobilizer device. NHTSA's theft rates for MYs 2009, 2010, and 2011 are 0.9422, 0.7039 and 0.7819 respectively. Using an average of 3 MYs theft data (2009–2011), the theft rate for the Accord vehicle line is well below the median at 1.9067.

Honda also referenced a Highway Loss Data Institute report showing an overall reduction in theft rates for the Honda Accord vehicles after introduction of the immobilizer device. Honda stated that the data show that there was an immediate decrease in MY/calendar year 1998 thefts with its immobilizer-installed vehicles but also showed sustained lower theft rates in following years.

Based on the evidence submitted by Honda on its antitheft device, the agency believes that the antitheft device for the Accord vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Honda has provided adequate reasons for its belief that the antitheft device for the Honda Accord vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. This conclusion is based on the information Honda provided about its device.

The agency concludes that because Honda does not plan to incorporate the vehicle security system on the entire vehicle line as standard equipment, the device will provide four of the five types of performance listed in § 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Honda's petition for exemption for the Accord vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2015 model year vehicles. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Honda decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Honda wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption.

Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Lori K. Summers,

Director, Office of Crashworthiness Standards.

[FR Doc. 2014–07234 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Ford Motor Company

AGENCY: National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full Ford Motor Company's (Ford) petition for an exemption of the Fiesta vehicle

line in accordance with 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the 49 CFR Part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard). Ford also requested confidential treatment of specific information in its petition. The agency will address Ford's request for confidential treatment by separate letter.

DATES: The exemption granted by this notice is effective beginning with the 2015 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, Room W43–439, Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated December 10, 2013, Ford requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Fiesta vehicle line beginning with MY 2015. The petition requested exemption from parts-marking pursuant to 49 CFR Part 543, *Exemption From Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR Part 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one vehicle line per model year. In its petition, Ford provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Fiesta vehicle line. Ford stated that the Model Year (MY) 2015 Fiesta will be installed with a passive, electronic immobilizer device using encrypted transponder technology as standard equipment on the entire vehicle line. Ford also stated that depending on the trim level of the vehicle, the device would be equipped with either the SecuriLock Passive Anti-Theft Electronic Engine Immobilizer system (SecuriLock/PATS) or the Intelligent Access with Push Button Start (IAwPB) system on its Fiesta vehicle line. Specifically, Ford stated that the SecuriLock/PATS system will be installed as standard equipment on all Fiesta trim levels except the Titanium package that would instead be equipped with the IAwPB system as standard equipment. Along with Ford's passive immobilizer, key components of the SecuriLock/PATS antitheft system will include an electronic transponder key, powertrain control module (PCM), transceiver module ignition lock and cluster. Key components of the IAwPB system will include an electronic key fob, remote function actuator (RFA), Keyless Vehicle Module (KVM), powertrain control module and Ford's passive immobilizer. Ford further stated that its Titanium package will also be offered with a separate perimeter alarm system as standard equipment. The perimeter alarm system activates a visible and audible alarm if unauthorized access is attempted. Ford's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

Ford stated that when the ignition key is turned to the ''Run/Start'' position on the SecuriLock/PATS system or the ''Start/Stop'' button is pressed on the IAwPB system, the transceiver module reads the ignition key code and transmits an encrypted message from the keycode to the control module. Once the key is validated, starting of the engine is authorized by sending a separate encrypted message to the powertrain control module (PCM). Ford stated that the powertrain will function only if the keycode matches the unique identification keycode previously programmed into the cluster of the SecuriLock/PATS-equipped vehicles or the RFA in the IAwPB-equipped vehicles. In both systems, if the codes do not match, the vehicle will be inoperable. Ford stated that in both systems, an electronic key will be programmed into the vehicle during system initialization performed at the manufacturing plant. With the IAwPB system, Ford stated that if the programmed key is not present in the vehicle, the engine will not start. Additionally, Ford further stated that the powertrain will function only if the keycode matches the unique identification keycode previously programmed into the Cluster/RFA. Ford also pointed out that in addition to the programmed key, there are three modules that must be matched together in order to start the vehicle, adding an additional level of security to both systems. Specifically, Ford stated that both the SecuriLock/PATS and IAwPB systems' Cluster/RFA and PCM respectively share security data that during vehicle assembly form matched modules that if separated from each other will not function in other vehicles.

In addressing the specific content requirements of 543.6, Ford provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Ford conducted tests based on its own specified standards. Ford provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its own specified requirements for each test.

Ford stated that its MY 2015 Fiesta vehicle line will also be equipped with several other standard antitheft features common to Ford vehicles, (i.e., hood release located inside the vehicle, counterfeit resistant VIN labels, secondary VINs and secured cabin accessibility). Ford also stated that incorporation of several other features in both systems further support reliability and durability of the device. Specifically, some of those features include: Encrypted communication between the transponder and the control function (Cluster/RFA module) and the PCM; numerous code combinations making key duplication virtually impossible; inability to mechanically override the device to start the vehicle; and any attempt to slam-pull the ignition lock cylinder or short the ''Start/Stop'' button will have no effect on an intruder's ability to start the vehicle without the correct code being transmitted to the electronic control modules.

Ford compared the device proposed for its vehicle line with other devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Ford stated that it believes that the standard installation of either the SecuriLock/PATS system or the IAwPB system would be an effective deterrent against vehicle theft.

Ford stated that the SecuriLock/PATS system was introduced as standard equipment on all of its MY 1996 Ford Mustang GT, Cobra and other selected models. Ford also stated that in MY 1997, the SecuriLock/PATS system was extended to the complete Ford Mustang vehicle line as standard equipment. Ford further stated that according to the National Insurance Crime Bureau (NICB) theft statistics, there was a 70% reduction in the theft rate for the MY 1997 Ford Mustang vehicle line installed with its SecuriLock/PATS system as compared to the theft rate for its MY 1995 Ford Mustang vehicle line not installed with the system.

Ford also reported that beginning with MY 2010, the SecuriLock system was installed as standard equipment on all of its North American Ford, Lincoln and Mercury vehicles but was offered as optional equipment on its 2010 F-series Super Duty pickups, Econoline and Transit Connect vehicles. Ford further stated that beginning with MY 2010, the IAwPB system was installed as standard equipment on the Lincoln MKT vehicles and offered as standard equipment on the Lincoln MKX and optionally on the Lincoln MKS, Taurus, Edge, Explorer and the Focus vehicles beginning with MY 2011. Starting with 2013, the IAwPB has been offered as standard equipment on the Lincoln MKZ and as optional equipment on the Ford Fusion, C-Max and Escape vehicles.

Ford stated that both antitheft systems with a standard equipment immobilizer are of the same design and performance as that of the MY 2006 Ford Focus vehicle line. Ford was granted an exemption for the Focus vehicle line on February 14, 2006 by NHTSA (See 71 FR 7824) beginning with its MY 2006 vehicles. Since the agency granted Ford's exemption for its MY 2006 Focus vehicle line, Ford referenced theft rate data published by NHTSA showing that theft rates for the Focus vehicle line have been gradually decreasing and is currently very close to the theft rate for all vehicles published for MY's 2000–2010. Ford stated that since the SecuriLock or the IAwPB systems (with a standard equipment immobilizer device) will be the primary theft deterrents on Ford Fiesta vehicles, it believes that the very low theft rates are likely to continue or improve in the future. The current theft rate for the MY 2011 Ford Focus is 1.3840 and the average theft rate using three MYs' data (2009–2011) is 1.5179.

The agency agrees that the device is substantially similar to devices installed on other vehicle lines for which the agency has already granted exemptions.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Ford has provided adequate reasons for its belief that the antitheft device for the Ford Fiesta vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). This conclusion is based on the information Ford provided about its device.

Based on the supporting evidence submitted by Ford on the device, the agency believes that the antitheft device for the Fiesta vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Ford's petition for exemption for the Fiesta vehicle line from the parts-marking requirements of 49 CFR Part 541. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Ford decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Ford wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Lori K. Summers,

Director, Office of Crashworthiness Standards.

[FR Doc. 2014–07233 Filed 3–31–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice and Request for Comments

AGENCY: Surface Transportation Board, DOT.

ACTION: 30-day notice of request for approval: Waybill Sample.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (Board) gives notice that it is requesting from the Office of Management and Budget (OMB) approval of the information collection—the Waybill Sample—further described below. The Board previously published a notice about this collection in the **Federal Register** on January 16, 2014, at 79 FR 2,938. That notice allowed for a 60-day public review and comment period. No comments were received.

Comments are may now be submitted to OMB concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: Waybill Sample.

OMB Control Number: 2140–0015.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Any railroad that is subject to the Interstate Commerce Act and that terminated at least 4,500 carloads on its line in any of the three preceding years or that terminated at least 5% of the revenue carloads terminating in any state in any of the three preceding years.

Number of Respondents: 53.

Estimated Time Per Response: 75 minutes.

Frequency: Six respondents report monthly; 47 report quarterly.

Total Burden Hours (annually including all respondents): 325 hours.

Total ''Non-hour Burden'' Cost: No ''non-hour cost'' burdens associated with this collection have been identified.

Needs and Uses: The Surface Transportation Board is, by statute, responsible for the economic regulation of common carrier rail transportation in the United States. Under 49 CFR part 1244, a railroad is required to file carload waybill sample information (Waybill Sample) for all line-haul revenue waybills terminating on its lines if, in any of the three preceding years, it either (1) terminated at least 4,500 carloads on its, or (2) terminated at least 5% of the revenue carloads terminating in any state. The information in the Waybill Sample is used by the Board, other federal and state agencies, and industry stakeholders to monitor traffic flows and rate trends in the industry, and to develop testimony in Board proceedings. The Board has authority to collect this information under 49 U.S.C. 11144 and 11145.

DATES: Comments on this information collection should be submitted by May 1, 2014.

ADDRESSES: Written comments should be identified as ''Paperwork Reduction Act Comments, Surface Transportation Board, ''Waybill Sample collection.'' These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Patrick Fuchs, Surface Transportation Board Desk Officer, by email at *OIRA_SUBMISSION@OMB.EOP.GOV;* by fax at (202) 395–6974; or by mail to Room 10235, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THE STB FORM, CONTACT: For further information regarding the Waybill Sample collection, contact Paul Aguiar at (202) 245–0323 or *economic.data@stb.dot.gov.* [Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.]

SUPPLEMENTARY INFORMATION: Under the PRA, a federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 320.3(c), includes agency requirements or requests that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: March 26, 2014.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–07163 Filed 3–31–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from RSI Logistics, Inc. (WB604–12—3/5/14) for permission to use certain data from the Board's 2012 Carload Waybill Sample. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Scott Decker, (202) 245–0348.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–07258 Filed 3–31–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from GATX Corporation (WB512–18—3/10/14), for permission to use certain data from the Board's Carload Waybill Samples. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Scott Decker, (202) 245–0348.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–07199 Filed 3–31–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for Appointment to the Advisory Committee on Minority Veterans

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA), Center for Minority Veterans (CMV), is seeking nominations of qualified candidates to be considered for appointment as a member of the Advisory Committee on Minority Veterans (herein-after in this section referred to as ''the Committee''). In accordance with Public Law 103–446, the Committee advises the Secretary on the administration of VA benefits and services to minority Veterans; assesses the needs of minority Veterans; and evaluates whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee makes recommendations to the Secretary regarding such activities. Nominations of qualified candidates are being sought to fill upcoming vacancies on the Committee.

DATES: Nominations for membership on the Committee must be received no later than 5:00 p.m. EST on May 30, 2014.

ADDRESSES: All nominations should be mailed to the Center for Minority Veterans, Department of Veterans Affairs, 810 Vermont Ave. NW. (00M), Washington, DC 20420, or faxed to (202) 273–7092.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita J. Mullen, Center for Minority Veterans, Department of Veterans Affairs, 810 Vermont Ave. NW. (00M), Washington, DC 20420, Telephone (202) 461–6191. A copy of the Committee charter and list of the current

membership can be obtained by contacting Ms. Mullen or by accessing the Web site managed by CMV at *www.va.gov/centerforminorityveterans/Advisory_Committee.asp.*

SUPPLEMENTARY INFORMATION: Appointed by the Secretary, The Advisory Committee on Minority Veterans (ACMV) was established under Public Law 103–446 section 510, November 2, 1994. The Committee consists of veterans who represent respective minority groups and are recognized authorities in fields pertinent to the needs of the minority group they embody. Minority group member means an individual who is Asian American, Black, Hispanic, Native American (including American Indian, Alaska Native, and Native Hawaiian); or Pacific Islander American. The Committee responsibilities include:

(1) Advising the Secretary and Congress on VA's administration of benefits and provisions of healthcare, benefits, and services to minority Veterans.

(2) Providing an Annual report to congress outlining recommendations, concerns and observations on VA's delivery of services to minority Veterans.

(3) Meeting with VA officials, Veteran Service Organizations, and other stakeholders to assess the Department's efforts in providing benefits and outreach to minority Veterans.

(4) Making periodic site visits and holding town hall meetings with Veterans to address their concerns.

Management and support services for the Committee are provided by CMV.

Nominations: CMV is requesting nominations for upcoming vacancies on the Committee. The Committee is currently composed of 12 members, in addition to ex-officio members. This announcement is seeking nominations for Committee members. The members of the Committee are appointed by the Secretary of Veterans Affairs from the general public, including:

(1) Representatives of Veterans who are minority group members;

(2) Individuals who are recognized authorities in fields pertinent to the needs of Veterans who are minority group members;

(3) Veterans who are minority group members and who have experience in a military theater of operations;

(4) Veterans who are minority group members and who do not have such experience and;

(5) Recently separated Veterans who are minority group members.

The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

Required Professional Qualifications: Nominees should meet all of the following criteria to be eligible for consideration.

(1) Must be diverse in your professional and personal qualifications;

(2) Must have experience in military service and military deployments;

(3) Is currently working with Veterans;

(4) Committee subject matter expertise;

(5) Have experience working in large and complex organizations;

(6) Must identify your Branch of Service and Rank;

(7) Must identify your Race and Ethnicity to ensure balance of membership.

Desirable Qualifications

Requirements for Nomination Submission: Nominations should be type written (one nomination per nominator). Nomination package should include: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (i.e. specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee indicating a willingness to serve as a member of the Committee; (2) the nominee's contact information, including name, mailing address, telephone numbers, and email address; (3) the nominee's curriculum vitae, and (4) a summary of the nominee's experience and qualification relative to the *required professional qualifications* criteria listed above.

Individuals selected for appointment to the Committee shall be invited to serve a two year term. Committee members will receive a stipend for attending Committee meetings, including per diem and reimbursement for travel expenses incurred.

The Department makes every effort to ensure that the membership of VA federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that a broad representation of geographic areas, males and females, racial and ethnic minority groups, and the disabled are given consideration for membership on VA federal advisory committees. Appointment to this Committee shall be made without discrimination because of a person's race, color, religion, sex, national origin, age, disability, or genetic information. Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Dated: March 26, 2014.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2014–07169 Filed 3–31–14; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 79 Tuesday,
No. 62 April 1, 2014

Part II

Department of Energy

48 CFR Parts 915, 934, 942, et al.
Acquisition Regulation: Contractor Business Systems—Definition and Administration; Proposed Rule

DEPARTMENT OF ENERGY

48 CFR Parts 915, 934, 942, 944, 945 and 952

RIN 1991–AC01

Acquisition Regulation: Contractor Business Systems—Definition and Administration

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to amend the Department of Energy Acquisition Regulation (DEAR) to define contractor business system as accounting system, estimating system, purchasing system, earned value management system (EVMS), and property management system. DOE is proposing to implement compliance enforcement mechanisms in the form of a contractor business system clause and related clauses that includes a provision that would allow contracting officers to withhold a percentage of payments, under certain conditions, when a contractor's business system contains significant deficiencies.

DATES: Written comments on the proposed rulemaking must be received on or before close of business June 2, 2014.

ADDRESSES: You may submit comments, identified by ''DEAR—Contractor Business Systems—Definition and Administration and RIN 1991–AC01,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email to: DEARrulemaking@hq.doe.gov mailto:.* Include DEAR: Contractor Business Systems—Definition and Administration and RIN 1991–AC01 in the subject line of the message.
- *Mail to:* U.S. Department of Energy, Office of Procurement and Assistance Management, MA–611, 1000 Independence Avenue SW., Washington, DC 20585. Comments by email are encouraged.

FOR FURTHER INFORMATION CONTACT: Barbara Binney, (202) 287–1340 or *barbara.binney@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Section-by-Section Analysis
III. Procedural Requirements:
A. Review Under Executive Orders 12866 and 13563
B. Review Under Executive Order 12988
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under the National Environmental Policy Act
F. Review Under Executive Order 13132
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under Executive Order 13211
J. Review Under the Treasury and General Government Appropriations Act, 2001
K. Approval by the Office of the Secretary of Energy

I. Background

The purpose of this rulemaking is to define a contractor's business system as their accounting system, estimating system, purchasing system, earned value management system (EVMS), and property management system. DOE proposes to implement compliance enforcement mechanisms in the form of a business system clause and related clauses that allow contracting officers to withhold a percentage of payments, under certain conditions, when a contractor's business system contains significant deficiencies. DOE proposes, when the prime contract is awarded to a large business, to include a contractor teaming arrangement, and the total contract value exceeds $50 million, including options; or when the prime contract totaling $10 million or more including options (but less than $50 million) is awarded to a large business, to include a contractor teaming arrangement, and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist or the contractor's sales are predominantly Government) to prescribe these clauses for contracts in support of Capital Asset Projects (other than management and operating contracts), as prescribed in DOE Order (DOE O) 413.3B, Program and Project Management for the Acquisition of Capital Assets, or non-capital asset projects. Under the proposed rule, DOE could withhold a percentage of interim payments invoiced under—cost reimbursement contracts; incentive type contracts; time-and-materials contracts and; labor-hour contracts; as well as progress payments; and performance-based payments. The proposed changes affect DOE, which includes the National Nuclear Security Administration (NNSA), as well as DOE contractors, which include both DOE and NNSA contractors. The proposed changes do not affect Management & Operating (M&O) contracts. M&O contracts include M&O specific clauses that need to be considered and possibly revised to incorporate the clauses for the business system. For example, DOE authorizes the M&O contractor to finance contract performance by use of Special Financial Institution Accounts and requires the M&O contractor to maintain integrated accounting systems, under which the contractors budgeting and accounting follow DOE's Accounting Handbook. Because of these differences the business system clause and related clauses for the M&O contracts will be different from this rule; it is our intent to publish a separate proposed rule for M&O contracts at a later time.

The proposed changes include policy revisions under DOE contracts. Contractor business systems and internal controls are the first line of defense against waste, fraud, and abuse. Weak control systems increase the risk of unallowable and unreasonable costs on Government contracts. To improve the effectiveness of DOE's oversight of contractor business systems, DOE is considering a rule to clarify the definition and administration of contractor business systems. It applies to designated fixed-price contracts awarded to a large business on the basis of adequate price competition without submission of cost or pricing data or covered contracts subject to the Cost Accounting Standards under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201–1(a) and not exempted at 9903.201–1(b)(1) through (14). DOE proposes to:

1. Define contractor business system as estimating system, purchasing system, earned value management system (EVMS), accounting system and property management system.

2. Implement compliance enforcement mechanisms in the form of a business system clause that allows contracting officers to withhold a percentage of payments, under certain conditions, when a contractor's business system contains significant deficiencies. Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes. Under such circumstances, payments could be withheld on—

- Interim payments under—
  - Cost reimbursement contracts;
  - Incentive type contracts;
  - Time-and-materials contracts; or
  - Labor-hour contracts;
- Progress payments to include fixed-price contracts; and
- Performance-based payments to include fixed-price contracts.

If the contracting officer issues the final determination with a notice to withhold payments for significant deficiencies in a contractor business system required under the contract, the contracting officer will withhold no more than five percent of amounts for

one or more significant deficiencies in any single contractor business system and no more than ten percent of amounts for significant deficiencies in multiple contractor business system by directing the contractor, in writing, to withhold five percent or ten percent from its invoices until the contracting officer has determined that the contractor has corrected all significant deficiencies as directed by the contracting officer's final determination. When the contracting officer has determined that all significant deficiencies are corrected, the contracting officer will direct the contractor to discontinue the payment withholding from invoices and authorize the contractor to invoice for any monies previously withheld that are not also being withheld due to other significant deficiencies. This final determination is not a final decision within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 7101, et seq.).

At the end of contract performance, if significant deficiencies remain in the disapproved system or systems and payment withholdings are in effect, the payment withholdings will be released during contract closeout. However, the release of the payment withholdings from one contract will not mean the system is approved. If there are other contracts where payment withholdings are in effect, the payment withholdings will continue on those contracts. These payment withholding are contract financing payments, and therefore are not subject to the interest penalty provisions of the Prompt Payment Act.

When the Final Rule becomes effective, the clauses will be incorporated into solicitations that meet the established applicability requirements and will apply prospectively after being incorporated into affected contracts. Affected contracts are contracts awarded to large businesses, to include teaming arrangements, in support of Capital Asset Projects (other than management and operating contracts), as prescribed in DOE Order (DOE O) 413.3B, Program and Project Management for the Acquisition of Capital Assets, and non-capital asset projects when the total contract value exceeds $50 million, including options; or when the prime contract totaling $10 million or more, including options (but less than $50 million) is awarded to a large business, to include a contractor teaming arrangement, and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist or the contractor's sales a predominantly Government). After the effective date of the Final Rule, contracting officers will negotiate bilaterally with contractors who hold affected contracts to incorporate the changes of the Final Rule into their contracts within 60 days. Contracting officers must also incorporate the changes of the Final Rule into affected contracts before extending them or exercising options under them by negotiating bilaterally with the contractors.

DOE notes that the Department of Defense (DoD) clauses were considered in drafting the proposed clauses. The system criteria in the clauses are based on the DoD clauses. Because the applicable DOE contracts are performed mostly at the DOE sites, each contractor will provide documentation to support the system criteria that they are using for that DOE contract. In circumstances where the contractor is using the same business system for a DoD contract and a DOE contract, the contractor would explain this circumstance and provide the results of DoD's review of their business system so that DOE can coordinate with DoD concerning use of the business system under the DOE contract.

Today's proposed rule does not alter substantive rights or obligations under current law.

DOE requests comments on all aspects of this proposed rule.

II. Section-by-Section Analysis

1. Part 915 is amended to add new Sections 915.407 Special cost or pricing areas, 915.407–5 Estimating system, and 915.407–5–70 Disclosure, maintenance, and review requirements. Section 915.407–5–70 establishes the policy that DOE contractors have acceptable estimating systems. It adds definitions, describes applicability requirements, system criteria, and provides procedures for addressing significant deficiencies in estimating system.

The applicable contract is subject to estimating system disclosure, maintenance, and review requirements for prime contractors (large business to include contractor teaming arrangement, as defined at 48 CFR 9.601(1)) when the total contract value exceeds $50 million, including options; or when the prime contract totaling $10 million or more including options (but less than $50 million) is awarded to a large business, to include a contractor teaming arrangement and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist). Also, Subpart 952 is amended to add the related clause 952.215–71 Cost Estimating System Requirements. A contractor's acceptable estimating system accurately describes the policies, procedures, and practices that the contractor currently uses in preparing cost proposal (budgeting planning controls, generating estimates of costs and other data included in proposals) with sufficient detail for the Government to reasonably make an informed judgment regarding the acceptability of the contractor's estimating practices.

In the event any significant deficiencies are found in the estimating system, the contracting officer will provide to the contractor an initial determination of a significant deficiency and allow the contractor to respond within 30 days if the contractor disagrees. If the contracting officer does not receive a written response from the contractor within 30 days, the contractor will be deemed to agree with the initial determination. The contracting officer will evaluate the contractor's response or the contractor's lack of response and notify the contractor of a final determination concerning any remaining significant deficiencies, adequacy of any proposed or completed corrective action, and system disapproval if one or more significant deficiencies remain. If the contractor receives a final determination, the contractor shall, within 45 days, correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies. When the contracting officer makes a final determination to disapprove the contractor's estimating system, the contracting officer will withhold payments in accordance with the clause 952.242–71, Contractor Business Systems.

2. Section 915.408–70 is amended by revising the language to add instructions on when to use the cost estimating clause.

3. Subchapter E is amended to add a new part 934—Major System Acquisition and Subpart 934.2—Earned Value Management System, and Sections 934.201–70 and 934.203. Subpart 952 is amended to add the related provision and clause, 952.234–70 Notice of Earned Value Management System, and 952.234–71 Earned Value Management System, respectively. The Subpart and Sections add DEAR text, a provision, and a clause addressing earned value management policy for DOE contracts. The rule supplements the final Federal Acquisition Regulation (FAR) rule published at 71 FR 38238 on July 5, 2006, and establishes DOE

specific earned value management requirements, as permitted by the FAR. This section establishes policy that DOE contractors have an acceptable earned value management system (EVMS). It adds definitions, applicability requirements, system criteria, and provides procedures for addressing significant deficiencies in estimating systems.

EVMS requirements apply to Capital Asset Projects on cost or incentive contracts and subcontracts based on dollar thresholds. For contracts valued at $20,000,000 or more, the contractor shall have an EVMS determined to be in compliance with the guidelines in the American National Standards Institute/Electronic Industries Alliance Standard 748, EVMS (ANSI/EIA–748). In addition, for contracts valued at $20,000,000 but not exceeding $50,000,000, the contractor shall conduct self-certification review and periodic surveillance reviews.

When the contractor has two or more contracts in support of capital asset projects at DOE and the total contract value for a contract is $20,000,000 or greater and the combined total contract values for these contracts is $50,000,000 or more, those contracts shall be subject to certification and surveillance reviews for contract values for $50,000,000 and above. For example, the contractor has 3 contracts in support of a DOE capital asset projects. Contract A is for $15,000,000. Contract B is for $21,000,000. Contract C is for $30,000,000. Contracts B and C are each by themselves $20,000,000 or greater. The combined total contract values for these two contracts (B at $21,000,000 and C at $30,000,000) is $50,000,000 or more. Therefore, DOE would conduct certification reviews and surveillance reviews for these 2 contracts.

When the contract value is $50,000,000 but not exceeding $100,000,000, the applicable DOE Program Office will conduct certification reviews and periodic surveillance reviews to ensure continued compliance with ANSI/EIA–748.

When the contract value is $100,000,000 or more, DOE Office of Acquisition and Project Management will conduct certification reviews and periodic surveillance reviews to ensure continued compliance with ANSI/EIA–748.

Also for solicitations and contracts valued at $20,000,000 or more, DOE will use the provision 952.234–70, Notice of Earned Value Management System, instead of the provisions at FAR 52.234–2, Notice of Earned Value Management System—Pre-Award IBR, and FAR 52.234–3, Notice of Earned Value Management System—Post-Award IBR; and the clause at 952.234–71, Earned Value Management System, instead of the clause at FAR 52.234–4, Earned Value Management System. For proposals in the amount of $50,000,000 or more, the provision 952.234–70, Notice of Earned Value Management System, requires the offeror to comply with the EVMS guidelines of the ANSI/EIA–748. If offeror proposes to use a system that has not been determined to be in compliance with ANSI/EIA–748, the offeror shall submit a comprehensive plan for compliance with the guidelines in ANSI/EIA–748.

For a contract valued at $50 million or more, the clause 952.234–71, Earned Value Management System, requires the contractor to use an EVMS that has been determined to be acceptable by DOE. If, at the time of award, the contractor's EVMS has not been determined by DOE to be in compliance with the EVMS guidelines, the contractor shall apply its current system to the contract and shall take necessary actions to meet the milestones in the contractor's EVMS plan.

In the event any significant deficiencies are found in the earned value management system, the contracting officer will provide to the contractor an initial determination of a significant deficiency and allow the contractor 30 days to respond if the contractor disagrees. If there is no written response from the contractor within 30 days, it will indicate that the contractor agrees with the initial determination. The contracting officer will evaluate the contractor's response or the contractor's lack of response and notify the contractor of a final determination concerning any remaining significant deficiencies; adequacy of any proposed or completed corrective action; system noncompliance when the EVMS fails to comply with ANSI/EIA–748 guidelines; and system disapproval if EVMS validation is not successfully completed or that there is one or more significant deficiencies in guidelines.

The contracting officer's final determination of the contractor's EVMS will indicate that the system is acceptable and approved with no significant deficiencies remaining, or that the system contains one or more significant deficiencies in high-risk guidelines in ANSI/EIA–748 standards (guidelines 1, 3, 6, 7, 8, 9, 10, 12, 16, 21, 23, 26, 27, 28, 30, or 32). When the contracting officer determines that the existing earned value management system contains one or more significant deficiencies in one or more of the remaining 16 guidelines in ANSI/EIA–748 standards, the contracting officer shall use discretion to disapprove the system based on input received from functional specialists and the auditor.

The contractor will have 45 days to either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies. When the contracting officer makes a final determination to disapprove the contractor's system, the contracting officer will withhold payments in accordance with the clause 952.242–71, Contractor Business Systems.

4. Part 942 is amended to add a new Subpart 942.70—Contractor Business System, Sections 942.7001 through 942.7005. Subpart 952 is amended to add the related clause 952.242–71, Contractor Business System. The proposed amendments will permit a contracting officer to withhold payment not to exceed five percent for one or more significant deficiencies in any single contractor business system and not to exceed ten percent for significant deficiencies in multiple contractor business systems after making a final determination to disapprove a contractor's business system for designated fixed-price contracts awarded to a large business on the basis of adequate price competition with or without submission of cost or pricing data; or for covered contract(s) subject to the Cost Accounting Standards under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201–1(a) and are not exempted at (b)(1) through (14).

In solicitations and contracts in support of a Capital Asset Project (other than a management and operating contract), as prescribed in DOE Order 413.3B, or for a non-capital asset project, for prime contractors (large business to include contractor teaming arrangements), when the total contract value exceeds $50 million, including options; or when the prime contract totaling $10 million or more, including options, (but less than $50 million) is awarded to a large business, to include a contractor teaming arrangement and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist) use the clause 952.242–71, Contractor Business System. Also, the solicitation or contract will include any of the following clauses: 952.215–71, Cost Estimating System Requirements; 952.234–71, Earned Value Management System; 952.242–72, Accounting System Administration; 952.244–71, Contractor

Purchasing System Administration; and 952.245–70, Contractor Property Management System Administration.

The requirements of this subpart 942.70 will not apply to acquisitions for—

- Small business set-asides;
- Energy savings performance contracts as required by the Energy Policy Act of 1992;
- Services for—
  - ''Advisory and assistance services'' as defined at 48 CFR 2.101, unless otherwise designated as applicable by the Senior Procurement Executive or the Head of the Contracting Activity;
  - Security Guards;
  - Housekeeping;
  - Education and training;
  - National Environmental Policy Act of 1969 Support; or
  - Utilities;
- Office of the Deputy Administrator for Naval Reactors;
- Interagency acquisitions in accordance with 48 CFR 17.5; or
- Orders against another Federal agency contract, e.g. Federal Supply Services (48 CFR 8.4).

During contract performance, the contracting officer, or designee, shall evaluate the contractor's business system performance and compliance in accordance with 48 CFR 42.15 and DOE procedures. At the end of contract performance, if significant deficiencies remain in the disapproved system or systems and payment withholdings are in effect, the payment withholdings will be released during contract closeout. However, the release of the payment withholdings from one contract will not mean the system is approved. If there are other contracts where payment withholdings are in effect, the payment withholdings will continue on those contracts. These payment withholding are contract financing payments; therefore, these payments withholdings are not subject to the interest penalty provisions of the Prompt Payment Act.

5. Part 942 is amended to add a new Subpart 942.71—Contractor Accounting System and Related Controls, Sections 942.7101, 942.7102 and 942.7103. Subpart 952 is amended to add the related clause 952.242–72, Accounting System Administration. The proposed amendments will require DOE contractors to have acceptable accounting systems. It adds definitions, describes applicability requirements, system criteria, and provides procedures for addressing significant deficiencies in contractor accounting systems.

In solicitations and contracts in support of a Capital Asset Project, (other than a management and operating contract), as prescribed in DOE Order 413.3B, or for a non-capital asset project, for prime contractors, (large business to include contractor teaming arrangements), when the total contract value exceeds $50 million, including options; or when the prime contract totaling $10 million or more, including options, (but less than $50 million) is awarded to a large business, to include a contractor teaming arrangement and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist) and the contract will be either a cost-reimbursement, incentive type, time-and-materials, or labor-hour contract; or a contractor with progress payments made on the basis of cost incurred by the contractor or on a percentage or stage of completion, or fixed-price contracts awarded on the basis of adequate price competition without submission of cost or pricing data with a large business, to include contractor teaming arrangement, use the clause 952.242–72, Accounting System Administration. The clause requires the contractor to establish and maintain an acceptable accounting system in accordance with the system criteria described in the clause.

In the event any significant deficiencies are found in the accounting system, the contracting officer will provide to the contractor an initial determination of a significant deficiency and allows the contractor to respond within 30 days if the contractor disagrees. If there is no written response from the contractor within 30 days, it will indicate that the contractor agrees with the initial determination. The contracting officer will evaluate the contractor's response or the contractor's lack of response and notify the contractor of a final determination concerning any remaining significant deficiencies, adequacy of any proposed or completed corrective action, and system disapproval if one or more significant deficiencies remain. If the contractor receives a final determination, the contractor shall within 45 days either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies. When the contracting officer makes a final determination to disapprove the contractor's accounting system, the contracting officer will withhold payments in accordance with the clause 952.242–71, Contractor Business System.

6. Subchapter G is amended to add a new Part 944—Subcontracting Policies and Procedures, Subpart 944.3—Contractors' Purchasing System Review, and Sections 944.301, 944.303, 944.305, 944.305–70 and 944.305–71. Subpart 952 is amended to add the related clause 952.244–71, Contractor Purchasing System Administration. The proposed amendment requires that DOE contractors have acceptable purchasing system. The amendment add definitions, describe applicability requirements, define system criteria, and provide procedures for addressing significant deficiencies in contractor purchasing systems.

In solicitations and contracts in support of a Capital Asset Project (other than a management and operating contract), as prescribed in DOE Order 413.3B, or for a non-capital asset project, for prime contractors (large business to include contractor teaming arrangements), when the total contract value exceeds $50 million, including options; or when the prime contract totaling $10 million or more, including options, (but less than $50 million) is awarded to a large business, to include a contractor teaming arrangement and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist) and the contract contains the clause at 48 CFR 52.244–2 Subcontracts, use the clause 952.244–71, Contractor Purchasing System Administration. The clause requires the contractor to establish and maintain an acceptable purchasing system in accordance with the system criteria described in the clause.

In the event any significant deficiencies are found in the purchasing system, the contracting officer will provide to the contractor an initial determination of a significant deficiency and allows the contractor to respond within 30 days if the contractor disagrees. If there is no written response from the contractor within 30 days, it will indicate that the contractor agrees with the initial determination. The contracting officer will evaluate the contractor's response or the contractor's lack of response and notify the contractor of a final determination concerning any remaining significant deficiencies, adequacy of any proposed or completed corrective action, and system disapproval if one or more significant deficiencies remain. If the contractor receives a final determination, the contractor shall within 45 days either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies. When the contracting officer makes a final determination to disapprove the

contractor's purchasing system, the contracting officer will withhold payments in accordance with the clause 952.242–71, Contractor Business System.

7. Part 945 is amended to add new Sections 945.105, and 945.107. Subpart 952 is amended to add the related clause 952.245–70, Contractor Property Management System Administration. The proposed amendments requires that DOE contractors have acceptable property management systems. The amendments add definitions, describe applicability requirements, define system criteria, and provide procedures for addressing significant deficiencies in the contractor property management systems.

In solicitations and contracts in support of a Capital Asset Project (other than a management and operating contract), as prescribed in DOE Order 413.3B, or for a non-capital asset project, for prime contractors (large business to include contractor teaming arrangements), when the total contract value exceeds $50 million, including options; or when the prime contract totaling $10 million or more, including options, (but less than $50 million) is awarded to a large business, to include a contractor teaming arrangement and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist and the contract contains the clause at 48 CFR 52.245–1, Government Property, use the clause 952.245–70, Contractor Property Management System. The clause requires the contractor to establish and maintain an acceptable property management system in accordance with the system criteria described in the clause.

In the event any significant deficiencies are found in the property management system, the contracting officer will provide the contractor an initial determination of a significant deficiency and allow the contractor 30 days to respond within if the contractor disagrees. If there is no written response from the contractor within 30 days, it will indicate that the contractor agrees with the initial determination. The contracting officer will evaluate the contractor's response or the contractor's lack of response and notify the contractor of a final determination concerning any remaining significant deficiencies, adequacy of any proposed or completed corrective action, and system disapproval if one or more significant deficiencies remain. If the contractor receives a final determination, the contractor shall within 45 days either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies. When the contracting officer makes a final determination to disapprove the contractor's property management system, the contracting officer will withhold payments in accordance with the clause 952.242–71, Contractor Business System.

III. Procedural Requirements

A. Review Under Executive Orders 12866 and 13563

Today's regulatory action has been determined to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this proposed rule was reviewed under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281 (Jan. 21, 2011)). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. DOE believes that today's NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, agencies adopt a regulation only upon a reasoned determination that its benefits justify its costs and, in choosing among alternative regulatory approaches, those approaches maximize net benefits.

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction.

With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the United States Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or if it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)* requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless

the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of General Counsel's Web site at *http://energy.gov/gc/guidance-opinions-0.*

Today's proposed rule establishes a definition for contractor business systems and implements compliance mechanisms to improve DOE oversight of those contractor business systems. The requirements of the rule will apply to solicitations and contracts that are subject to the Cost Accounting Standards (CAS) under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201–1 (see the FAR Appendix), other than in contracts with educational institutions or Federally Funded Research and Development Centers (FFRDCs) operated by educational institutions, and include one or more of the defined contractor business systems. Contracts and subcontracts with small businesses are exempt from CAS requirements. This rule would not have a significant economic impact on small entities because it does not apply to small businesses. Consequently, this proposed rule is exempt from the requirements of the Regulatory Flexibility Act.

D. Review Under the Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies because the proposed rule contains information collection requirements. DOE invites comments on the following aspects of the proposed rule: (a) Whether the collection of information is necessary for the proper performance of the functions of DOE, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The following is a summary of the information collection requirement: The business systems clause in this proposed rule contains a requirement for contractors to respond to initial and final determinations of deficiencies. The information that contractors will be required to submit to respond to deficiencies in one of the five business systems defined in this rule has been approved by the Office of Management and Budget (OMB) is the Accounting Systems—OMB Clearance 9000–0011 concerning preaward surveys. DOE estimates that there will be 5 new contracts awarded per year, which will have these 5 clauses. DOE is also proposing a new information collection requirement as follows:

Title: Department of Energy Acquisition Regulation (DEAR) Business Systems—Definition and Administration.

Type of Request: New request.

The information that contractors will be required to submit to respond to deficiencies in contractors' cost estimating system is estimated as follows:

Number of Respondents: 5.
Responses per Respondent: 2.
Annual Responses: 10.
Average Burden per Response: 1.2 hours.
Annual Burden Hours: 12 hours.

The information that contractors will be required to submit to respond to deficiencies in contractors' earned value management system (EVMS) is estimated as follows:

Number of Respondents: 5.
Responses per Respondent: 2.
Annual Responses: 10.
Burden per Response: 10.4 hours.
Annual Burden Hours: 104 hours.

The information that contractors will be required to submit to respond to deficiencies in contractors' accounting systems is estimated as follows:

Number of Respondents: 5.
Responses per Respondent: 2.
Annual Responses: 10.
Average Burden per Response: 1.2 hours.
Annual Burden Hours: 12 hours.

The information that contractors will be required to submit to respond to deficiencies in contractors' purchasing system is estimated as follows:

Number of Respondents: 5.
Responses per Respondent: 2.
Annual Responses: 10.
Average Burden per Response: 1.2 hours.
Annual Burden Hours: 12 hours.

The information that contractors will be required to submit to respond to deficiencies in contractors' property management system is estimated as follows:

Number of Respondents: 5.
Responses per Respondent: 2.
Annual Responses: 10.
Average Burden per Response: 1.2 hours.
Annual Burden Hours: 12 hours.

Needs and Uses: DOE needs the information required by the business system clause in this proposed rule to mitigate the risk of unallowable and unreasonable costs on Government contracts when a contractor has one or more deficiencies in a business system.

Affected Public: The business system clause (952.242–71) will be used in solicitations and contracts that include any of the following clauses:

(1) 952.215–71, Cost Estimating System Requirements;

(2) 952.234–71, Earned Value Management System;

(3) 952.242–72, Accounting System Administration;

(4) 952.244–71, Contractor Purchasing System Administration; and

(5) 952.245–70, Contractor Property Management System Administration.

Frequency: On occasion.

Written comments and recommendations on the proposed information collection should be sent to: DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

The Desk Officer may be telephoned at 202–395–4718 or contacted by email at *chad_s_whiteman@omb.eop.gov.*

Please send a copy by mail to the U.S. Department of Energy, Office of Acquisition and Project Management, Attn: MA–611, Ms. Barbara Binney, 1000 Independence Avenue SW., Washington, DC 20585; or email to: *DEARrulemaking@hq.doe.gov.* Include DEAR: Contractor Business Systems—Proposed Information Collection RIN 1991–AC01 in the subject line of the message.

Comments can be received from 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the U.S. Department of Energy, Office of Acquisition and Project Management, Attn: MA–611, Ms. Barbara Binney, 1000 Independence Avenue SW., Washington, DC 20585; or email to *DEARrulemaking@hq.doe.gov.* Include DEAR: Contractor Business Systems—Proposed Information Collection RIN 1991–AC01 in the subject line of the message.

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this proposed rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.). Specifically, this proposed rule is categorically excluded from NEPA review because the amendments to the DEAR are strictly procedural (categorical exclusion A6). Therefore, this proposed rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 13132

Executive Order 13132, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order requires agencies to have an accountability process to ensure meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.

On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined the proposed rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires a Federal agency to perform a written assessment of costs and benefits of any rule imposing a Federal Mandate with costs to State, local or tribal governments, or to the private sector, of $100 million or more. Costs imposed by this proposed rule would be reimburse under the contract. This proposed rule does not impose any unfunded mandates.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any rulemaking or policy that may affect family well-being. This rulemaking will have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), of the Office of Management and Budget (OMB), a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order, (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution and use. Today's proposed rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed the proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Approval by the Office of the Secretary of Energy

Issuance of this proposed rule has been approved by the Office of the Secretary of Energy.

List of Subjects in 48 CFR Parts 915, 934, 942, 944, 945 and 952

Government procurement.

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

Paul Bosco,

Director, Office of Acquisition and Project Management, Department of Energy.

Joseph Waddell,

Deputy Associate Administrator, Acquisition and Project Management, National Nuclear Security Administration.

For reasons set out in the preamble, the DOE is proposing to amend Chapter 9 of Title 48 of the Code of Federal Regulations as set forth below.

■ 1. The authority citations for parts 915, 942, 945, and 952 continue to read as follows:

Authority: 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PART 915—CONTRACTING BY NEGOTIATION

Subpart 915.4—Contract Pricing

■ 2. Add sections 915.407, 915.407–5, and 915.407–5–70 to subpart 915.4 to read as follows:

915.407 Special cost or pricing areas.

915.407–5 Estimating system.

915.407–5–70 Disclosure, maintenance, and review requirements.

(a) *Definitions.* (1) *Acceptable estimating system* is defined in the clause at 952.215–71, Cost Estimating System Requirements.

(2) *Contractor* means a business unit as defined in 48 CFR 2.101.

(3) *Estimating system* is as defined in the clause at 952.215–71, Cost Estimating System Requirements.

(4) *Significant deficiency* is defined in the clause at 952.215–71, Cost Estimating System Requirements.

(b) *Applicability.* (1) DOE policy is that contractors have acceptable estimating systems that consistently produce well-supported proposals that are acceptable as a basis for negotiation of fair and reasonable prices.

(2) The estimating system requirements apply when a large business contractor, to include a contractor teaming arrangement, as defined at 48 CFR 9.601(1), performs a

contract in support of a Capital Asset Project, (other than a management and operating contract), as prescribed in DOE Order (DOE O) 413.3B, or current version, or a non-capital asset project. See 942.7003 for exceptions. The applicable contract is subject to estimating system disclosure, maintenance, and review requirements—

(i) For a DOE prime contract totaling $50 million, including options; or

(ii) For a DOE prime contract totaling $10 million or more including options (but less than $50 million) and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist).

(c) *Policy.* (1) When the solicitation or contract includes the clause 952.242–71 Contractor Business System and related clauses, the contracting officer shall—

(i) Through use of the clause at 952.215–71, Cost Estimating System Requirements, apply the disclosure, maintenance, and review requirements to large business contractors meeting the criteria in paragraph (b)(2)(i) or (ii) of this section;

(ii) Ensure that contract, Part I—The Schedule, addresses in the business administration section, or similar section, that the contractor shall submit its cost estimating system for DOE review and acceptance with full implementation of the system to be in place no later than 60 days after contract award;

(iii) Consider whether to apply the disclosure, maintenance, and review requirements to large business contractors under paragraph (b)(2)(ii) of this section; and

(iv) Not apply the disclosure, maintenance, and review requirements to other than large business contractors.

(2) The cognizant contracting officer, in consultation with the auditor, for contractors subject to paragraph (b)(2) of this section, shall—

(i) Determine the acceptability of the disclosure and approve or disapprove the system; and

(ii) Pursue correction of any deficiencies.

(3) The auditor conducts estimating system reviews.

(4) An acceptable system shall provide for the use of appropriate source data, utilize sound estimating techniques and good judgment, maintain a consistent approach, and adhere to established policies and procedures.

(5) In evaluating the acceptability of a contractor's estimating system, the contracting officer, in consultation with the auditor, shall determine whether the contractor's estimating system complies with the system criteria for an acceptable estimating system as prescribed in the clause at 952.215–71, Cost Estimating System Requirements.

(d) *Disposition of findings*—(1) *Reporting of findings.* The auditor shall document findings and recommendations in a report to the contracting officer. If the auditor identifies any significant deficiencies in the contractor's estimating system, the report shall describe the deficiencies in sufficient detail to allow the contracting officer to understand the deficiencies.

(2) *Initial determination.* (i) The contracting officer shall review all findings and recommendations and, if there are no significant deficiencies, shall promptly notify the contractor, in writing, that the contractor's estimating system is acceptable and approved;

or

(ii) If the contracting officer finds that there are one or more significant deficiencies (as defined in the clause at 952.215–71, Cost Estimating System Requirements) due to the contractor's failure to meet one or more of the estimating system criteria in the clause at 952.215–71, the contracting officer shall—

(A) Within 30 days of receiving the report, provide an initial determination of deficiencies in writing, describing each significant deficiency in sufficient detail to allow the contractor to understand the deficiency and provide a copy of the report to the contractor;

(B) Request the contractor respond in writing to the initial determination within 30 days; and

(C) Within 30 days of receiving the contractor's response or if the contractor does not submit a response, the date the response was due, in consultation with the auditor or cognizant functional specialist, evaluate the contractor's response or the contractor's lack of response and make a final determination.

(3) *Final determination.* (i) The contracting officer shall make a final determination and notify the contractor in writing that—(A) The contractor's estimating system is acceptable and approved, and no significant deficiencies remain, or

(B) Significant deficiencies remain. The notice shall identify any remaining significant deficiencies, and indicate the adequacy of any proposed or completed corrective action.

The contracting officer shall—

(*1*) Request that the contractor, within 45 days of receipt of the final determination, either correct the deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies;

(*2*) Disapprove the system in accordance with the clause at 952.215–71, Cost estimating System Requirements; and

(*3*) Withhold payments in accordance with the clause at 952.242–71, Contractor Business System, if the clause is included in the contract.

(ii) Monitoring a contractor's corrective action and the correction of significant deficiencies.

(A) *Monitoring contractor's corrective action.* The contracting officer or designee shall monitor the contractor's progress in correcting deficiencies. If the contractor fails to make adequate progress, the contracting officer shall take whatever action is necessary to ensure that the contractor corrects the deficiencies. Examples of actions the contracting officer can take include reducing or suspending progress payments (see 48 CFR 32.503–6), implementing the withholding in accordance with 952.242–71, Contractor Business System, if applicable, and recommending non-award of potential contracts.

(B) *Correction of significant deficiencies.* (*1*) When the contractor notifies the contracting officer, in writing, that the contractor has corrected the significant deficiencies, the contracting officer shall request that the auditor review the correction to determine if the deficiencies have been resolved.

(*2*) The contracting officer shall determine if the contractor has corrected the deficiencies.

(*3*) If the contracting officer determines the contractor has corrected the deficiencies, the contracting officer's notification shall be sent to the auditor; invoice approving official; payment office; appropriate action officers responsible for reporting past performance; and the Department of Energy's or National Nuclear Security Administration's Heads of the Contracting Activities and Senior Procurement Executives.

(e) *System approval.* The contracting officer shall promptly approve a previously disapproved estimating system and notify the contractor when the contracting officer determines that there are no remaining significant deficiencies.

(f) *Contracting officer notifications.* The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release

withheld payments, to the auditor, invoice approving official, payment office, affected DOE contracting offices, and the Department of Energy's or National Nuclear Security Administration's Heads of the Contracting Activities and Senior Procurement Executives.

■ 3. Revise section 915.408–70 to read as follows:

915.408–70 Solicitation provisions and contract clauses.

(a) The contracting officer (after deleting ''under the clause at 970.5203–3, Contractor's Organization'' from paragraph (a) if not a management and operating contract) shall insert the clause at 952.215–70, Key Personnel, in contracts under which performance is largely dependent on the expertise of specific key personnel.

(b) Unless one of the exceptions at 942.7003 applies, use the clause at 952.215–71, Cost Estimating System Requirements, in all solicitations and contracts, in support of a Capital Asset Project (other than a management and operating contract), as prescribed in DOE O 413.3B, or current version, or for a non-capital asset project as described at 915.407–5–70(b)(2), for a prime contract, when the total contract value exceeds $50 million, including options, or when the total contract exceeds $10 million or more, including options, (but less than $50 million) and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist or the contractor's sales are predominantly Government).

■ 4. Add part 934 to Subchapter F to read as follows:

PART 934—MAJOR SYSTEM ACQUISITION

Subpart 934.2—Earned Value Management System

Sec.

934.201–70 Policy.

934.203 Solicitation provisions and contract clause.

Authority: 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

Subpart 934.2—Earned Value Management System

934.201–70 Policy.

(a) The Department of Energy (DOE) applies the earned value management system (EVMS) requirement as follows:

(1) For cost or incentive contracts and subcontracts valued at $20,000,000 or more, the contractor in support of a Capital Asset Project, as prescribed in DOE Order (DOE O) 413.3B, or current version, shall have an EVMS that has been determined to be in compliance with the guidelines in the American National Standards Institute/Electronic Industries Alliance Standard 748, EVMS (ANSI/EIA–748) (current version at time of award) in accordance with the thresholds in paragraphs (a)(1)(i) through (iii) of this section.

(i) For cost or incentive contracts and subcontracts valued at $20,000,000 but not exceeding $50,000,000, the contractor shall conduct a self-certification review by an entity independent of the contractor personnel assigned to programs and projects specified in the contract and provide self-certifying documentation of its EVMS compliance with ANSI/EIA–748. The contractor shall conduct periodic surveillance reviews and provide documentation of results to show continued compliance of contractor's EVMS with ANSI/EIA–748. When the contractor has two or more contracts in support of capital asset projects at DOE and the total contract values are $20,000,000 or greater per contract for total contract values of $50,000,000 or more, those contracts shall be subject to certification and surveillance reviews as described in paragraphs (a)(1)(ii) or (iii) of this section.

(ii) For contracts valued at $50,000,000 but not exceeding $100,000,000, the contracting officer will receive a copy of the certification review which certifies that the contractor's EVMS is compliant with ANSI/EIA–748 from the cognizant DOE program office. The cognizant DOE Program Office shall conduct certification reviews and periodic surveillance reviews to ensure continued compliance of contractor's EVMS with ANSI/EIA–748, the contracting officer will receive a copy of these reviews from the cognizant DOE program office.

(iii) For contracts valued at $100,000,000 or more, the contracting officer will receive a copy of the certification review which certifies that the contractor's EVMS is compliant with ANSI/EIA–748 from DOE's Office of Acquisition and Project Management (OAPM). OAPM shall conduct certification reviews and periodic surveillance reviews to ensure continued compliance of contractor's EVMS with ANSI/EIA–748, and the contracting officer shall receive a copy of these reviews from OAPM. Also, OAPM shall conduct certification reviews and surveillance reviews and certify the contractor's EVMS compliance with ANSI/EIA–748 for contracts of lesser value if requested by the contracting officer, the contractor or the DOE program office; or if the contractor or cognizant DOE program office does not complete its required actions in (a)(1)(i) and (ii) of this section within one year of contract award.

(2) For cost or incentive contracts and subcontracts valued at less than $20,000,000—

(i) The application of earned value management is optional and is a risk-based decision;

(ii) A decision to apply earned value management shall be documented in the contract file; and

(iii) When the DOE program manager decides to implement earned value management on contracts and subcontracts valued at less than $20,000,000, a cost-benefit analysis shall be conducted and the documented results provided to the contracting officer for the contract file.

(3) For fixed-price contracts and subcontracts of any dollar value:

(i) The application of earned value management is not required.

(ii) In extraordinary cases where cost/schedule visibility is required and cannot be obtained using other means, the DOE program manager shall request a waiver for individual contracts from the applicable Acquisition Executive (AE), as defined in DOE Order 413.3B, or current version. In these cases, the program manager will conduct a business case analysis that includes rationale as to why a cost or fixed-price incentive contract was not an appropriate contracting vehicle.

(b) Under the provision at 952.234–70, Notice of Earned Value Management System, when an offeror proposes a plan for compliance with the earned value management system guidelines in ANSI/EIA–748, the contracting officer shall obtain the assistance of the cognizant DOE program office or OAPM, as applicable, in determining the adequacy of an earned value management system plan. The Government will review and approve the offeror's EVMS plan to achieve compliance before contract award. Guidance and instructions for performing EVMS plan reviews can be found at DOE Order 413.3B, Program and Project Management for the Acquisition of Capital Assets, Appendix C, Section 5 and DOE Guide 413.3–10A, Earned Value Management System.

(c) For contracts of $50,000,000 or more, DOE is responsible for determining the contractor's earned value management system compliance. Furthermore, when the contractor has two or more contracts in support of capital asset projects at the same DOE-site and the total contract values are $20,000,000 or greater per contract for total contract values of $50,000,000 or

more, DOE is responsible for determining the contractor's earned value management system compliance.

(d) The cognizant contracting officer, in consultation with the cognizant DOE program office or OAPM (both are herein referred to as functional specialist) or auditor, as applicable, shall—

(1) Determine the acceptability of the contractor's earned value management system through certification reviews and periodic surveillance reviews conducted by the cognizant DOE program office or OAPM, as applicable, and approve or disapprove the system; and

(2) Pursue correction of any deficiencies identified during certification reviews or surveillance reviews.

(e) In evaluating the acceptability of a contractor's earned value management system, the contracting officer, in consultation with the cognizant functional specialist or auditor, as applicable, shall determine whether the contractor's earned value management system complies with the system criteria for an acceptable earned value management system as prescribed in the clause at 952.234–71, Earned Value Management System.

(f) *Disposition of findings*—(1) *Reporting of findings.* The cognizant functional specialist or auditor shall document findings and recommendations in a report to the contracting officer. If the cognizant functional specialist or auditor identifies any significant deficiencies in the contractor's earned value management system, the report shall describe the deficiencies in sufficient detail to allow the contracting officer to understand the deficiencies.

(2) *Initial determination.* (i) The contracting officer shall review all findings and recommendations and, if there are no significant deficiencies, shall promptly notify the contractor, in writing, that the contractor's earned value management system is acceptable and approved; or

(ii) If the contracting officer finds that there are one or more significant deficiencies (as defined in the clause at 952.234–71, Earned Value Management System) due to the contractor's failure to meet one or more of the earned value management system criteria in the clause at 952.234–71, the contracting officer shall—

(A) Within 30 days of receiving the report, provide an initial determination of deficiencies, in writing, describing each significant deficiency in sufficient detail to allow the contractor to understand the deficiencies and provide a copy of the report to the contractor;

(B) Request the contractor to respond, in writing, to the initial determination within 30 days; and

(C) Within 30 days of receiving the contractor's response or if the contractor does not submit a response, the date the response was due, in consultation with the auditor or cognizant functional specialist, evaluate the contractor's response and make a final determination.

(3) *Final determination.* (i) The contracting officer, in consultation with the cognizant functional specialist or auditor, shall make a final determination and notify the contractor, in writing, that—

(A) The contractor's earned value management system is acceptable and approved, and no significant deficiencies remain, or

(B) Significant deficiencies remain. The notice shall identify any remaining significant deficiencies, and indicate the adequacy of any proposed or completed corrective action. The contracting officer shall—

(*1*) Request that the contractor, within 45 days of receipt of the final determination, either correct the deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies;

(*2*) Disapprove the system in accordance with the clause at 952.234–71, Earned Value Management System, when initial validation is not successfully completed within the timeframe approved by the contracting officer or the contracting officer determines that the existing earned value management system contains one or more significant deficiencies in the high-risk guidelines in ANSI/EIA 748 standards (guidelines 1, 3, 6, 7, 8, 9, 10, 12, 16, 21, 23, 26, 27, 28, 30, or 32). When the contracting officer determines that the existing earned value management system contains one or more significant deficiencies in one or more of the remaining 16 guidelines in ANSI/EIA–748 standards, the contracting officer shall use discretion to disapprove the system based on input received from functional specialists and the auditor; and

(*3*) Withhold payments in accordance with the clause at 952.242–71, Contractor Business System, if the clause is included in the contract.

(ii) Monitoring contractor's corrective action and the correction of significant deficiencies.

(A) *Monitoring contractor's corrective action.* The contracting officer or designee shall monitor the contractor's progress in correcting deficiencies. If the contractor fails to make adequate progress, the contracting officer shall take whatever action is necessary to ensure that the contractor corrects the deficiencies. Example of an action the contracting officer can take is to increase the withholding in accordance with 952.242–71, Contractor Business System.

(B) *Correction of significant deficiencies.* (*1*) When the contractor notifies the contracting officer that the contractor has corrected the significant deficiencies, the contracting officer shall request the cognizant functional specialist or auditor to review the correction to determine if the deficiencies have been resolved.

(*2*) The contracting officer shall determine if the contractor has corrected the deficiencies.

(*3*) If the contracting officer determines the contractor has corrected the deficiencies, the contracting officer's notification shall be sent to the cognizant functional specialist, auditor, invoice approving official, payment office, DOE contracting offices having substantial business with the contractor, and the Department of Energy's or National Nuclear Security Administration's Heads of the Contracting Activities and Senior Procurement Executives.

(g) *System approval.* The contracting officer shall promptly approve a previously disapproved earned value management system and notify the contractor when the contracting officer determines that there are no remaining significant deficiencies.

(h) *Contracting officer notifications.* The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release withheld payments to the auditor, invoice approving official, payment office, DOE contracting offices having substantial business with the contractor, and the Department of Energy's or National Nuclear Security Administration's Heads of the Contracting Activities and both Senior Procurement Executives.

(i) *Contract reporting.* For a cost reimbursement contract requiring EVMS, the contract shall include instructions to the prime contractor to electronically upload earned value and schedule data into the Project Assessment and Reporting System (PARS II) (or current DOE project performance reporting system) in accordance with the ''Contractor Project Performance Upload Requirements''

document maintained by the OAPM. Unless OAPM has granted a temporary exemption, all requested data shall be submitted timely and accurately. Data shall be loaded into PARS II no later than the last workday of every month. This data shall be current as of the close of the previous month's accounting period.

934.203 Solicitation provisions and contract clause.

For cost or incentive contracts in support of a Capital Asset Project, as prescribed in DOE Order (DOE O) 413.3B, or current version, valued at $20,000,000 or more, and for other contracts for which EVMS will be applied in accordance with 934.201(a)(1)—

(a) Use the provision at 952.234–70, Notice of Earned Value Management System, instead of the provisions at FAR 52.234–2, Notice of Earned Value Management System—Pre-Award IBR, and FAR 52.234–3, Notice of Earned Value Management System—Post-Award IBR, in the solicitation; and

(b) Use the clause at 952.234–71, Earned Value Management System, instead of the clause at FAR 52.234–4, Earned Value Management System, in the solicitation and contract.

PART 942—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 5. Add subpart 942.70 to part 942 to read as follows:

Subpart 942.70—Contractor Business System

Sec.

942.7001 Scope of subpart.
942.7002 Definitions.
942.7003 Exceptions.
942.7004 Contractor business system deficiencies procedures.
942.7005 Contract clause.

Subpart 942.70—Contractor Business System

942.7001 Scope of subpart.

This subpart prescribes procedures to implement contractor business system requirements in applicable contracts to include how to determine and withhold payments when the contractor business system has deficiencies.

942.7002 Definitions.

Definitions. As used in this subpart—

Acceptable contractor business system and *contractor business system* are defined in the clause at 952.242–71, Contractor Business System.

Covered contract means a contract (other than a management and operating contract) that is subject to the Cost Accounting Standards under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201–1(a) and are not exempted at 9903.201–1(b)(1) through (14) (see the 48 CFR Appendix).

Significant deficiency is defined in the clause at 952.242–71, Contractor Business System.

942.7003 Exceptions.

The requirements of this subpart do not apply to acquisitions for—

(a) Small business set-asides;

(b) Energy savings performance contracts as required by the Energy Policy Act of 1992;

(c) Services for—

(1) ''Advisory and assistance services'' as defined at 48 CFR 2.101, unless otherwise designated as applicable by the Senior Procurement Executive or the Head of the Contracting Activity;

(2) Security Guards;

(3) Housekeeping;

(4) Education and training;

(5) National Environmental Policy Act of 1969 Support; or

(6) Utilities;

(d) Office of the Deputy Administrator for Naval Reactors;

(e) Interagency acquisitions in accordance with 48 CFR 17.5; or

(f) Orders against another Federal agency contract, e.g. Federal Supply Services (48 CFR 8.4).

942.7004 Contractor business system deficiencies procedures.

(a) *Determination to withhold payments.* If the contracting officer makes a final determination to disapprove a contractor's business system in accordance with the clause at 952.242–71, Contractor Business System, the contracting officer shall—

(1) Identify if within DOE there is one or more fixed-price contracts awarded on the basis of adequate price competition without submission of cost or pricing data with large businesses or covered contracts containing the clause at 952.242–71, Contractor Business System, from which payments will be withheld. When identifying the contracts from which to withhold payments, the contracting officer shall ensure that the total amount of payment withholding under the clause at 952.242–71, does not exceed 10 percent of progress payments, performance-based payments, and interim payments under cost-reimbursement, labor-hour, and time-and-materials, contracts billed under each of the identified contracts. Similarly, the contracting officer shall ensure that the total amount of payment withholding under the clause at 952.242–71, Contractor Business System, for each business system does not exceed five percent of progress payments, performance-based payments, and interim payments under cost-reimbursement, labor-hour, and time-and-materials contracts billed under each of the identified covered contracts. The contracting officer has the sole discretion to identify the covered contracts from which to withhold payments.

(2) Promptly notify the contractor, in writing, of the contracting officer's determination to implement payment withholding in accordance with the clause at 952.242–71, Contractor Business System. The notice of payment withholding shall be included in the contracting officer's written final determination for the contractor business system and shall inform the contractor that—

(i) Payments shall be withheld from the contract or contracts identified in the written determination in accordance with the clause at 952.242–71, Contractor Business System, until the contracting officer determines that there are no remaining significant deficiencies; and

(ii) The contracting officer reserves the right to take other actions within the terms and conditions of the contract.

(3) Provide all contracting officers administering the selected contracts from which payments will be withheld, a copy of the determination. The contracting officer shall also provide a copy of the determination to the auditor, invoice approving official, and payment office.

(b) *Monitoring contractor's corrective action.* The contracting officer, in consultation with the auditor, functional specialist, or designee, shall monitor the contractor's progress in correcting the deficiencies. The contracting officer shall notify the contractor of any decision to decrease or increase the amount of payment withholding in accordance with the clause at 952.242–71, Contractor Business System.

(c) *Correction of significant deficiencies.* (1) If the contractor notifies the contracting officer that the contractor has corrected the significant deficiencies, the contracting officer shall request the auditor or functional specialist to review the correction to verify that the deficiencies have been corrected. If, after receipt of verification, the contracting officer determines that the contractor has corrected all significant deficiencies as directed by the contracting officer's final determination, the contracting officer shall discontinue the withholding of payments, release any payments

previously withheld, and approve the system, unless other significant deficiencies remain.

(2) Prior to the receipt of verification, the contracting officer may discontinue withholding payments pending receipt of verification, and release any payments previously withheld, if the contractor submits evidence that the significant deficiencies have been corrected, and the contracting officer, in consultation with the auditor or functional specialist, determines that there is a reasonable expectation that the corrective actions have been implemented and are expected to correct the significant deficiencies.

(3) Within 90 days of receipt of the contractor notification that the contractor has corrected the significant deficiencies, the contracting officer shall—

(i) Make a determination that—

(A) The contractor has corrected all significant deficiencies as directed by the contracting officer's final determination in accordance with paragraph (d)(1) of this section;

(B) There is a reasonable expectation that the corrective actions have been implemented in accordance with paragraph (d)(2) of this section; or

(C) The contractor has not corrected all significant deficiencies as directed by the contracting officer's final determination in accordance with paragraph (d)(1) of this section, or there is not a reasonable expectation that the corrective actions have been implemented in accordance with paragraph (d)(2) of this section; or

(ii) Direct the contractor, in writing, to reduce the percentage withheld on invoices by at least 50 percent, until the contracting officer makes a determination in accordance with paragraph (d)(3)(i) of this section.

(4) If, at any time, the contracting officer determines that the contractor has failed to correct the significant deficiencies identified in the contractor's notification, the contracting officer will continue, reinstate, or increase withholding and direct the contractor, in writing, to continue, reinstate, or increase the percentage withheld on invoices to the percentage initially withheld, until the contracting officer determines that the contractor has corrected all significant deficiencies as directed by the contracting officer's final determination.

(d) *Determinations regarding payment withholding.* The contracting officer shall use the written notification format or similar format to document the contracting officer determinations to initiate payment withholding, reduce payment withholding, and discontinue payment withholding in accordance with the clause at 952.242–71, Contractor Business System. The final determination regarding payment withholding is not a final decision within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 7101, et seq.).

(1) *Final determination for payment withholding.* Use the sample format or similar format for final determination for payment withholding in accordance with the clause 952.242–71, Contractor Business Systems. Tailor the notice in paragraph (4) to use the appropriate version to reflect invoice payments or advance payments under a special bank account (letter of credit).

[Begin notice]

Payment Withholding

(1) The purpose of this final determination is to disapprove your *[identify the contractor business system(s)]* and implement payment withholding per the terms of the clause at 48 CFR 952.242–71, Contractor Business System.

(2) It is my final determination that XXX System(s) contains the following significant deficiencies:

—*[list all significant deficiencies]*

(3) Effective immediately, five percent (or a lesser percentage if five percent will exceed the withhold limitations in the clause 48 CFR 952.242–71) of each request for payment under the contracts in Attachment A will be withheld as described below for significant deficiencies in XXX system. Upon receipt of an acceptable corrective action plan and my determination that this corrective action plan is being effectively implemented, I will issue a notification with respect to reducing the percentage being withheld to two percent until I determine that all significant deficiencies, as identified in this final determination, have been corrected. Failure to follow the accepted corrective action plan will result in an increase in the percentage withheld against each payment under this contract to five percent (or a lesser percentage if five percent will exceed the withhold limitations in clause 48 CFR 952.242–71). *[Repeat this paragraph, as necessary, if multiple withholds are being applied to multiple systems in accordance with 952.242–71(d)].*

(4) *[For invoice payments use the following paragraph.]* For invoice payments, the Contractor shall apply a five percent (or a lesser percentage if five percent will exceed the withhold limitations in 48 CFR 952.242–71) withhold to the amount requested. For invoices in Vendor Invoicing Payment Electronic Reporting System (VIPERS), the Contractor shall invoice for the net amount due after application of the withhold and show the amount withheld on the current billing, as well as the cumulative amount withheld to date on this contract in accordance with the clause 48 CFR 952.242–71, in the Description field of the VIPERS invoice or as supporting documentation attached to the voucher. When approving the invoice for payment in the Vendor Invoice Approval System (VIAS), the Contracting Officer or Invoice Approving Official will verify that the Contractor reduced the invoice the five percent (or a lesser percentage if five percent will exceed the withhold limitations in 48 CFR 952.242–71). In the event the Contractor did not submit the invoice with the proper withholding, the Contracting Officer or Invoice Approving Official will reject the invoice and enter the reason for the rejection in the VIAS Comments field. When the Contractor reviews the Invoice Status Report in VIPERS, the reason for the reduced payment will be displayed in the Invoice Description field.

[For advance payments under a special bank account (letter of credit) use the following paragraph.] For advance payments under a special bank account (letter of credit), the Contractor shall immediately be subject to the advance approval requirements by the Contracting Officer or Government countersigning agent for cash withdrawals against the letter of credit. Each Contractor request for cash withdrawal for the net amount due after the withhold shall contain the amount of expenditure, the amount withheld on the current request, as well as the cumulative amount withheld to date on this contract in accordance with the clause 48 CFR 952.242–71, and the net amount requested after application of the withhold. When approving the request for cash withdrawal, the Contracting Officer or Government countersigning agent will verify that the Contractor reduced the request by five percent (or a lesser percentage if five percent will exceed the withhold limitations in 48 CFR 952.242–71). In the event the Contractor did not submit the cash withdrawal request with the proper withholding, the Contracting Officer or Government countersigning agent will reject the request for cash withdrawal for non-compliance with the requirements of this clause in his/her response.

[End of notice]

(2) *Reduction of temporary payment withholding.* Use the sample format or similar format for determination to reduce payment withholding in accordance with the clause 48 CFR 952.242–71, Contractor Business System. Tailor the notice in paragraph (3) to use the appropriate version to reflect invoice payments or advance payments under a special bank account (letter of credit).

[Begin notice]

Reduction of Temporary Payment Withholding

(1) The purpose of this determination is to reduce the payment withholding percentage per the terms of the clause 48 CFR 952.242–71, Contractor Business System, as a result of receiving an acceptable corrective action plan from the contractor, dated YYYY/MM/DD, for resolving deficiencies in its XXX system(s) as identified in the Contracting Officer's determination, dated YYYY/MM/DD. This reduction is prospective and previous amounts withheld will not be reduced or released at this time.

(2) Effective immediately, two percent of each request for payment under this contract will be withheld as described below. The two percent being withheld will remain in effect until the Contracting Officer determines that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's determination. Failure to follow the accepted corrective action plan will result in an increase in the percentage withheld against each payment under this contract to five percent (or a lesser percentage if five percent will exceed the withhold limitations in 48 CFR 952.242–71).

(3) *[For invoice payments use the following paragraph.]* For invoice payments, the Contractor shall apply a two percent withhold to the amount being requested. For invoices in Vendor Invoicing Payment Electronic Reporting System (VIPERS), the Contractor shall invoice for the net amount due after withholding and show the amount withheld on the current billing, as well as the cumulative amount withheld to date on this contract in accordance with the clause 48 CFR 952.242–71, in the Description field of the VIPERS invoice or as supporting documentation attached to the invoice. When approving the invoice for payment in the Vendor Invoice Approval System (VIAS), the Contracting Officer or Invoice Approving Official will verify that the Contractor reduced the invoice the two percent. In the event the Contractor did not submit the invoice with the proper withholding, the Contracting Officer or Invoice Approving Official will reject the invoice and enter the reason for the rejection in the VIAS Comments field. When the Contractor reviews the Invoice Status Report in VIPERS, the reason for the reduced payment will be displayed in the Invoice Description field.

[For advance payments under a special bank account (letter of credit) use the following paragraph.] For advance payments under a special bank account (letter of credit), the Contractor shall immediately be subject to the advance approval requirements by the Contracting Officer or Government countersigning agent for cash withdrawals against the letter of credit. Each Contractor request for cash withdrawal for the net amount due after the withhold shall contain the amount of expenditure, the amount withheld on the current request, as well as the cumulative amount withheld to date on this contract in accordance with the clause 48 CFR 952.242–71, and the net amount requested after application of the withhold. When approving the request for cash withdrawal, the Contracting Officer or Government countersigning agent will verify that the Contractor reduced the request by five percent (or a lesser percentage if two percent will exceed the withhold limitations in 48 CFR 952.242–71). In the event the Contractor did not submit the cash withdrawal request with the proper withholding, the Contracting Officer or Government countersigning agent will reject the request for cash withdrawal for non-compliance with the requirements of this clause in his/her response.

[End of notice]

(3) *Discontinuation of payment withholding pending verification.* Use the sample format or similar format if payment withholding is discontinued after auditor or functional specialist verification and based on evidence that the Contractor has corrected all significant deficiencies, in accordance with clause 48 CFR 952.242–71, Contractor Business System. Tailor the notice in paragraph (3) to use the appropriate version to reflect invoice payments or advance payments under a special bank account (letter of credit).

[Begin notice]

Discontinuation of Payment Withholding Pending Verification

(1) The purpose of this determination is to approve your *[identify system(s)]* pending verification, discontinue the payment withhold as identified in the Contracting Officer's determination dated YYYY/MM/DD, and release previous amounts withheld on the contracts in Attachment A, in accordance with clause 48 CFR 952.242–71, Contractor Business System.

(2) The discontinuation of the payment withhold is made pending receipt of verification and based on my review of the evidence submitted by the Contractor that all the Contractor's system(s) deficiencies identified in the Contracting Officer's determination dated YYYY/MM/DD have been corrected.

(3) *[For invoice payments use the following paragraph.]* For invoice payments in Vendor Invoicing Payment Electronic Reporting system (VIPERS), the Contractor is authorized to submit an invoice in the amount of $XXXXXXXX. The billed amount should be submitted on the same type of invoice as the withhold was originally taken, as appropriate.

[For advance payments under a special bank account (letter of credit) use the following paragraph.] For advance payments under a special bank account (letter of credit), the Contractor is authorized to submit a request for cash withdrawal for amount of $XXXXXXXX.

[End of notice]

(4) *Discontinuation of Payment Withholding.* Use the sample format or similar format if payment withholding is discontinued after auditor or functional specialist verification that the Contractor has corrected all significant deficiencies, in accordance with clause 48 CFR 952.242–71, Contractor Business System. Tailor the notice in paragraph (3) to use the appropriate version to reflect invoice payments or advance payments under a special bank account (letter of credit).

[Begin of notice]

Discontinuation of Payment Withholding

(1) The purpose of this determination is to approve your *[identify system(s)],* discontinue the payment withhold as identified in the Contracting Officer's determination dated YYYY/MM/DD, and release previous amounts withheld on the contracts in Attachment A, in accordance with clause 48 CFR 952.242–71, Contractor Business System.

(2) The discontinuation of the payment withhold is made based on verification that all the Contractor's system(s) deficiencies identified in the Contracting Officer's final determination dated YYYY/MM/DD have been corrected.

(3) *[For invoice payments use the following paragraph.]* For invoice payments in Vendor Invoicing Payment Electronic Reporting system (VIPERS), the Contractor is authorized to submit an invoice in the amount of $XXXXXXXX. The billed amount should be submitted on the same type of invoice as the withhold was originally taken, as appropriate.

[For advance payments under a special bank account (letter of credit) use the following paragraph.] For advance payments under a special bank account (letter of credit), the Contractor is authorized to submit a request for cash withdrawal for amount of $XXXXXXXX.

[End of notice]

(e) *Contractor performance information.* The contracting officer, or designee, shall evaluate the contractor's business system performance and compliance in all evaluations in accordance with 48 CFR 42.15 and DOE procedures.

(f) *Contract closeout.* At the end of contract performance, if significant deficiencies remain in the disapproved system or systems and payment withholdings are in effect, the payment withholdings will be released during contract closeout. However, the release of the payment withholdings from one contract will not mean the system is approved. If there are other contracts where payment withholdings are in effect, the payment withholdings will continue on those contracts. These payment withholding are contract financing payments; therefore, these payments withholdings are not subject to the interest penalty provisions of the Prompt Payment Act.

942.7005 Contract clause.

Unless one of the exceptions at 942.7003 applies, use the clause at 952.242–71, Contractor Business System, in solicitations and contracts in support of a Capital Asset Project (other than a management and operating contract), as prescribed in DOE O 413.3B, or current version, or for a non-capital asset project as described at 915.407–5–70(b)(2), for a prime contract, the total contract value exceeds $50 million, including options, or when the total contract value exceeds $10 million or more, including options, (but less than $50 million) and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are

believed to exist or the contractor's sales are predominantly Government) when—

(a) The resulting contract will be—

(1) Fixed-price contract awarded to a large business to include contractor teaming arrangement on the basis of adequate price competition without submission of cost or pricing data; or

(2) A covered contract as defined in 942.7001(a); and

(b) The solicitation or contract includes any of the following clauses:

(1) 952.215–71, Cost Estimating System Requirements.

(2) 952.234–71, Earned Value Management System.

(3) 952.242–72, Accounting System Administration.

(4) 952.244–71, Contractor Purchasing System Administration.

(5) 952.245–70, Contractor Property Management System Administration.

■ 6. Add subpart 942.71 to part 942 to read as follows:

Subpart 942.71—Contractor Accounting System and Related Controls

Sec.

942.7101 Definitions.
942.7102 Policy.
942.7103 Contract clause.

Subpart 942.71—Contractor Accounting System and Related Controls

942.7101 Definitions.

As used in this subpart—

Acceptable accounting system and *accounting system* are defined in the clause at 952.242–72, Accounting System Administration.

Significant deficiency is defined in the clause at 952.242–72, Accounting System Administration.

942.7102 Policy.

(a) Contractors receiving cost-reimbursement, incentive type, time-and-materials, fixed-price, or labor-hour contracts, or contracts which provide for progress payments based on costs or on a percentage or stage of completion, shall maintain an accounting system.

(b) When the solicitation or contract includes the clause 952.242–71 Contractor Business System and related clauses, the cognizant contracting officer, in consultation with the auditor or functional specialist, shall—

(1) Ensure that contract, Part I—The Schedule, addresses in the business administration section, or similar section, that the contractor shall submit its accounting system for DOE review and acceptance with full implementation of the system to be in place no later than 60 days after contract award;

(2) Determine the acceptability of a contractor's accounting system and approve or disapprove the system; and

(3) Pursue correction of any deficiencies.

(c) In evaluating the acceptability of a contractor's accounting system, the contracting officer, in consultation with the auditor or functional specialist, shall determine whether the contractor's accounting system complies with the system criteria for an acceptable accounting system as prescribed in the clause at 952.242–72, Accounting System Administration.

(d) *Disposition of findings*—(1) *Reporting of findings.* The auditor shall document findings and recommendations in a report to the contracting officer. If the auditor identifies any significant accounting system deficiencies, the report shall describe the deficiencies in sufficient detail to allow the contracting officer to understand the deficiencies.

(2) *Initial determination.* (i) The contracting officer shall review findings and recommendations and, if there are no significant deficiencies, shall promptly notify the contractor, in writing, that the contractor's accounting system is acceptable and approved; or

(ii) If the contracting officer finds that there are one or more significant deficiencies (as defined in the clause at 952.242–72, Accounting System Administration) due to the contractor's failure to meet one or more of the accounting system criteria in the clause at 952.242–72, the contracting officer shall—

(A) Within 30 days of receiving the report, provide an initial determination of deficiencies in writing, describing each significant deficiency in sufficient detail to allow the contractor to understand the deficiency and provide a copy of the report to the contractor;

(B) Request the contractor to respond, in writing, to the initial determination within 30 days; and

(C) Within 30 days of receiving the contractor's response or if the contractor does not submit a response, the date the response was due, in consultation with the auditor or cognizant functional specialist, evaluate the contractor's response or the contractor's lack of response and make a final determination.

(3) *Final determination.* (i) The contracting officer shall make a final determination and notify the contractor, in writing, that—

(A) The contractor's accounting system is acceptable and approved, and no significant deficiencies remain, or

(B) Significant deficiencies remain. The notice shall identify any remaining significant deficiencies, and indicate the adequacy of any proposed or completed corrective action. The contracting officer shall—

(*1*) Request that the contractor, within 45 days of receipt of the final determination, either correct the deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies;

(*2*) Make a determination to disapprove the system in accordance with the clause at 952.242–72, Accounting System Administration; and

(*3*) Withhold payments in accordance with the clause at 952.242–71, Contractor Business System, if the clause is included in the contract.

(ii) Monitoring a contractor's corrective action and the correction of significant deficiencies.

(A) *Monitoring contractor's corrective action.* The contracting officer or designee shall monitor the contractor's progress in correcting deficiencies. If the contractor fails to make adequate progress, the contracting officer shall take whatever action is necessary to ensure that the contractor corrects the deficiencies. Examples of actions the contracting officer can take include disapproving the system; implementing or increasing the withholding in accordance with 952.242–71, Contractor Business System, if applicable; and recommending non-award of potential contracts.

(B) *Correction of significant deficiencies.* (*1*) When the contractor notifies the contracting officer that the contractor has corrected the significant deficiencies, the contracting officer shall request that the auditor review the correction to determine if the deficiencies have been resolved. (*2*) The contracting officer shall determine if the contractor has corrected the deficiencies.

(*3*) If the contracting officer determines the contractor has corrected the deficiencies, the contracting officer's notification shall be sent to the auditor, invoice approving official, payment office, appropriate action officers responsible for reporting past performance, affected DOE contracting offices having substantial business with the contractor, and the Department of Energy's or National Nuclear Security Administration's Heads of the Contracting Activities and Senior Procurement Executives.

(e) *System approval.* The contracting officer shall promptly approve a previously disapproved accounting system and notify the contractor when the contracting officer determines that

there are no remaining significant deficiencies.

(f) *Contracting officer notifications.* The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release withheld payments to the auditor, invoice approving official, payment office, and affected contracting offices.

(g) *Mitigating the risk of accounting system deficiencies on specific proposals.* (1) The functional specialist or field pricing team shall discuss identified accounting system deficiencies and their impact in all reports on contractor proposals until the deficiencies are resolved.

(2) The contracting officer responsible for negotiation of a proposal generated by an accounting system with an identified deficiency shall evaluate whether the deficiency impacts the negotiations. If it does not, the contracting officer should proceed with negotiations. If it does, the contracting officer should consider other alternatives, *e.g.*—

(i) Allowing the contractor additional time to correct the accounting system deficiency and submit a corrected proposal;

(ii) Considering another type of contract;

(iii) Using additional cost analysis techniques to determine the reasonableness of the cost elements affected by the accounting system's deficiency;

(iv) Reducing the negotiation objective for profit or fee; or

(v) Including a contract (reopener) clause that provides for adjustment of the contract amount after award.

(3) The contracting officer is responsible for negotiating price adjustments required by the clause. Any reopener clause necessitated by an accounting system deficiency should—

(i) Clearly identify the amounts and items that are in question at the time of negotiation;

(ii) Indicate a specific time or subsequent event by which the contractor will submit a supplemental proposal, including certified cost or pricing data, identifying the cost impact adjustment necessitated by the deficient accounting system;

(iii) Provide for the contracting officer to adjust the contract price unilaterally if the contractor fails to submit the supplemental proposal; and

(iv) Provide that failure of the Government and the contractor to agree to the price adjustment shall be a dispute under the Disputes clause.

942.7103 Contract clause.

Unless one of the exceptions at 942.7003 applies, use the clause at 952.242–72, Accounting System Administration, in solicitations and contracts when contemplating a contract in support of a Capital Asset Project (other than a management and operating contract), as prescribed in DOE O 413.3B, or current version, or for a non-capital asset project as described at 915.407–5–70(b)(2), for a prime contract, when the total contract value exceeds $50 million, including options, or when the prime contract totaling $10 million or more including options (but less than $50 million) and the contracting officer determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist or the contractor's sales are predominantly Government and—

(a) A cost-reimbursement, incentive type, time-and-materials, or labor-hour contract;

(b) A contract with progress payments made on the basis of costs incurred by the contractor or on a percentage or stage of completion; or

(c) A fixed-price contract that is not a small business set-aside.

■ 7. Add part 944 to Subchapter G to read as follows:

PART 944—SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 944.3—Contractors' Purchasing System Reviews

Sec.

944.301 Objective.
944.303 Extent of review.
944.305 Granting, withholding, or withdrawing approval.
944.305–70 Policy.
944.305–71 Contract clause.

Authority: 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

Subpart 944.3—Contractors' Purchasing System Reviews

944.301 Objective.

The contracting officer is responsible for initiating reviews of the contractor's purchasing systems, but other organizations may request that the contracting officer initiate such reviews.

944.303 Extent of review.

In addition to the review requirements of 48 CFR 44.303, the contracting officer shall review the adequacy of rationale documenting commercial item determinations to ensure compliance with the definition of ''commercial item'' in 48 CFR 2.101.

944.305 Granting, withholding, or withdrawing approval.

944.305–70 Policy.

The contracting officer shall use the days in this subsection instead of the days in 48 CFR 44.305–2(c) and 44.305–3(b) to permit the contractor's response.

(a) When the solicitation or contract includes the clause 952.242–71 Contractor Business Systems and related clauses, the cognizant contracting officer, in consultation with the purchasing system analyst or auditor, shall—

(1) Ensure that contract, Part I—The Schedule, addresses in the business administration section, or similar section, that the contractor shall submit its purchasing system for DOE review and acceptance with full implementation of the system to be in place no later than 60 days after contract award;

(2) Determine the acceptability of the contractor's purchasing system and approve or disapprove the system; and

(3) Pursue correction of any deficiencies.

(b) In evaluating the acceptability of the contractor's purchasing system, the contracting officer, in consultation with the purchasing system analyst or auditor, shall determine whether the contractor's purchasing system complies with the system criteria for an acceptable purchasing system as described in the clause at 952.244–71, Contractor Purchasing System Administration.

(c) *Disposition of findings*—(1) *Reporting of findings.* The purchasing system analyst or auditor shall document findings and recommendations in a report to the contracting officer. If the auditor or purchasing system analyst identifies any significant purchasing system deficiencies, the report shall describe the deficiencies in sufficient detail to allow the contracting officer to understand the deficiencies.

(2) *Initial determination.* (i) The contracting officer shall review all findings and recommendations and, if there are no significant deficiencies, shall promptly notify the contractor that the contractor's purchasing system is acceptable and approved; or

(ii) If the contracting officer finds that there are one or more significant deficiencies (as defined in the clause at 952.244–71, Contractor Purchasing System Administration) due to the contractor's failure to meet one or more of the purchasing system criteria in the clause at 952.244–71, the contracting officer shall—

(A) Within 30 days of receiving the report, provide an initial determination of deficiencies in writing, describing each significant deficiency in sufficient detail to allow the contractor to understand the deficiency and provide a copy of the report to the contractor;

(B) Request the contractor to respond, in writing, to the initial determination within 30 days; and

(C) Within 30 days of receiving the contractor's response or if the contractor does not submit a response, the date the response was due, in consultation with the auditor or cognizant functional specialist, evaluate the contractor's response or the contractor's lack of response and make a final determination.

(3) *Final determination.* (i) The contracting officer shall make a final determination and notify the contractor, in writing, that—

(A) The contractor's purchasing system is acceptable and approved, and no significant deficiencies remain, or

(B) Significant deficiencies remain. The notice shall identify any remaining significant deficiencies, and indicate the adequacy of any proposed or completed corrective action. The contracting officer shall—

(*1*) Request that the contractor, within 45 days of receipt of the final determination, either correct the deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies;

(*2*) Disapprove the system in accordance with the clause at 952.244–71, Contractor Purchasing System Administration; and

(*3*) Withhold payments in accordance with the clause at 952.242–71, Contractor Business System, if the clause is included in the contract.

(ii) Monitoring a contractor's corrective action and the correction of significant deficiencies.

(A) *Monitoring contractors' corrective action.* The contracting officer and either the purchasing system analyst or auditor shall monitor the contractor's progress in correcting deficiencies. If the contractor fails to make adequate progress, the contracting officer shall take whatever action is necessary to ensure that the contractor corrects the deficiencies. Examples of actions the contracting officer can take include withdraw or withhold approval of the system or implementing or increasing the withholding in accordance with 952.242–71, Contractor Business System, and recommending non-award of potential contracts.

(B) *Correction of significant deficiencies.* (*1*) When the contractor notifies the contracting officer that the contractor has corrected the significant deficiencies, the contracting officer shall request the purchasing system analyst or auditor to review the correction to determine if the deficiencies have been resolved.

(*2*) The contracting officer shall determine if the contractor has corrected the deficiencies.

(*3*) If the contracting officer determines the contractor has corrected the deficiencies, the contracting officer's notification shall be sent to the purchasing system analyst, auditor, invoice approving official, payment office, appropriate action officers responsible for reporting past performance, and the Department of Energy's or National Nuclear Security Administration's Heads of the Contracting Activities and Senior Procurement Executives.

(d) *System approval.* The contracting officer shall promptly approve a previously disapproved purchasing system and notify the contractor when the contracting officer determines that there are no remaining significant deficiencies.

(e) *Contracting officer notifications.* The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release withheld payments to the auditor, invoice approving official, payment office, and affected contracting offices.

(f) *Mitigating the risk of purchasing system deficiencies on specific proposals.*

(1) The functional specialist shall discuss identified purchasing system deficiencies and their impact in all reports on contractor proposals until the deficiencies are resolved.

(2) The contracting officer responsible for negotiation of a proposal generated by a purchasing system with an identified deficiency shall evaluate whether the deficiency impacts the negotiations. If it does not, the contracting officer should proceed with negotiations. If it does, the contracting officer should consider other alternatives, *e.g.*—

(i) Allowing the contractor additional time to correct the purchasing system deficiency and submit a corrected proposal;

(ii) Considering another type of contract, *e.g.,* a fixed-price incentive (firm target) contract instead of firm-fixed-price;

(iii) Using additional cost analysis techniques to determine the reasonableness of the cost elements affected by the purchasing system's deficiency;

(iv) Segregating the questionable areas as a cost-reimbursable line item;

(v) Reducing the negotiation objective for profit or fee; or

(vi) Including a contract (reopener) clause that provides for adjustment of the contract amount after award.

(3) The contracting officer is responsible for negotiating price adjustments required by the clause. Any reopener clause necessitated by a purchasing system deficiency shall—

(i) Clearly identify the amounts and items that are in question at the time of negotiation;

(ii) Indicate a specific time or subsequent event by which the contractor will submit a supplemental proposal, including certified cost or pricing data, identifying the cost impact adjustment necessitated by the deficient purchasing system;

(iii) Provide for the contracting officer to adjust the contract price unilaterally if the contractor fails to submit the supplemental proposal; and

(iv) Provide that failure of the Government and the contractor to agree to the price adjustment shall be a dispute under the Disputes clause.

944.305–71 Contract clause.

Unless one of the exceptions at 942.7003 applies, use the clause at 952.244–71, Contractor Purchasing System Administration, in solicitations and contracts, in support of a Capital Asset Project (other than a management and operating contract), as prescribed in DOE O 413.3B, or current version, or for a non-capital asset project as described at 915.407–5–70(b)(2), for a prime contract, when the total contract value exceeds $50 million, including options, or when the prime contract totaling $10 million or more including options (but less than $50 million) and the contracting officer determines it to be in the best interest of the Government (significant purchasing problems are believed to exist or the contractor's sales are predominantly Government and containing the clause at 48 CFR 52.244–2, Subcontracts.

PART 945—GOVERNMENT PROPERTY

■ 8. Add section 945.105 to read as follows:

945.105 Contractor's property management system compliance.

(a) *Definitions*—

(1) *Acceptable property management system and property management system* are defined in the clause at 952.245–70, Contractor Property Management System Administration.

(2) *Significant deficiency* is defined in the clause at 952.245–70, Contractor Property Management System Administration.

(b) *Policy.* When the solicitation or contract includes the clause 952.242–71 Contractor Business System and related clauses, the cognizant contracting officer, in consultation with the property administrator, shall—

(1) Ensure that contract, Part I—The Schedule, addresses in the business administration section, or similar section, that the contractor shall submit its property management system for DOE review and acceptance with full implementation of the system to be in place no later than 60 days after contract award;

(2) Determine the acceptability of the system and approve or disapprove the system; and

(3) Pursue correction of any deficiencies.

(c) In evaluating the acceptability of a contractor's property management system, the contracting officer, in consultation with the property administrator, shall determine whether the contractor's property management system complies with the system criteria for an acceptable property management system as prescribed in the clause at 952.245–70, Contractor Property Management System Administration.

(d) *Disposition of findings*—(1) *Reporting of findings.* The property administrator shall document findings and recommendations in a report to the contracting officer. If the property administrator identifies any significant property system deficiencies, the report shall describe the deficiencies in sufficient detail to allow the contracting officer to understand the deficiencies.

(2) *Initial determination.* (i) The contracting officer shall review findings and recommendations and, if there are no significant deficiencies, shall promptly notify the contractor, in writing, that the contractor's property management system is acceptable and approved; or

(ii) If the contracting officer finds that there are one or more significant deficiencies (as defined in the clause at 952.245–70, Contractor Property Management System Administration) due to the contractor's failure to meet one or more of the property management system criteria in the clause at 952.245–70, the contracting officer shall—

(A) Within 30 days of receiving the report, provide an initial determination of deficiencies in writing, describing each significant deficiency in sufficient detail to allow the contractor to understand the deficiency and provide a copy of the report to the contractor;

(B) Request the contractor to respond, in writing, to the initial determination within 30 days; and

(C) Within 30 days of receiving the contractor's response or if the contractor does not submit a response, the date the response was due, the contracting officer, in consultation with the auditor or cognizant functional specialist, should evaluate the contractor's response or the contractor's lack of response and make a final determination.

(3) *Final determination.* (i) The contracting officer shall make a final determination and notify the contractor, in writing, that—

(A) The contractor's property management system is acceptable and approved, and no significant deficiencies remain, or

(B) Significant deficiencies remain. The notice shall identify any remaining significant deficiencies, and indicate the adequacy of any proposed or completed corrective action.

The contracting officer shall—

(*1*) Request that the contractor, within 45 days of receipt of the final determination, either correct the deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies;

(*2*) Disapprove the system in accordance with the clause at 952.245–70, Contractor Property Management System Administration; and

(*3*) Withhold payments in accordance with the clause at 952.242–71, Contractor Business System, if the clause is included in the contract.

(ii)(A) *Monitoring contractor's corrective action.* The contracting officer and property administrator shall monitor the contractor's progress in correcting deficiencies. If the contractor fails to make adequate progress, the contracting officer shall take whatever action is necessary to ensure that the contractor corrects the deficiencies. Examples of actions the contracting officer can take include withdraw or withhold approval of the system; or implementing or increasing the withholding in accordance with the clause at 952.242.71, Contractor Business System, and recommending non-award of potential contracts.

(B) *Correction of significant deficiencies.* (*1*) When the contractor notifies the contracting officer that the contractor has corrected the significant deficiencies, the contracting officer shall request the property administrator to review the correction to determine if the deficiencies have been resolved.

(*2*) The contracting officer shall determine if the contractor has corrected the deficiencies.

(*3*) If the contracting officer determines the contractor has corrected the deficiencies, the contracting officer's notification shall be sent to the property administrator, auditor, invoice approving official, payment office, appropriate action officers responsible for reporting past performance, and the Department of Energy's or National Nuclear Security Administration's Heads of the Contracting Activities and Senior Procurement Executives.

(e) *System approval.* The contracting officer shall promptly approve a previously disapproved property management system and notify the contractor when the contracting officer determines, in consultation with the property administrator, that there are no remaining significant deficiencies.

(f) *Contracting officer notifications.* The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release withheld payments to the auditor, invoice approving official, payment office, and affected contracting offices.

■ 9. Add section 945.107 to read as follows:

945.107 Contract clauses.

(a) Unless one of the exceptions at 942.7003 applies, use the clause at 952.245–70, Contractor Property Management System Administration, in solicitations and contracts in support of a Capital Asset Project, (other than a management and operating contract as described at 917.6), as prescribed in DOE O 413.3B, or current version, or for a non-capital asset project as described at 915.407–5–70(b)(2), for a prime contract, when the total contract value exceeds $50 million, including options, or when the prime contract totaling $10 million or more including options (but less than $50 million) and the contracting officer determines it to be in the best interest of the Government (significant property problems are believed to exist or the contractor's sales are predominantly Government) and containing the clause at 48 CFR 52.245–1, Government Property. (b) For negotiated fixed-price contract, not subject to 48 CFR 942.7002, awarded on a basis other than submission of certified cost or pricing data for which Government property is provided, use the clause at 48 CFR 52.245–1, Government Property, without its Alternate I.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 10. Revise section 952.215–70 introductory text to read as follows:

952.215–70 Key Personnel.

As prescribed in 915.408–70(a), the contracting officer shall insert the following clause:

* * * * *

■ 11. Add section 952.215.71 to read as follows:

952.215–71 Cost estimating system requirements.

As prescribed in 915.408–70(b), use the following clause:

COST ESTIMATING SYSTEM REQUIREMENTS (xxx 201x)

(a) *Definitions.*

Acceptable estimating system means an estimating system that complies with the system criteria in paragraph (d) of this clause, and provides for a system that—

(1) Is maintained, reliable, and consistently applied;

(2) Produces verifiable, supportable, documented, and timely cost estimates that are an acceptable basis for negotiation of fair and reasonable prices;

(3) Is consistent with and integrated with the Contractor's related management systems; and

(4) Is subject to applicable financial control systems.

Estimating system means the Contractor's policies, procedures, and practices for budgeting and planning controls, and generating estimates of costs and other data included in proposals submitted to customers in the expectation of receiving contract awards or contract modifications. Estimating system includes the Contractor's—

(1) Organizational structure;

(2) Established lines of authority, duties, and responsibilities;

(3) Internal controls and managerial reviews;

(4) Flow of work, coordination, and communication; and

(5) Budgeting, planning, estimating methods, techniques, accumulation of historical costs, and other analyses used to generate cost estimates.

Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(b) *General.* The Contractor shall establish, maintain, and comply with an acceptable estimating system.

(c) *Applicability.* Paragraphs (d) and (e) of this clause apply if the Contractor is a large business to include a contractor teaming arrangement, as defined at 48 CFR 9.601(1), performing a contract in support of a Capital Asset Project (other than a management and operating contract as described at 917.6), as prescribed in DOE Order (DOE O) 413.3B, or current version; or a non-capital asset project and either—

(1) The total prime contract value exceeds $50 million, including options; or

(2) The Contractor was notified, in writing, by the Contracting Officer that paragraphs (d) and (e) of this clause apply.

(d) *System requirements.* (1) The Contractor shall disclose its estimating system to the Contracting Officer, in writing. If the Contractor wishes the Government to protect the information as privileged or confidential, the Contractor must mark the documents with the appropriate legends before submission. If the Contractor plans to adopt the existing system from the previous Contractor, the Contractor is responsible for the system and shall comply with the system requirements required in this clause.

(2) An estimating system disclosure is acceptable when the Contractor has provided the Contracting Officer with documentation no later than 60 days after contract award that—

(i) Accurately describes those policies, procedures, and practices that the Contractor currently uses in preparing cost proposals; and

(ii) Provides sufficient detail for the Government to reasonably make an informed judgment regarding the acceptability of the Contractor's estimating practices.

(3) The Contractor shall—

(i) Comply with its disclosed estimating system; and

(ii) Disclose significant changes to the cost estimating system to the Contracting Officer on a timely basis.

(4) The Contractor's estimating system shall provide for the use of appropriate source data, utilize sound estimating techniques and good judgment, maintain a consistent approach, and adhere to established policies and procedures. An acceptable estimating system shall accomplish the following functions:

(i) Establish clear responsibility for preparation, review, and approval of cost estimates and budgets.

(ii) Provide a written description of the organization and duties of the personnel responsible for preparing, reviewing, and approving cost estimates and budgets.

(iii) Ensure that relevant personnel have sufficient training, experience, and guidance to perform estimating and budgeting tasks in accordance with the Contractor's established procedures.

(iv) Identify and document the sources of data and the estimating methods and rationale used in developing cost estimates and budgets.

(v) Provide for adequate supervision throughout the estimating and budgeting process.

(vi) Provide for consistent application of estimating and budgeting techniques.

(vii) Provide for detection and timely correction of errors.

(viii) Protect against cost duplication and omissions.

(ix) Provide for the use of historical experience, including historical vendor pricing information, where appropriate.

(x) Require use of appropriate analytical methods.

(xi) Integrate information available from other management systems.

(xii) Require management review, including verification of compliance with the company's estimating and budgeting policies, procedures, and practices.

(xiii) Provide for internal review of, and accountability for, the acceptability of the estimating system, including the budgetary data supporting indirect cost estimates and comparisons of projected results to actual results, and an analysis of any differences.

(xiv) Provide procedures to update cost estimates and notify the Contracting Officer in a timely manner.

(xv) Provide procedures that ensure subcontract prices are reasonable based on a documented review and analysis provided with the prime proposal, when practicable.

(xvi) Provide estimating and budgeting practices that consistently generate sound proposals that are compliant with the provisions of the solicitation and are adequate to serve as a basis to reach a fair and reasonable price.

(xvii) Have an adequate system description, including policies, procedures, and estimating and budgeting practices, that comply with the Federal Acquisition Regulation (48 CFR chapter 1) and Department of Energy Acquisition Regulation (48 CFR chapter 9).

(e) *Significant deficiencies.* (1) The Contracting Officer will provide an initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's estimating system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing. In the event the Contractor did not respond in writing to the initial determination within the response time, this lack of response shall indicate that the Contractor agrees with the initial determination.

(3) The Contracting Officer will evaluate the Contractor's response or the Contractor's lack of response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action; and

(iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(f) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(g) *Withholding payments.* If the Contracting Officer makes a final determination to disapprove the Contractor's estimating system, and the contract includes

the clause at 952.242–71, Contractor Business System, the Contracting Officer will withhold payments in accordance with that clause.

(End of clause)

■ 12. Add section 952.234.70 to read as follows:

952.234–70 Notice of earned value management system.

As prescribed in 934.203(a), use the following provision:

NOTICE OF EARNED VALUE MANAGEMENT SYSTEM (xxx 201x)

(a) If the offeror submits a proposal for a Department of Energy (DOE) Capital Asset Project—

(1) In the amount of $50,000,000 or more; or

(2) Where the offeror has a contract or other contracts in support of DOE Capital Asset Projects and the total contract values are $20,000,000 or greater per contract for a total contract values of $50,000,000 or more—

(i) The offeror shall provide documentation that an authorized government representative has determined that the proposed Earned Value Management System (EVMS) complies with the EVMS guidelines in the American National Standards Institute/Electronic Industries Alliance Standard 748, Earned Value Management Systems (ANSI/EIA–748) (current version at time of solicitation). The Government reserves the right to perform reviews of the EVMS when deemed necessary to verify compliance.

(ii) If the offeror proposes to use a system that has not been determined to be in compliance with the requirements of paragraph (a)(1) of this provision, the offeror shall submit a comprehensive plan for compliance with the guidelines in ANSI/EIA–748.

(A) The plan shall—

(1) Describe the EVMS the offeror intends to use in performance of the contract, and how the proposed EVMS complies with the EVMS guidelines in ANSI/EIA–748;

(2) Distinguish between the offeror's existing management system and modifications proposed to meet the EVMS guidelines;

(*3*) Describe the management system and its application in terms of the EVMS guidelines;

(*4*) Describe the proposed procedure for administration of the EVMS guidelines as applied to subcontractors; and

(*5*) Describe the process the offeror will use to determine subcontractor compliance with ANSI/EIA–748.

(B) The offeror shall provide information and assistance as required by the Contracting Officer to support review of the plan.

(C) The offeror's EVMS plan must provide milestones that indicate when the offeror anticipates that the EVMS will be compliant with the guidelines in ANSI/EIA–748.

(b) If the offeror submits a proposal in an amount less than $50,000,000 and does not meet the condition described at (a)(2) above—

(1) The offeror shall submit a written description of the management procedures it will use and maintain in the performance of any resultant contract to comply with the requirements of the Earned Value Management System clause of the contract. The description shall include—

(i) A matrix that correlates each guideline in ANSI/EIA–748 (current version at time of solicitation) to the corresponding process in the offeror's written management procedures; and

(ii) The process the offeror will use to determine subcontractor compliance with ANSI/EIA–748.

(2) If the offeror proposes to use an EVMS that has been determined by the CFA to be in compliance with the EVMS guidelines in ANSI/EIA–748, the offeror may submit a copy of the documentation of such determination instead of the written description required by paragraph (b)(1) of this provision.

(c) The offeror shall identify the subcontractors (or the subcontracted effort if subcontractors have not been selected) to whom the EVMS requirements will apply. The offeror and the Government shall agree to the contractors or the subcontracted effort selected for application of the EVMS requirements. The offeror shall be responsible for ensuring that the selected subcontractors comply with the requirements of the Earned Value Management System clause of the contract.

(End of provision)

■ 13. Add section 952.234.71 to read as follows:

952.234–71 Earned value management system.

As prescribed in 934.203(b), use the following clause:

EARNED VALUE MANAGEMENT SYSTEM (XXX 201X)

(a) *Definitions.* As used in this clause—

Acceptable earned value management system means an earned value management system that generally complies with system criteria in paragraph (b) of this clause.

Earned value management system means an earned value management system that complies with the earned value management system guidelines in the ANSI/EIA–748.

Over Target Baseline means an overrun to the Contract Budget Base (CBB) which is formally incorporated into the Performance Measurement Baseline (PMB) for management purposes.

Over Target Schedule means the term used to describe a condition where a baseline schedule is time-phased beyond the contract completion date.

Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(b) *System criteria.* In the performance of this contract, the Contractor shall use—

(1) An Earned Value Management System (EVMS) that complies with the EVMS guidelines in the American National Standards Institute/Electronic Industries Alliance Standard 748, Earned Value Management Systems (ANSI/EIA–748) (current version at time of award; and

(2) *Management procedures.* (i) Management procedures provide for generation of timely, reliable, and verifiable information for the Department of Energy (DOE) Integrated Program Management Report (IPMR) data item of this contract.

(ii) The Contractor shall use Department of Energy's (DOE) modified version of Department of Defense's Data Item Description (DID) Integrated Program Management Report (IPMR), DI–MGMT–81861, (DOE version, current version at time of contract award) which contains data for measuring cost and schedule performance for this DOE contract. The Contractor shall submit the data electronically by uploading the data into the Project Assessment and Reporting System (PARS II) in accordance with the ''Contractor Project Performance Upload Requirements'' document maintained by the DOE Office of Acquisition and Project Management (OAPM). All requested data shall be submitted timely and accurately, and shall be current as of the close of the previous month's accounting period.

(c) If the Contractor has one or more DOE contracts valued at $20,000,000 or greater per contract for a total contract value of $50,000,000 or more which support DOE Capital Asset Projects, the Contractor shall use an EVMS that has been determined to be acceptable by DOE. If, at the time of award, the Contractor's EVMS has not been determined by DOE to be in compliance with the EVMS guidelines as stated in paragraph (b)(1) of this clause, the Contractor shall apply its current system to the contract and shall take necessary actions to meet the milestones in the Contractor's EVMS plan.

(d) If this contract has a total value of less than $50,000,000 and does not meet the condition described at (c) above, the Government will not make a formal determination that the Contractor's EVMS complies with the EVMS guidelines in ANSI/EIA–748 with respect to the contract. The use of the Contractor's EVMS for this contract does not imply a Government determination of the Contractor's compliance with the EVMS guidelines in ANSI/EIA–748 for application to future contracts.

(e) The Contractor shall submit notification of all proposed changes to the EVMS procedures and the impact of those changes to DOE. If this contractor has one or more contracts in support of DOE Capital Asset Projects and the total contract values are $20,000,000 or greater per contract for total contract values of $50,000,000 or more, unless a waiver is granted by DOE, any EVMS changes proposed by the Contractor require approval of DOE prior to implementation. DOE will advise the Contractor of the acceptability of such changes as soon as practicable (generally within 30 calendar days) after receipt of the Contractor's notice of proposed changes. If DOE waives the advance approval requirements, the Contractor shall disclose EVMS changes to DOE at least 14 calendar days prior to the effective date of implementation.

(f) *Integrated baseline reviews.* (1) The purpose of the integrated baseline reviews

(IBR) is to verify the technical content and the realism of the related performance budgets, resources, and schedules. It should provide a mutual understanding of the inherent risks in the offerors'/contractors' performance plans and the underlying management control systems, and it should formulate a plan to handle these risks. DOE and the Contractor will use the IBR process described in the National Defense Industrial Association Program Management Systems Committee Integrated Baseline Review (NDIA PMSC IBR) Guide (current version at time of award).

(2) The Government will schedule IBRs as early as practicable, and the review process will be conducted not later than 180 calendar days after—

(i) Contract award;

(ii) The exercise of significant contract options; and

(iii) The incorporation of major modifications.

During such reviews, the Government and the Contractor will jointly assess the Contractor's baseline to be used for performance measurement to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resourcing, and identification of inherent risks.

(g) The Contractor shall provide access to all pertinent records and data requested by the Contracting Officer or duly authorized representative as necessary to permit Government surveillance to ensure that the EVMS complies, and continues to comply, with the performance criteria referenced in paragraph (b) of this clause.

(h) When indicated by contract performance, the Contractor shall submit a request for approval to initiate an over-target baseline or over-target schedule to the Contracting Officer. The request shall include a top-level projection of cost and/or schedule growth, a determination of whether or not performance variances will be retained, and a schedule of implementation for the rebaselining. The Government will acknowledge receipt of the request in a timely manner (generally within 30 calendar days).

(i) *Significant deficiencies.* (1) The Contracting Officer will provide an initial determination to the Contractor, in writing, on any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's EVMS. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing. In the event the Contractor did not respond in writing to the initial determination within the response time, this lack of response shall indicate that the Contractor agrees with the initial determination.

(3) The Contracting Officer will evaluate the Contractor's response or the Contractor's lack of response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action;

(iii) System noncompliance, when the Contractor's existing EVMS fails to comply with the earned value management system guidelines in the ANSI/EIA–748; and

(iv) System disapproval, if initial EVMS validation is not successfully completed within the timeframe approved by the Contracting Officer, or if the Contracting Officer determines that the Contractor's earned value management system contains one or more significant deficiencies in high-risk guidelines in ANSI/EIA–748 standards (guidelines 1, 3, 6, 7, 8, 9, 10, 12, 16, 21, 23, 26, 27, 28, 30, or 32). When the Contracting Officer determines that the existing earned value management system contains one or more significant deficiencies in one or more of the remaining 16 guidelines in ANSI/EIA–748 standards, the contracting officer will use discretion to disapprove the system based on input received from the DOE Office of Acquisition and Project Management or the DOE Program Office, herein referred to as the functional specialists.

(4) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(j) *Withholding payments.* If the Contracting Officer makes a final determination to disapprove the Contractor's EVMS, and the contract includes the clause at 952.242–71, Contractor Business System, the Contracting Officer will withhold payments in accordance with that clause.

(k) With the exception of paragraphs (i) and (j) of this clause, for contracts valued at $20 million or more requiring EVMS, the contractor shall flow down appropriate EVMS requirements to its subcontractors in order for the contractor to meet all requirements of this clause.

[Contracting Officer to insert names of subcontractors (or subcontracted effort if subcontractors have not been selected) designated for application of the EVMS requirements of this clause.]

(l) *Adopting previous Contractor's previously certified earned value management (EVM) process.* If the Contractor plans to adopt the existing system from the previous Contractor or DOE-site, the Contractor is responsible for the system and shall comply with the system requirements required in this clause. The existing system shall utilize the same DOE approved EVM Process Description and the same EVM training as the previous system. The Contractor shall—

(1) Identify the corporate entity which owns the certified EVM process and provide the certification documentation;

(2) Obtain DOE prior approval or Advanced Agreement including DOE approval of process changes and joint surveillance;

(3) Be responsible for compliance with the system criteria required in paragraph (b) of this clause; and

(4) Be responsible for correcting any significant deficiencies previously identified to the previous Contractor by the Contracting Officer in accordance with paragraph (i) of this clause. Within 45 days after receiving a copy of the previous contractor's final determination, the Contractor shall follow paragraph (i)(4) and either correct any significant deficiencies or submit an acceptable corrective action plan. The Contracting Officer or designee, will provide a copy of the previous contractor's final determination.

(End of clause)

■ 14. Add section 952.242.71 to read as follows:

952.242–71 Contractor business system.

As prescribed in 942.7002, use the following clause:

CONTRACTOR BUSINESS SYSTEM (xxx 201x)

(a) This clause only applies to fixed-price contract awarded to a large business on the basis of adequate price competition with or without submission of cost or pricing data; or covered contract that is subject to the Cost Accounting Standards under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201–1(a) and is not exempted at 9903.201–1(b)(1) through (14) (see the 48 CFR Appendix).

(b) *Definitions.* As used in this clause—

Acceptable contractor business system means contractor business system that comply with the terms and conditions of the applicable business system clauses listed in the definition of ''contractor business system'' in this clause.

Contractor business system means—

(1) Accounting system, if this contract includes the clause at 48 CFR 952.242–72, Accounting System Administration;

(2) Earned value management system, if this contract includes the clause at 48 CFR 952.234–70, Earned Value Management System;

(3) Estimating system, if this contract includes the clause at 48 CFR 952.215–71, Cost Estimating System Requirements;

(4) Property management system, if this contract includes the clause at 48 CFR 952.245–70, Contractor Property Management System Administration; and

(5) Purchasing system, if this contract includes the clause at 48 CFR 952.244–71, Contractor Purchasing System Administration.

Significant deficiency, in the case of a contractor business system, means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(c) *General.* The Contractor shall establish and maintain acceptable business systems in accordance with the terms and conditions of this contract. If the Contractor plans to adopt any existing business system from the previous Contractor, the Contractor is responsible for the system and shall comply with the system requirements and criteria required in that specific business system clause.

(d) *Significant deficiencies.* (1) The Contractor shall respond, in writing, within 30 days to an initial determination that there are one or more significant deficiencies in one or more of the Contractor's business systems.

(2) The Contracting Officer will evaluate the Contractor's response and notify the Contractor, in writing, of the final determination as to whether the Contractor's business system contains significant deficiencies. If the Contracting Officer determines that the Contractor's business system contains significant deficiencies, the final determination will include a notice to withhold payments.

(e) *Withholding payments.* (1) If the Contracting Officer issues the final determination with a notice to withhold payments for significant deficiencies in a contractor business system required under this contract, the Contracting Officer will direct the Contractor, in writing, to withhold five percent from its invoices until the Contracting Officer has determined that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination. The Contractor shall, within 45 days of receipt of the notice, either—

(i) Correct the deficiencies; or

(ii) Submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies. The plan shall contain—

(A) Root cause(s) identification of the problem(s);

(B) The proposed corrective action(s) to address the root cause(s);

(C) A schedule for implementation; and

(D) The name of the person responsible for the implementation.

(2) If the Contractor submits an acceptable corrective action plan within 45 days of receipt of a notice of the Contracting Officer's intent to withhold payments, and the Contracting Officer, in consultation with the auditor or functional specialist, determines that the Contractor is effectively implementing such plan, the Contracting Officer will direct the Contractor, in writing, to reduce the percentage withheld on invoices to two percent until the Contracting Officer determines the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination. However, if at any time, the Contracting Officer determines that the Contractor has failed to follow the accepted corrective action plan, the Contracting Officer will increase withholding and direct the Contractor, in writing, to increase the percentage withheld on invoices to the percentage initially withheld, until the Contracting Officer determines that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination.

(3) *Payment withhold percentage limits.*

(i) The total percentage of payments withheld on amounts due on this contract shall not exceed—

(A) Five percent for one or more significant deficiencies in any single contractor business system; and

(B) Ten percent for significant deficiencies in multiple contractor business systems.

(ii) If this contract contains pre-existing withholds, and the application of any subsequent payment withholds will cause withholding under this clause to exceed the payment withhold percentage limits in paragraph (e)(3)(i) of this clause, the Contracting Officer will reduce the payment withhold percentage in the final determination to an amount that will not exceed the payment withhold percentage limits.

(4) For the purpose of this clause, payment means invoicing for any of the following payments authorized under this contract:

(i) Interim payments under—

(A) Cost-reimbursement contracts;

(B) Incentive type contracts;

(C) Time-and-materials contracts; or

(D) Labor-hour contracts.

(ii) Progress payments to include fixed-price contracts.

(iii) Performance-based payments to include fixed-price contracts.

(5) Payment withholding shall not apply to payments on fixed-price line items where performance is complete and the items were accepted by the Government.

(6) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights or remedies the Government has under this contract.

(7) Notwithstanding the provisions of any clause in this contract providing for interim, partial, or other payment withholding on any basis, the Contracting Officer may withhold payment in accordance with the provisions of this clause.

(8) The payment withholding authorized in this clause is not subject to the interest-penalty provisions of the Prompt Payment Act.

(f) *Correction of deficiencies.* (1) The Contractor shall notify the Contracting Officer, in writing, when the Contractor has corrected the business system's deficiencies.

(2) Once the Contractor has notified the Contracting Officer that all deficiencies have been corrected, the Contracting Officer will take one of the following actions:

(i) If the Contracting Officer determines that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination, the Contracting Officer will direct the Contractor, in writing, to discontinue the payment withholding from invoices under this contract associated with the Contracting Officer's final determination, and authorize the Contractor to bill for any monies previously withheld that are not also being withheld due to other significant deficiencies. Any payment withholding under this contract due to other significant deficiencies, will remain in effect until the Contracting Officer determines that those significant deficiencies are corrected.

(ii) If the Contracting Officer determines that the Contractor still has significant deficiencies, the Contractor shall continue withholding amounts from its invoices in accordance with paragraph (e) of this clause, and not invoice for any monies previously withheld.

(iii) If the Contracting Officer determines, based on the evidence submitted by the Contractor, that there is a reasonable expectation that the corrective actions have been implemented and are expected to correct the significant deficiencies, the Contracting Officer will discontinue withholding payments, and release any payments previously withheld directly related to the significant deficiencies identified in the Contractor notification, and direct the Contractor, in writing, to discontinue the payment withholding from invoices associated with the Contracting Officer's final determination, and authorize the Contractor to bill for any monies previously withheld.

(iv) If, within 90 days of receipt of the Contractor notification that the Contractor has corrected the significant deficiencies, the Contracting Officer has not made a determination in accordance with paragraphs (f)(2)(i), (ii), or (iii) of this clause, the Contracting Officer will direct the Contractor, in writing, to reduce the payment withholding from invoices directly related to the significant deficiencies identified in the Contractor notification by a specified percentage that is at least 50 percent, but not authorize the Contractor to bill for any monies previously withheld until the Contracting Officer makes a determination in accordance with paragraphs (f)(2)(i), (ii), or (iii) of this clause.

(v) At any time after the Contracting Officer directs the Contractor to reduce or discontinue the payment withholding from invoices under this contract, if the Contracting Officer determines that the Contractor has failed to correct the significant deficiencies identified in the Contractor's notification, the Contracting Officer will reinstate or increase withholding and direct the Contractor, in writing, to reinstate or increase the percentage withheld on invoices to the percentage initially withheld, until the Contracting Officer determines that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination.

(End of clause)

■ 15. Add section 952.242.72 to read as follows:

952.242–72 Accounting system administration.

As prescribed in 942.7103, use the following clause:

ACCOUNTING SYSTEM ADMINISTRATION (XXX 201X)

(a) *Definitions.* As used in this clause—

(1) *Acceptable accounting system* means a system that complies with the system criteria in paragraph (c) of this clause to provide reasonable assurance that—

(i) Applicable laws and regulations are complied with;

(ii) The accounting system and cost data are reliable;

(iii) Risk of misallocations and mischarges are minimized; and

(iv) Contract allocations and charges are consistent with billing procedures.

(2) *Accounting system* means the Contractor's system or systems for accounting methods, procedures, and controls

established to gather, record, classify, analyze, summarize, interpret, and present accurate and timely financial data for reporting in compliance with applicable laws, regulations, and management decisions, and may include subsystems for specific areas such as indirect and other direct costs, compensation, billing, labor, and general information technology.

(3) *Significant deficiency* means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(b) *General.* The Contractor shall establish and maintain an acceptable accounting system. If the Contractor plans to adopt the existing system from the previous Contractor, the Contractor is responsible for the system and shall comply with the system criteria required in this clause. The Contractor shall provide in writing to the Contracting Officer documentation that its accounting system meets the system criteria in paragraph (c) of this clause no later than 60 days after contract award. Failure to maintain an acceptable accounting system, as defined in this clause, shall result in the withholding of payments if the contract includes the clause at 48 CFR 952.242–71, Contractor Business System, and also may result in disapproval of the system.

(c) *System criteria.* The Contractor's accounting system shall provide for—

(1) A sound internal control environment, accounting framework, and organizational structure;

(2) Proper segregation of direct costs from indirect costs;

(3) Identification and accumulation of direct costs by contract;

(4) A logical and consistent method for the accumulation and allocation of indirect costs to intermediate and final cost objectives;

(5) Accumulation of costs under general ledger control;

(6) Reconciliation of subsidiary cost ledgers and cost objectives to general ledger;

(7) Approval and documentation of adjusting entries;

(8) Management reviews or internal audits of the system to ensure compliance with the Contractor's established policies, procedures, and accounting practices;

(9) A timekeeping system that identifies employees' labor by intermediate or final cost objectives;

(10) A labor distribution system that charges direct and indirect labor to the appropriate cost objectives;

(11) Interim (at least monthly) determination of costs charged to a contract through routine posting of books of account;

(12) Exclusion from costs charged to Government contracts of amounts which are not allowable in terms of 48 CFR part 31, Contract Cost Principles and Procedures, and other contract provisions;

(13) Identification of costs by contract line item and by units (as if each unit or line item were a separate contract), if required by the contract;

(14) Segregation of preproduction costs from production costs, as applicable;

(15) Cost accounting information, as required—

(i) By contract clauses concerning limitation of cost (48 CFR 52.232–20), limitation of funds (48 CFR 52.232–22), or allowable cost and payment (48 CFR 52.216–7); and

(ii) To readily calculate indirect cost rates from the books of accounts;

(16) Billings that can be reconciled to the cost accounts for both current and cumulative amounts claimed and comply with contract terms;

(17) Adequate, reliable data for use in pricing follow-on acquisitions; and

(18) Accounting practices in accordance with standards promulgated by the Cost Accounting Standards Board, if applicable, otherwise, Generally Accepted Accounting Principles.

(d) *Significant deficiencies.* (1) The Contracting Officer will provide an initial determination to the Contractor, in writing, on any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's accounting system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing. In the event the Contractor did not respond in writing to the initial determination within the response time, this lack of response shall indicate that the Contractor agrees with the initial determination.

(3) The Contracting Officer will evaluate the Contractor's response or the Contractor's lack of response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action; and

(iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(e) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(f) *Withholding payments.* If the Contracting Officer makes a final determination to disapprove the Contractor's accounting system, and the contract includes the clause 48 CFR 952.242–71, Contractor Business System, the Contracting Officer will withhold payments in accordance with that clause.

(End of clause)

■ 16. Add section 952.244.71 to read as follows:

952.244–71 Contractor purchasing system administration.

As prescribed in 944.305–71, insert the following clause:

CONTRACTOR PURCHASING SYSTEM ADMINISTRATION (XXX 201X)

(a) *Definitions.* As used in this clause—

Acceptable purchasing system means a purchasing system that complies with the system criteria in paragraph (c) of this clause.

Purchasing system means the Contractor's system or systems for purchasing and subcontracting, including make-or-buy decisions, the selection of vendors, analysis of quoted prices, negotiation of prices with vendors, placing and administering of orders, and expediting delivery of materials.

Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(b) *General.* The Contractor shall establish and maintain an acceptable purchasing system. If the Contractor plans to adopt the existing system from the previous Contractor, the Contractor is responsible for the system and shall comply with the system criteria required in this clause. The Contractor shall provide in writing to the Contracting Officer documentation that its purchasing system meets the system criteria in paragraph (c) of this clause no later than 60 days after contract award. Failure to maintain an acceptable purchasing system, as defined in this clause, may result in disapproval of the system by the Contracting Officer and/or withholding of payments.

(c) *System criteria.* The Contractor's purchasing system shall—

(1) Have an adequate system description including policies, procedures, and purchasing practices that comply with the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) and the Department of Energy Acquisition Regulation (48 CFR Chapter 9);

(2) Ensure that all applicable purchase orders and subcontracts contain all flowdown clauses, including terms and conditions and any other clauses needed to carry out the requirements of the prime contract;

(3) Maintain an organization plan that establishes clear lines of authority and responsibility;

(4) Ensure all purchase orders are based on authorized requisitions and include a complete and accurate history of purchase transactions to support vendor selected, price paid, and document the subcontract/purchase order files which are subject to Government review;

(5) Establish and maintain adequate documentation to provide a complete and accurate history of purchase transactions to support vendors selected and prices paid;

(6) Apply a consistent make-or-buy policy that is in the best interest of the Government;

(7) Use competitive sourcing to the maximum extent practicable, and ensure debarred or suspended contractors are properly excluded from contract award;

(8) Evaluate price, quality, delivery, technical capabilities, and financial capabilities of competing vendors to ensure fair and reasonable prices;

(9) Require management level justification and adequate cost or price analysis, as applicable, for any sole or single source award;

(10) Perform timely and adequate cost or price analysis and technical evaluation for each subcontractor and supplier proposal or quote to ensure fair and reasonable subcontract prices;

(11) Document negotiations in accordance with 48 CFR 15.406–3;

(12) Seek, take, and document economically feasible purchase discounts, including cash discounts, trade discounts, quantity discounts, rebates, freight allowances, and company-wide volume discounts;

(13) Ensure proper type of contract selection and prohibit issuance of cost-plus-a-percentage-of-cost subcontracts;

(14) Maintain subcontract surveillance to ensure timely delivery of an acceptable product and procedures to notify the Government of potential subcontract problems that may impact delivery, quantity, or price;

(15) Document and justify reasons for subcontract changes that affect cost or price;

(16) Notify the Government of the award of all subcontracts that contain the 48 CFR Chapter 1 and 48 CFR Chapter 9 flowdown clauses that allow for Government audit of those subcontracts, and ensure the performance of audits of those subcontracts;

(17) Enforce adequate policies on conflict of interest, gifts, and gratuities, including the requirements of the 41 U.S.C. chapter 87, Kickbacks;

(18) Perform internal audits or management reviews, training, and maintain policies and procedures for the purchasing department to ensure the integrity of the purchasing system;

(19) Establish and maintain policies and procedures to ensure purchase orders and subcontracts contain mandatory and applicable flowdown clauses, as required by the 48 CFR chapter 1, including terms and conditions required by the prime contract and any clauses required to carry out the requirements of the prime contract;

(20) Provide for an organizational and administrative structure that ensures effective and efficient procurement of required quality materials and parts at the best value from responsible and reliable sources;

(21) Establish and maintain selection processes to ensure the most responsive and responsible sources for furnishing required quality parts and materials and to promote competitive sourcing among dependable suppliers so that purchases are reasonably priced and from sources that meet contractor quality requirements;

(22) Establish and maintain procedures to ensure performance of adequate price or cost analysis on purchasing actions;

(23) Establish and maintain procedures to ensure that proper types of subcontracts are selected, and that there are controls over subcontracting, including oversight and surveillance of subcontracted effort; and

(24) Establish and maintain procedures to timely notify the Contracting Officer, in writing, if—

(i) The Contractor changes the amount of subcontract effort after award such that it exceeds 70 percent of the total cost of the work to be performed under the contract, task order, or delivery order. The notification shall identify the revised cost of the subcontract effort and shall include verification that the Contractor will provide added value; or

(ii) Any subcontractor changes the amount of lower-tier subcontractor effort after award such that it exceeds 70 percent of the total cost of the work to be performed under its subcontract. The notification shall identify the revised cost of the subcontract effort and shall include verification that the subcontractor will provide added value as related to the work to be performed by the lower-tier subcontractor(s).

(d) *Significant deficiencies.* (1) The Contracting Officer will provide notification of initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's purchasing system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing. In the event the Contractor did not respond in writing to the initial determination within the response time, this lack of response shall indicate that the Contractor agrees with the initial determination.

(3) The Contracting Officer will evaluate the Contractor's response or the Contractor's lack of response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action; and

(iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(e) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies.

(f) *Withholding payments.* If the Contracting Officer makes a final determination to disapprove the Contractor's purchasing system, and the contract includes the clause at 952.242–71, Contractor Business System, the Contracting Officer will withhold payments in accordance with that clause.

(End of clause)

■ 17. Add section 952.245.70 to read as follows:

952.245–70 Contractor property management system administration.

As prescribed in 945.107(a), insert the following clause:

CONTRACTOR PROPERTY MANAGEMENT SYSTEM ADMINISTRATION (xxx 201x)

(a) *Definitions.* As used in this clause—

Acceptable property management system means a property system that complies with the system criteria in paragraph (c) of this clause.

Property management system means the Contractor's system or systems for managing and controlling Government property.

Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(b) *General.* The Contractor shall establish and maintain an acceptable property management system. If the Contractor plans to adopt the existing system from the previous Contractor, the Contractor is responsible for the system and shall comply with the system criteria required in this clause. The Contractor shall provide in writing to the Contracting Officer documentation that its property management system meets the system criteria in paragraph (c) of this clause no later than 60 days after contract award. Failure to maintain an acceptable property management system, as defined in this clause, may result in disapproval of the system by the Contracting Officer and/or withholding of payments.

(c) *System criteria.* The Contractor's property management system shall be in accordance with paragraph (f) of the contract clause at 48 CFR 52.245–1.

(d) *Significant deficiencies.* (1) The Contracting Officer will provide an initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's property management system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing. In the event the Contractor did not respond in writing to the initial determination within the response time, this lack of response shall indicate that the Contractor agrees with the initial determination.

(3) The Contracting Officer will evaluate the Contractor's response or the Contractor's lack of response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action; and

(iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(e) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(f) *Withholding payments.* If the Contracting Officer makes a final determination to disapprove the Contractor's property management system, and the

contract includes the clause at 952.242–71, Contractor Business System, the Contracting Officer will withhold payments in accordance with that clause.

(End of clause)

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H.R. 3771/P.L. 113–92
Philippines Charitable Giving Assistance Act (Mar. 25, 2014; 128 Stat. 1039)
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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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April 21	May 6	May 12	May 21	May 27	Jun 5	Jun 20	Jul 21
April 22	May 7	May 13	May 22	May 27	Jun 6	Jun 23	Jul 21
April 23	May 8	May 14	May 23	May 28	Jun 9	Jun 23	Jul 22
April 24	May 9	May 15	May 27	May 29	Jun 9	Jun 23	Jul 23
April 25	May 12	May 16	May 27	May 30	Jun 9	Jun 24	Jul 24
April 28	May 13	May 19	May 28	Jun 2	Jun 12	Jun 27	Jul 28
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